LOCAL COURT RULES

OF THE

UNITED STATES DISTRICT COURT

FOR THE

WESTERN DISTRICT OF TEXAS

Effective: April 26, 2012

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WESTERN DISTRICT OF TEXAS

The **UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS** is comprised of seven divisions.

(1) The **AUSTIN DIVISION** comprises the following counties: Bastrop, Blanco, Burleson, Burnet, Caldwell, Gillespie, Hays, Kimble, Lampasas, Lee, Llano, Mason, McCulloch, San Saba, Travis, Washington and Williamson.

Court for the Austin Division shall be held at Austin. The addresses and telephone numbers for the residing U.S. District Judges and the U.S. District Clerk at Austin are as follows:

Hon. Sam Sparks
U.S. District Judge
501 West 5th Street, Suite 4120
Austin, Texas 78701
(512) 916-5230

Hon. Lee Yeakel
U.S. District Judge
501 West 5th Street, Suite 7300
Austin, Texas 78701
(512) 916-5756

Hon. Harry Lee Hudspeth
Senior Judge
903 San Jacinto Blvd., Suite 440
Austin, Texas 78701
(512) 916-5837

Hon. James R. Nowlin
Senior Judge
501 West 5th Street, Suite 6400
Austin, Texas 78701
(512) 916-5675

U.S. District Clerk
U.S. Courthouse
501 West 5th Street, Suite 1100
Austin, Texas 78701
(512) 916-5896

(2) The **DEL RIO DIVISION** comprises the following counties: Edwards, Kinney, Maverick, Terrell, Uvalde, Val Verde and Zavala.

Court for the Del Rio Division shall be held at Del Rio. The addresses and telephone numbers for the residing U.S. District Judge and the U.S. District Clerk at Del Rio are as follows:

Hon. Alia Moses
U.S. District Judge
111 East Broadway, Room A-202
Del Rio, Texas 78840
(830) 703-2038

U.S. District Clerk
U.S. Courthouse
111 East Broadway, Room 100
Del Rio, Texas 78840
(830) 703-2054

(3) The **EL PASO DIVISION** comprises the following county: El Paso.

Court for the El Paso Division shall be held at El Paso. The addresses and telephone numbers for the residing U.S. District Judges and the U.S. District Clerk at El Paso are as follows:

Hon. Philip R. Martinez
U.S. District Judge
Albert Armendariz, Sr. U.S. Courthouse
525 Magoffin Avenue, Suite 661
El Paso, Texas 79901
(915) 534-6736

Hon. Kathleen Cardone
U.S. District Judge
Albert Armendariz, Sr. U.S. Courthouse
525 Magoffin Avenue, Suite 561
El Paso, Texas 79901
(915) 534-6740

Hon. Frank Montalvo
U.S. District Judge
Albert Armendariz, Sr. U.S. Courthouse
525 Magoffin Avenue, Suite 461
El Paso, Texas 79901
(915) 534-6600

Hon. David C. Guaderrama
U.S. District Judge
Albert Armendariz, Sr. U.S. Courthouse
525 Magoffin Avenue, Suite 361
El Paso, Texas 79901
(915) 534-6005

Hon. David Briones
Senior Judge
Albert Armendariz, Sr. U.S. Courthouse
525 Magoffin Avenue, Suite 761
El Paso, Texas 79901
(915) 534-6744

U.S. District Clerk
Albert Armendariz, Sr. U.S. Courthouse
525 Magoffin Avenue, Suite 105
El Paso, Texas 79901
(915) 534-6725

(4) The **PECOS DIVISION** comprises the following counties: Brewster, Culberson, Jeff Davis, Hudspeth, Loving, Pecos, Presidio, Reeves, Ward and Winkler.

Court for the Pecos Division shall be held at Pecos. The address and telephone number for the U.S. District Clerk at Pecos is:

U.S. District Clerk
Lucius D. Bunton, III U.S. Courthouse
410 South Cedar Street
Pecos, Texas 79772
(432) 445-4228

(5) The **SAN ANTONIO DIVISION** comprises the following counties: Atascosa, Bandera, Bexar, Comal, Dimmit, Frio, Gonzales, Guadalupe, Karnes, Kendall, Kerr, Medina, Real and Wilson.

Court for the San Antonio Division shall be held at San Antonio. The addresses and telephone numbers for the residing U.S. District Judges and the U.S. District Clerk at San Antonio are as follows:

Hon. Fred Biery
Chief U.S. District Judge
John H. Wood, Jr., U.S. Courthouse
655 E. Durango Blvd.
San Antonio, Texas 78206
(210) 472-6505

Hon. Orlando L. Garcia
U.S. District Judge
John H. Wood, Jr., U.S. Courthouse
655 E. Durango Blvd
San Antonio, Texas 78206
(210) 472-6565

Hon. Xavier Rodriguez
U.S. District Judge
John H. Wood, Jr., U.S. Courthouse
655 E. Durango Blvd.
San Antonio, Texas 78206
(210) 472-6575

U.S. District Clerk
John H. Wood, Jr., U.S. Courthouse
655 E. Durango Blvd., Room G-65
San Antonio, Texas 78206
(210) 472-6550

(6) The **WACO DIVISION** comprises the following counties: Bell, Bosque, Coryell, Falls, Freestone, Hamilton, Hill, Leon, Limestone, McLennan, Milam, Robertson and Somervell.

Court for the Waco Division shall be held at Waco. The addresses and telephone number for the residing U.S. District Judge and the U.S. District Clerk at Waco are as follows:

Hon. Walter S. Smith, Jr.
U.S. District Judge
U.S. Courthouse, Room 301
800 Franklin Avenue
Waco, Texas 76701
(254) 750-1519

U.S. District Clerk
U.S. Courthouse, Room 380
800 Franklin Avenue
Waco, Texas 76701
(254) 750-1501

(7) The **MIDLAND/ODESSA DIVISION** comprises the following counties: Andrews, Crane, Ector, Martin, Midland and Upton.

Court for the Midland/Odessa Division shall be held at Midland. Court may be held, in the discretion of the Court, in Odessa, when courtroom facilities are made available at no expense to the government. The addresses and telephone numbers for the residing U.S. District Judge and the U.S. District Clerk at Midland are as follows:

Hon. Robert A. Junell
U.S. District Judge
U.S. Courthouse
200 E. Wall, Room 301
Midland, Texas 79701
(432) 686-4020

U.S. District Clerk
U.S. Courthouse
200 E. Wall, Room 222
Midland, Texas 79701
(432) 686-4001

SECTION I - CIVIL RULES

RULE CV-1. SCOPE OF RULES

(a) The rules of procedure in any proceeding in this court shall be prescribed by the laws of the United States, the rules of the Supreme Court of the United States, any applicable rules of the United States Court of Appeals for the Fifth Circuit, and these rules.

(b) Where in any proceeding or in any instance there is no applicable rule of procedure, a judge may prescribe same.

(c) These rules may be cited as Local Court Rules.

(d) Unless otherwise provided, any revision to these rules applies to all cases pending on or filed after the date of the revision.

(e) Any judge of this court may waive any requirement of these rules regarding the administration of that judge's docket.

RULE CV-3. COMMENCEMENT OF ACTION

(a) Civil Cover Sheet. The clerk is authorized and instructed to require a complete and executed AO Form JS 44, Civil Cover Sheet, which shall accompany each civil case to be filed. If the filing of a civil case is not accompanied by a complete and executed Civil Cover Sheet, the clerk must accept the case for filing, but must promptly inform the filing party that the filing party must complete and execute the Civil Cover Sheet. If the filing party fails to do so not later than 7 days after being informed, the clerk must so advise the court. An unrepresented person who files a civil case or a person who, when filing a civil case, is in the custody of a civil, state or federal institution, need not complete and execute the Civil Cover Sheet. All parties are required to advise the court of any related cases, through means of the Civil Cover Sheet or otherwise.

(b) Habeas Corpus and Motions Pursuant to 28 U.S.C. § 2255.

(1) Petitions for writ of habeas corpus and motions filed pursuant to 28 U.S.C. § 2255 by persons in custody shall be in writing, signed, and verified.

(2) Such petitions and motions shall be made on forms supplied by the court or set forth in detail all the information requested in the court's forms.

(3) The petition or motion must be filed with the clerk's office in the proper division.

(4) If any issue is raised in a habeas corpus petition that was not raised or has not been fully exhausted in state court, the petition shall state the reasons why such action has not been taken.

(5) If the same petitioner or movant has previously filed in this court a petition for habeas corpus relief or a motion pursuant to 28 U.S.C. § 2255 challenging the same state court judgment or federal sentence, the case shall be assigned to the judge who considered the prior matter.

(6) A second or successive petition for habeas corpus relief or motion for relief pursuant to 28 U.S.C. § 2255 will be dismissed without prejudice unless accompanied by a certificate issued by a panel of the Fifth Circuit.

(7) This court's opinion in any such action shall separately state each issue raised by the habeas corpus petition or motion pursuant to 28 U.S.C. § 2255 and rule expressly on each issue, stating the reasons for each ruling made.

(8) If a certificate of appealability is issued by this court in a death penalty case with a pending execution date, the court shall, upon request, grant a stay of execution to continue until such time as the court of appeals expressly acts with reference to the case.

(c) Motions to Stay Execution of State Court Judgments.

(1) A petitioner or plaintiff who seeks a stay of enforcement or execution of a state court judgment or order shall attach to the motion requesting the stay a copy of each state court judgment that the petitioner or plaintiff seeks to have stayed.

(2) The motion for stay of execution or stay of enforcement must state whether the same petitioner or plaintiff has previously sought relief arising out of the same matter from this court or from any other federal court. The reasons for denying relief given by any court that has considered the matter, including any written opinion issued by said court, must also be attached to the motion for stay of execution or enforcement. If reasons for the ruling were not given in a written opinion, a copy of the relevant portions of the transcripts must be supplied to this court.

(3) A motion for stay of execution filed on behalf of a petitioner challenging a sentence of death must be filed at least 7 days before the petitioner's scheduled execution date or recite good cause for any late filing.

(4) If the same petitioner or plaintiff has previously filed in this court a motion for stay of execution or enforcement of the same state court judgment challenged in the petitioner's or plaintiff's motion for stay, the case shall be assigned to the judge who considered the prior matter.

RULE CV-5. SERVICE AND FILING OF DOCUMENTS AND OTHER PAPERS

(a) Filing Requirements.

(1) Electronic. The court accepts documents by electronic means that comply with the *Administrative Policies and Procedures for Electronic Filing in Civil and Criminal Cases* ("Electronic Filing Procedures").

(2) Traditional. All documents submitted for traditional filing shall be furnished to the clerk in duplicate, the "original" of which shall be marked and filed, and the remaining copy shall be sent to the judge on whose docket the case is placed.

(b) Proof of Service.

(1) Electronic. Pursuant to Section 15(a) of the Electronic Filing Procedures, the Notice of Electronic Filing ("NEF") generated by the court's electronic filing system constitutes service of the document on those registered as Filing Users. Proof of service shall be provided as set out in Section 15(c) of the Electronic Filing Procedures.

(2) Traditional. All documents presented for traditional filing shall contain an acknowledgment of service by the person served, or proof of service in the form of a statement of the date and the manner of service and of the names of the persons served, certified by the person who made service. Proof of service may appear on, or be affixed to the documents filed. The clerk may permit documents to be filed without acknowledgment of proof of service but shall require such to be filed promptly thereafter.

(c) Orders. All orders and decrees submitted for settlement or signature must be presented through the clerk's office, and not sent directly to the judge. In case of contest as to form or substance, the clerk will give notice of any hearing that may be required by the judge.

(d) Nonconforming Documents. If a document that fails to conform with these rules is submitted, the clerk shall file the document, and shall promptly inform the filing party that the document is not in compliance with these rules.

RULE CV-5.2 DOCUMENTS FILED UNDER SEAL

(a) In appropriate circumstances a party may need to submit a sealed document for consideration by the court. For purposes of this rule, the term "sealed document" may include any pleading, motion, paper, physical item, or other submission that the Federal Rules of Civil Procedure or these rules permit or require to be filed. If the sealed document is associated with a pleading, motion or other submission requesting or opposing relief from the court, as in the case of an exhibit to such submission, the sealed document must not be filed with the submission. Instead, the sealed document must be separately filed as an exhibit to a motion requesting permission to keep the document under seal (a "sealing motion"). All documents intended to be kept under seal must be filed as an exhibit to a sealing motion.

(b) Motions to keep pleadings, motions, or other submissions requesting or opposing relief from the court under seal are disfavored. The court expects parties to draft such submissions in a manner that does not disclose confidential information.

(c) The sealing motion must identify the submission the sealed document is associated with, if applicable. The sealing motion and the accompanying sealed document must be filed under seal, state the factual basis for the requested sealing order, and otherwise comply with the requirements of Rules CV-7 and CV-10 and the procedures governing electronic or paper filings, as applicable to the submission. The court expects parties to draft sealing motions in a manner that does not disclose confidential information because the sealing motion, without the sealed document, may subsequently be unsealed by court order.

(d) If the court grants a sealing motion, the clerk will keep the sealed document under seal unless and until otherwise ordered by the court, and, if appropriate, the clerk shall link the sealed document to its associated pleading, motion, or other submission. The court may order that the sealing motion, without the sealed document, be unsealed. If the court denies a sealing motion, the clerk, on order of the court, shall delete the sealed document.

(e) Counsel for the party moving to keep any document under seal is responsible for serving a copy of the sealed document on all counsel of record, but may not use the court's electronic notice facilities to serve the sealed document.

RULE CV-6. COMPUTING TIME

In computing any time period in any civil case, the provisions of Federal Rule of Civil Procedure 6, as amended, shall be applied.

RULE CV-7. PLEADINGS ALLOWED; FORM OF MOTIONS

(a) Generally. Unless made during a hearing or trial, a pleading, motion, or other submission must meet the requirements of Rule CV-10.

(b) Leave to File. When a motion for leave to file a pleading, motion, or other submission is required, an executed copy of the proposed pleading, motion, or other submission shall be filed as an exhibit to the motion for leave. Unless otherwise ordered, if the motion for leave is granted, the clerk shall promptly file the pleading, motion, or other submission. After leave is granted, any applicable time limits triggered by the pleading, motion, or other submission shall run from the filing of the pleading, motion, or other submission by the clerk or otherwise.

(c) Dispositive Motion Defined. For purposes of this rule, a "dispositive motion" is a motion to dismiss, a motion for judgment on the pleadings, a motion for summary judgment or partial summary judgment, a motion for new trial, or a motion for judgment as a matter of law.

(d) Motions.

(1) Generally. Legal authorities supporting any motion must be cited in the motion. An appendix may be filed with the motion specifying any factual basis relied upon. If filed, the appendix must include all affidavits, deposition transcripts, or other documents supporting the relied upon facts. All motions must state the grounds therefor and cite any applicable rule, statute, or other authority, if any, justifying the relief sought.

(2) Motions Not Requiring Citation of Legal Authorities. Legal authorities are not required to be cited in any of the following motions:

(a) for extension of time for the performance of an act required or allowed to be done, provided request therefor is made before the expiration of the period originally prescribed, or as extended by previous orders;
(b) to continue a pretrial conference hearing or motion or the trial of an action;
(c) for a more definite statement;
(d) to join additional parties;
(e) to amend pleadings;
(f) to file supplemental pleadings;
(g) to appoint next friend or guardian ad litem;
(h) to intervene;
(i) for substitution of parties;
(j) relating to discovery including but not limited to motions for the production and inspection of documents, specific objections to interrogatories, motions to compel answers or further answers to interrogatories, and motions for physical or mental examination;
(k) to stay proceedings to enforce judgment;
(l) joint motions to dismiss;
(m) to withdraw as counsel;
(n) for mediation or other form of alternative dispute resolution; and
(o) for approval of an agreed protective order.

(3) Page Limits. Unless otherwise authorized by the court, a dispositive motion is limited to 20 pages and a nondispositive motion is limited to 10 pages. These page limits are exclusive of the caption, signature block, any certificate, and accompanying documents.

(e) Responses.

(1) Generally. Any party opposing a motion shall file a response and supporting documents as are then available. The response must contain a concise statement of the reasons for opposition to the motion and citations of the legal authorities on which the party relies.

(2) Time Limits**.** A response to a dispositive motion shall be filed not later than 14 days after the filing of the motion. A response to a nondispositive motion shall be filed not later than 7 days after the filing of the motion. If there is no response filed within the time period prescribed by this rule, the court may grant the motion as unopposed.

(3) Page Limits. Unless otherwise authorized by the court, a response to a dispositive motion is limited to 20 pages and a response to a nondispositive motion is limited to 10 pages. These page limits are exclusive of the caption, signature block, any certificate, and accompanying documents.

(f) Replies.

(1) Generally. A party may file a reply in support of a motion. Absent leave of court, no further submissions on the motion are allowed.

(2) Time Limit. A reply in support of a motion shall be filed not later than 7 days after the filing of the response to the motion. The court need not wait for a reply before ruling on a motion.

(3) Page Limits. Unless otherwise authorized by the court, a reply in support of a dispositive motion is limited to 10 pages and a reply in support of a nondispositive motion is limited to 5 pages. These page limits are exclusive of the caption, signature block, any certificate, and accompanying documents.

(g) Proposed Orders. A proposed order shall be filed with all nondispositive motions. When a motion is one that requires a proposed order, any response to the motion shall also be accompanied by a proposed order.

(h) Oral Hearings. A movant or respondent may request an oral hearing. The allowance of an oral hearing is within the sole discretion of the court.

(i) Conference Required. The court may refuse to hear or may deny a nondispositive motion unless the movant advises the court within the body of the motion that counsel for the parties have first conferred in a good-faith attempt to resolve the matter by agreement and, further, certifies the specific reason that no agreement could be made. Movants are encouraged to indicate in the title of the motion whether the motion is opposed. A motion is

unopposed only if there has been an actual conference with opposing counsel and there is no opposition to any of the relief requested in the motion.

(j) Claims for Attorney's Fees.

(1) Unless the substantive law requires a claim for attorney's fees and related nontaxable expenses to be proved at trial as an element of damages to be determined by a jury, a claim for fees shall be made by motion not later than 14 days after entry of judgment pursuant to Federal Rule of Civil Procedure 54(d)(2) and pursuant to the following provisions. Counsel for the parties shall meet and confer for the purpose of resolving all disputed issues relating to attorney's fees prior to making application. The application shall certify that such a conference has occurred. If no agreement is reached, the applicant shall certify the specific reason why the matter could not be resolved by agreement. The motion shall include a supporting document organized chronologically by activity or project, listing attorney name, date, and hours expended on the particular activity or project, as well as an affidavit certifying (1) that the hours expended were actually expended on the topics stated, and (2) that the hours expended and rate claimed were reasonable. Such application shall also be accompanied by a brief memo setting forth the method by which the amount of fees was computed, with sufficient citation of authority to permit the reviewing court the opportunity to determine whether such computation is correct. The request shall include reference to the statutory authorization or other authority for the request.

(2) An objection to a motion for attorney's fees shall be filed on or before 14 days after the date of filing of the motion. If there is no timely objection, the court may grant the motion as unopposed.

(3) A motion for award of attorney's fees filed beyond the 14 day period may be deemed untimely and a waiver of entitlement to fees.

RULE CV-10. FORM OF PLEADINGS

(a) A pleading, motion, or other submission shall be typed or printed in 12 point or larger font (including footnotes), double-spaced, on paper sized 8½" x 11" with one-inch margins on all sides and shall be endorsed with the style of the case and the descriptive name of the document. Headings, footnotes, and quotations more than two lines long may be single-spaced.

(b) A pleading, motion, or other submission filed by a represented party shall contain the mailing address, e-mail address, signature, state bar card number, and telephone and fax numbers, including area code, of the attorney.

(c) A pleading, motion, or other submission filed by an unrepresented party shall contain the party's mailing address, e-mail address, signature, and telephone and fax numbers, including area code.

(d) An unrepresented party and any attorney representing a party must timely inform the court of any change in the party's or attorney's mailing address, e-mail address, signature, or telephone or fax number. The court may sanction a party for the party's or the attorney's failure to do so, including dismissal of the party's claims or defenses.

RULE CV-16. PRETRIAL CONFERENCES; SCHEDULING; MANAGEMENT

(a) A scheduling order must be entered in every case except those exempted in Section (b) of this rule. The form of the scheduling order should conform to the form prescribed by the judge and posted on the court's website. If the judge has not posted a form scheduling order on the website, the scheduling order may conform to the form set out in Appendix B of these rules.

(b) The same types of cases that are exempt from mandatory disclosure requirements under Federal Rule of Civil Procedure 26 are exempt from the scheduling order requirement of Rule 16. In addition, the following categories of cases are also exempt from the scheduling order requirement: (1) bankruptcy appeals; (2) civil forfeiture cases; (3) land condemnation cases; (4) naturalization proceedings filed as civil cases; (5) interpleader cases; and (6) any other case where the judge finds that the ends of justice would not be served by using the scheduling order procedure of Rule 16.

(c) Not later than 60 days after any appearance of any defendant, the parties shall submit a proposed scheduling order to the court in the form described in Section (a). The parties first shall confer as required by Rule 26(f). The content of the proposed scheduling order shall include proposals for all deadlines set out in the described form. The parties shall endeavor to agree concerning the contents of the proposed order, but in the event they are unable to do so, each party's position and the reasons for the disagreement shall be included in the proposed schedule submitted to the court. In the event the plaintiff has not yet obtained service on all defendants, the plaintiff shall include an explanation of why all parties have not been served. The scheduling proposals of the parties shall be considered by the court, but the setting of all dates is within the discretion of the court.

(d) Unopposed discovery may continue after the deadline for discovery contained in the scheduling order, provided that discovery does not delay other pretrial preparations or the trial setting. Absent exceptional circumstances, no motions relating to discovery, including motions under Rules 26(c), 29, and 37, shall be filed after the expiration of the discovery deadline, unless they are filed within 7 days after the discovery deadline and pertain to conduct occurring during the final 7 days of discovery. Written discovery is not timely unless the response to that discovery would be due before the discovery deadline. The responding party has no obligation to respond and object to written discovery if the response and objection would not be due until after the discovery deadline. Depositions must be completed before the discovery deadline. Notices served before the discovery deadline which purport to schedule depositions after the discovery deadline will not be enforced.

(e) Unless otherwise ordered by the court, each party shall serve and file the following information at least 14 days before the scheduled date for trial, jury selection, docket call, or the final pretrial conference, whichever is first:

(1) A list of questions the party desires the court to ask prospective jurors.

(2) In cases to be tried to a jury, a statement of the party's claims or defenses to be used by the court in conducting voir dire. The statement shall be no longer than ½ page with type double-spaced.

(3) A list of stipulated facts.

(4) An appropriate identification of each exhibit as specified in this rule (except those to be used for impeachment only), separately identifying those that the party expects to offer and those that the party may offer if the need arises.

(5) The name and, if not previously provided, the address and telephone number of each witness (except those to be used for impeachment only), separately identifying those whom the party expects to present and those whom the party may call if the need arises.

(6) The name of those witnesses whose testimony is expected to be presented by means of a deposition and designation by reference to page and line of the testimony to be offered (except those to be used for impeachment only) and, if not taken stenographically, a transcript of the pertinent portions of the deposition testimony.

(7) Proposed jury instructions and verdict forms.

(8) In nonjury trials, Proposed Findings of Fact and Conclusions of Law.

(9) Any motions in limine.

(10) An estimate of the probable length of trial.

(f) At least 7 days prior to the scheduled date for trial, jury selection, docket call, or the final pretrial conference, whichever is first, each party shall serve and file the following:

(1) A list disclosing any objections to the use under Rule 32(a) of deposition testimony designated by the other party.

(2) A list disclosing any objection, together with the grounds therefore, that may be made to the admissibility of any exhibits. Objections not so disclosed, other than objections under Federal Rules of Evidence 402 and 403 shall be deemed waived unless excused by the court for good cause shown.

(g) All trial exhibits must be marked with an identifying sequence, followed by a dash, followed by a number; for example, Exhibit P-1 and Exhibit D-1. The identifying sequence (e.g., "P" and "D") will identify the party who will offer the exhibit. Parties will assign numbers to their exhibits consecutively, beginning with the number 1. The letter "G" will be assigned to the government for identification purposes. In cases involving more complex pleading relationships (e.g., consolidated cases, intervenors, and third party actions), it is the responsibility of counsel for the plaintiff, in consultation with the judge's courtroom deputy clerk, to coordinate the assignment of the unique identification sequences.

RULE CV-23. CLASS ACTIONS

A motion to certify a class must include the information enumerated in Appendix A to these rules.

RULE CV-26. GENERAL PROVISIONS GOVERNING DISCOVERY

(a) Relief. If relief is sought under Federal Rules of Civil Procedure 26(c) or 37(a)(3), concerning any interrogatories, requests for production or inspection, requests for admissions, answers to interrogatories or responses to requests for admissions, copies of the portions of the interrogatories, requests, answers or responses in dispute shall be attached to the motion.

(b) Definitions and Rules of Construction. The full text of the definitions and rules of construction set forth in this paragraph is deemed incorporated by reference into all discovery requests, but shall not preclude (i) the definition of other terms specific to the particular litigation, (ii) the use of abbreviations or (iii) a more narrow definition of a term defined in this paragraph. This rule is not intended to broaden or narrow the scope of discovery permitted by the Federal Rules of Civil Procedure. The following definitions apply to all discovery requests:

(1) Communication. The term "communication" means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

(2) Document. The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a). A draft of a nonidentical copy is a separate document within the meaning of this term.

(3) Identify (With Respect to Persons). When referring to a person, to "identify" means to give, to the extent known, the person's full name, present or last known address, e-mail address, and telephone number, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

(4) Identify (With Respect to Documents). When referring to documents, "to identify" means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s), and recipient(s).

(5) Parties. The terms "plaintiff" and "defendant" as well as a party's full or abbreviated name or pronoun referring to a party mean the party and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries or affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation.

(6) Person. The term "person" is defined as any natural person or business, legal or governmental entity or association.

(7) Concerning. The term "concerning" means relating to, referring to, describing, evidencing or constituting.

(c) Protective Orders. Upon motion by any party demonstrating good cause, the court may enter a protective order in the form set out in Appendix H or any other appropriate form. In cases where the parties agree to a protective order, the form set out in Appendix H is approved.

(d) Authentication of Documents. A party's production of a document in response to written discovery authenticates the document for use against that party in any pretrial proceeding or at trial unless not later than 14 days or a period ordered by the court or specified by Rule CV-16(e), after the producing party has actual notice that the document will be used – the party objects to the authenticity of the document, or any part of it, stating the specific basis for objection. An objection must be either on the record or in writing and must have a good faith factual and legal basis. An objection made to the authenticity of only part of a document does not affect the authenticity of the remainder. If objection is made, the party attempting to use the document should be given a reasonable opportunity to establish its authenticity.

RULE CV-30. DEPOSITIONS UPON ORAL EXAMINATION

(a) Notice. The notice for a deposition shall be in the form prescribed in Federal Rule of Civil Procedure 30, and in addition shall state the identity of persons who will attend other than the witness, parties, spouses of parties, counsel, employees of counsel, and the officer taking the deposition. If any party intends to have any other persons attend, that party must give reasonable notice to all parties of the identity of such other persons.

(b) Procedures, Examinations and Objections. The parties are permitted to stipulate on the record of the deposition any agreement regarding the rules for the deposition. Objections during depositions shall be stated concisely and in a nonargumentative and nonsuggestive manner. An attorney shall not, in the presence of the deponent, make objections or statements that might suggest an answer to the deponent. An attorney for a deponent shall not initiate a private conference with the deponent regarding a pending question, except for the purpose of determining whether a claim of privilege should be asserted. An attorney who instructs a deponent not to answer a question shall state, on the record, the legal basis for the instruction consistent with Federal Rule of Civil Procedure 30(d)(1). If a claim of privilege has been asserted as a basis for an instruction not to answer, the attorney seeking discovery shall have reasonable latitude during the deposition to question the deponent and establish relevant information concerning the appropriateness of the assertion of the privilege, including (i) the applicability of the privilege being asserted, (ii) the circumstances that may result in the privilege having been waived, and (iii) circumstances that may overcome a claim of qualified privilege. A violation of the provisions of this Rule may be deemed to be a violation of a court order and may subject the violator to sanctions under Federal Rule of Civil Procedure 37(b)(2).

(c) Videotaped and Audiotaped Depositions. If the deposition is to be recorded by videotape or audiotape, the party noticing the deposition or subpoenaing the witness shall be responsible for ensuring that the equipment used is adequate to produce a clear record. If the deposition is to be recorded by videotape, the procedures set out in Appendix I shall govern the deposition proceedings, except upon stipulation of the parties or order of the court upon motion and showing of good cause.

RULE CV-33. INTERROGATORIES TO PARTIES

(a) All answers to interrogatories must be signed under oath by the party to whom they are directed. If circumstances prevent a party from signing the answers, the party's attorney may serve the answers without the party's signature with a statement that properly executed answers will be served on the requesting party not later than 21 days after serving the unexecuted answers. This time may be extended by order of the court.

(b) A party that serves written interrogatories under Federal Rule of Civil Procedure 33 may use any of the following approved interrogatories. The court will not consider objections to these interrogatories, except upon a showing of exceptional circumstances. Each approved interrogatory counts as one question. Other interrogatories are counted in accordance with Federal Rule of Civil Procedure 33(a).

(1) Identify all persons who you believe have knowledge of relevant facts and identify the issues upon which you believe they have knowledge.

(2) Identify all persons or legal entities who have a subrogation interest in the cause of action set forth in your complaint [or counterclaim], and state the basis and extent of said interest.

(3) If [name of party to whom the interrogatory is directed] is a partner, a partnership, or a subsidiary or affiliate of a publicly owned corporation that has a financial interest in the outcome of this lawsuit, list the identity of the parent corporation, affiliate, partner, or partnership and the relationship between it and [the named party]. If there is a publicly owned corporation or a holding company not a party to the case that has a financial interest in the outcome, list the identity of such corporation and the nature of the financial interest.

(4) If the defendant is improperly identified, give its proper identification and state whether you will accept service of an amended summons and complaint reflecting the information furnished by you in answer hereto.

(5) If you contend that some other person or legal entity is, in whole or in part, liable to [the plaintiff or defendant] in this matter, identify that person or legal entity and describe in detail the basis of said liability.

RULE CV-36. REQUESTS FOR ADMISSIONS

Requests for admissions made pursuant to Federal Rule of Civil Procedure 36 are limited to 30 requests. The court may permit further requests upon a showing of good cause.

RULE CV-54 COSTS

(a) Unless otherwise determined by the court, costs will be assessed in the final judgment in a case. A party awarded costs shall prepare and file a proposed bill of costs no later than 14 days after the entry of judgment. The proposed bill of costs shall be served on all parties.

(b) Any party opposing a proposed bill of costs must file an objection no later than 14 days after a proposed bill of costs is filed.

(c) If no objection to the proposed bill of costs is filed, the clerk shall not tax costs until the expiration of 21 days after the filing of the proposed bill of costs. If the clerk fails to tax costs within 28 days after the proposed bill of costs is filed, and there being no objection filed, then costs will be deemed taxed as proposed.

(d) If objection to the proposed bill of costs is timely filed by a party, the clerk will forward the proposed bill of costs and the objection to the presiding judge in the case for final resolution.

(e) A party dissatisfied with the clerk's action may file a motion to review the clerk's action no later than 7 days after the clerk has taxed costs.

RULE CV-55 FAILURE TO OBTAIN DEFAULT JUDGMENT

If a defendant is in default, the court may require the plaintiff to move for entry of a default and a default judgment. If the plaintiff fails to do so within the prescribed time, the court may dismiss the action, without prejudice, as to the defendant.

RULE CV-65. INJUNCTIONS

An application for a temporary restraining order or preliminary injunction shall be made in an instrument separate from the complaint.

RULE CV-65.1 SECURITY; PROCEEDINGS AGAINST SURETIES

(a) No clerk, marshal, attorney, or officer of this court will be accepted as surety, either directly or indirectly, on any bond or undertaking in any action or proceeding in this court, nor shall any such person advance or provide money or other thing of value for any cost, bail, attachment or replevy bond taken in this court.

(b) The clerk shall make available a list of corporations or other entities authorized by the Secretary of the Treasury to act as surety on official bonds on the district's website, or in such other manner as the clerk deems sufficient public notice.

(c) Unless the court otherwise directs, every bond furnished in connection with any matter must be done in one of the following manners, either:

(1) Cash or United States Government Bonds deposited in the registry of the court in lieu of sureties; or

(2) Surety bonds that have:

(A) A corporation authorized by the Secretary of the Treasury of the United States to act as surety on official bonds;

(B) An individual resident of the Western District of Texas who satisfied the court that he owns real or personal property not exempt by law within the district sufficient to justify the full amount of the suretyship.

(d) Each person who is to act as a principal or as a surety on an official bond shall undertake to:

(1) Prosecute the claim or action with effect;

(2) Abide by the decision of the court; and

(3) Pay the damages sustained, to the full extent of the face amount of the bond, if the court finds that the order secured by the bond was wrongfully applied for or wrongfully made.

RULE CV-67. DEPOSIT AND DISBURSEMENT OF REGISTRY FUNDS

Deposits into and disbursements from the registry of the court must be made in compliance with Federal Rule of Civil Procedure 67 and Federal Rule of Bankruptcy Procedure 7067. The following procedures also govern any such deposits and disbursements:

(a) All funds tendered for deposit into the registry of the court, with the exception of cash bail, shall be placed in an interest bearing account.

(b) A motion requesting leave of court to deposit funds into the registry must be filed and served on all interested parties to the proceeding. The motion and proposed order shall set out with particularity the information found on the court's website, www.txwd.uscourts.gov, in the drop-down menu "For Attorneys" under "Registry Funds Information".

(c) The clerk is the designated beneficiary and custodian of the invested accounts.

(d) After the order is entered permitting deposit and investment or reinvestment of funds, the party presenting the order shall deliver a copy of said order on the clerk, either personally or by certified mail or in his absence, the divisional office manager. It shall also be incumbent on the presenting party to confirm that the appropriate action has been accomplished by the clerk in accordance with the provisions of the order.

(e) Upon entry of an order directing the clerk to disburse funds on deposit in the registry of the court, it will be the responsibility of the movant to serve a copy of said order on the clerk as set forth in subparagraph (d) above and in accordance with the information found on the court's website, www.txwd.uscourts.gov, in the drop-down menu "For Attorneys", under "Registry Funds Information".

RULE CV-72. MAGISTRATE JUDGES, PRETRIAL MATTERS

The magistrate judges of this court are authorized to perform all the duties allowed to magistrate judges under the Federal Magistrates Act as amended in 28 United States Code § 636. The magistrate judges of this court are designated to exercise civil jurisdiction under section 636(c)(1) upon consent of the parties. Whenever applicable, the "Local Rules of the Assignment of Duties to United States Magistrate Judges" found at Appendix C shall apply to proceedings before the magistrate judges.

RULE CV-79. REMOVAL AND DESTRUCTION OF RECORDS AND EXHIBITS

(a) Nothing in the files of the court shall be taken from the office or custody of the clerk, except on written order of the court. The party offering any exhibit or deposition shall be responsible for its removal from the clerk's office within 60 days after the final disposition of the case, including appeal thereof. A detailed receipt shall be given by the party to the clerk. Any exhibit or deposition remaining more than 60 days after final disposition of the case, including appeal, may be destroyed or otherwise disposed of by the clerk.

(b) Documents filed under seal in civil actions must remain sealed with the clerk, unless otherwise ordered by the court.

RULE CV-88. ALTERNATIVE DISPUTE RESOLUTION

(a) ADR Methods Available. The court may approve any ADR method the parties suggest or the court believes is suited to the litigation.

(b) ADR Report. Upon order of the court, the parties shall submit a report addressing the status of settlement negotiations, disclosing the identity of the person responsible for settlement negotiations for each party, and evaluating whether alternative dispute resolution is appropriate in the case. In the event the parties conclude that ADR is appropriate and agree upon a method of ADR and an ADR provider, they should identify both the method of ADR and the provider they have selected, the method by which the provider was selected, and how the provider will be compensated.

(c) Referral to ADR. The court may refer a case to ADR on the motion of a party, on the agreement of the parties, or on its own motion; however, the court may refer a case to arbitration only with the consent of the parties (including but not limited to their consent by contract to arbitration). If the parties agree upon an ADR method or provider, the court will respect the parties' agreement unless the court determines that another ADR method or provider is better suited to the case and parties. If the parties are unable to agree on an ADR provider, the court will select a provider.

(d) Attendance; Authority to Settle. Counsel, party representatives with authority to negotiate a settlement, and all other persons necessary to negotiate a settlement, including insurance carriers, must attend the ADR session in person, unless the parties agree or the court orders otherwise.

(e) Fees. The provider and the litigants will determine the fees for the ADR. The court reserves the right to review the reasonableness of the fees. If the provider and litigants are unable to agree, the court will determine an appropriate fee.

(f) Disqualification. No person shall serve as a provider if any of the circumstances specified in 28 U.S.C. § 455 of the Judicial Code of Conduct exist, or if the provider believes in good faith that such circumstances exist.

(g) Relief from Referral. A party opposing either the ADR referral or the appointed provider must file written objections with the court not later than 14 days after receiving notice of the referral or provider. Any party may obtain relief from an order upon a showing of good cause. Good cause may include a showing that the expenses relating to alternative dispute resolution would cause undue hardship to the party seeking relief from the order. In that event, the court may in its discretion appoint a provider from the list of providers to serve at a reduced fee, or without fee and at no cost to the party or parties.

(h) Confidentiality. Except as otherwise provided herein, or as agreed by the participants, a communication relating to the subject matter of any civil or criminal dispute made by any participant during an alternative dispute resolution procedure, whether before or after the

institution of formal judicial proceedings, is confidential, may not be disclosed, may not be used as evidence against the participant in any judicial or administrative proceeding, and does not constitute a waiver of any existing privileges or immunities.

(1) Any record made at an alternative dispute resolution procedure is confidential, and the participants or the third party facilitating the procedure may not be required to testify in any proceedings relating to or arising out of the matter in dispute or be subject to process requiring the disclosure of confidential information or data relating to or arising out of the matter in dispute.

(2) An oral communication or written material used in or made a part of an alternative dispute resolution procedure is admissible or discoverable if it is admissible or discoverable independent of the procedure.

(3) If this section conflicts with other legal requirements for disclosure of communications or materials, the issue of confidentiality may be presented to the court having jurisdiction of the proceedings to determine, in camera, whether the facts, circumstances, and context of the communications or materials sought to be disclosed warrant a protective order of the court or whether the communications or materials are subject to disclosure.

(i) Final ADR Report. At the conclusion of each ADR proceeding, the provider shall submit to the court a notice of outcome, including the style and number of the case, the type of case, the method of ADR, whether the case has settled, and the provider's fees.

(j) Sanctions. The sanctions available under Federal Rule of Civil Procedure 16(f) shall apply to any violation of this rule.

SECTION II - CRIMINAL RULES

RULE CR-1. SCOPE AND APPLICABILITY OF RULES

(a) Scope. These rules apply in all criminal proceedings before the district and magistrate judges of the Western District of Texas.

(b) Applicability.

(1) ***Conflicts with Other Laws or Rules.*** To the extent any of these rules conflict with a law of the United States, or an applicable rule of the Supreme Court of the United States or the United States Court of Appeals for the Fifth Circuit, the rule must not apply.

(2) ***Waiver of Rules.*** Any judge of this court may waive a requirement of any of these rules when it is in the interest of justice.

(3) ***Absence of Rule***. When no specific rule governs a procedural matter, the judge may prescribe the procedure for that case.

(c) Citation. These rules may be cited as the Western District of Texas Rules.

Committee Notes

1. The language of Rule CR-1 has been amended as part of the general restyling of the local criminal rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only, except as noted below.

2. The rules apply to cases then pending, unless applying a rule is not in the interest of justice.

3. Subsection (f) of the former rule, setting forth authority of magistrate judges is omitted from the proposed revision. The delegation of magistrate authority is not related to the general scope and applicability of the local rules and logically should be placed in its own rule. The style of subsection (f) has been revised as proposed Rule CR-58, consistent with proposed revisions to the Fed. R. Crim. P., which place matters pertaining to proceedings before a magistrate judge in Fed. R. Crim. P. 58.

RULE CR-5A. PRETRIAL SERVICES INTERVIEW AND REPORT

(a) Interview.

(1) ***Notice to Defendant.*** Before conducting a pretrial services interview, the pretrial services officer must notify the defendant of:

(A) the circumstances under which the information the defendant provides must be disclosed; and

(B) the defendant's rights during the interview, including:

(i) the defendant's right not to be questioned regarding the charges in the case;

(ii) the defendant's right to decline to speak or provide any information to the officer; and

(iii) the defendant's right to counsel during the interview.

(2) ***Notification Form.*** A form notifying the defendant of the rights set out in subsection (a)(1) is appended to this rule.

(3) ***Presence of Counsel.*** If the defendant wishes to have the assistance of counsel during the interview, the pretrial services officer must afford a reasonable opportunity for counsel to be present.

(b) Use and Disclosure of Pretrial Service Report and Related Information.

(1) ***In General.*** The use and disclosure of the pretrial services report, and any information obtained by the pretrial services officer in the course of performing the pretrial services function, are governed by 18 U.S.C. § 3153(c). The pretrial services officer must limit disclosure to the minimum information and the minimum number of persons necessary to carry out the purpose of the disclosure.

(2) ***Disclosure of the Pretrial Services Report.*** The pretrial services report must be disclosed to the attorney for the defendant and the attorney for the government. The report should not be re-disclosed to other persons by the attorney for the defendant or the attorney for the government.

(3) ***Disclosure of the Pretrial Services Recommendation.*** Unless otherwise ordered by the court, the pretrial services officer's recommendation as to the propriety and conditions of release will be disclosed to the parties with the pretrial services report.

Committee Notes

1. Rule CR-5A is a new rule that prescribes procedures for pretrial services' interview and report, and the management of defendants on supervision who are confidential informants.

2. Subsection (a) ensures that a defendant knows of his rights, and has the opportunity to invoke them, before being interviewed by the pretrial services officer. Appended to the rule is a form pretrial services uses to notify the defendant of his rights, and to advise the defendant that no adverse inference will be drawn from his invocation of his rights.

3. Subsection (b) provides the parties with easier access to pretrial services information, subject to the confidentiality requirements of 18 U.S.C. § 3153(c). The Committee believes that it is consistent with the statute for the pretrial services officer to provide a copy of the pretrial services report and recommendation to both the government and defense attorneys, and that the statute does not require the return of the report at the conclusion of any bail or other pretrial hearing. Cf. 12 Administrative Office of the U.S. Courts, Guide to Judiciary Policies and Procedures, Ch. 3, Pt. A(4)(D)(1) (1999) (subject to district court's practice and procedure, report must be returned to pretrial services officer at conclusion of hearing).

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

NOTICE TO DEFENDANTS

I, _____, am being asked questions about myself by a Pretrial Services Officer. I will not be questioned about the charges and I should avoid talking about them at this time. I understand I am under no obligation to give any information and I may decline to answer any particular question or all questions. However, I also understand the Pretrial Services Officer is required to provide a report to the court on my general background whether or not I choose to provide information at this time and that the absence of background information for consideration by the court could affect my chances for pretrial release. I further understand the report provided to the court will be made available to my attorney and the attorney for the government.

Any answers to these questions will be used by the court to decide whether I will be released or kept in jail pending my trial and whether I will have to take part in treatment programs such as for drug or alcohol abuse.

Statements I make to the Pretrial Services Officer in the course of the pretrial services function cannot be used against me on the issue of guilt in a criminal judicial proceeding. Any information could affect the decision regarding suitability for pretrial release.

If I am found guilty, either after trial or after pleading guilty, the information I provide to the Pretrial Services Officer will be made available to a U.S. Probation Officer for the purpose of investigating my background and preparing a presentence report and that information may affect my sentence.

I know I have the right to speak with a lawyer before answering any questions. If I cannot afford a lawyer, one will be appointed to represent me during questioning.

I have read this form, or had it read to me, and I understand my rights.

Date: _____ **_____**
Defendant's Signature

Time: _____ a.m.
p.m. **_____**
Pretrial Services Officer

TXW/11/95

TRIBUNAL DE JUSTICIA DE LOS ESTADOS UNIDOS DE AMERICA
DISTRITO OESTE DE TEXAS

AVISO A LOS ACUSADOS

Yo, _____ , sé que un Agente de Servicios Previos al Juicio me está haciendo preguntas acerca de mi mismo. No me interrogará acerca de los cargos en mi contra y por el momento deberé evitar hablar de ellos. Comprendo que no estoy obligado a dar información alguna y puedo declinar contestar alguna pregunta en partícular o todas las preguntas. Sin embargo, también comprendo que el Agente de Servicios Previos al Juicio está obligado a presentar un informe al tribunal. Este informe tratará de mis antecedentes personales ya sea que yo decida darle o no darle información en este momento. Además, comprendo que la falta de información acerca de mis antecedentes personales para la consideración del tribunal podría afectar la posibilidad de obtener libertad previa al juicio. Además, comprendo que el informe presentado al tribunal será puesto a la disposición de mi abogado y la del abogado del gobierno.

Cualquier respuesta a estas preguntas será usada por el tribunal para decidir si seré puesto en libertad o si permaneceré encarcelado mientras esté pendiente mi juicio y si tendré que participar en programas de tratamiento, por ejemplo, por abuso de drogas o alcohol.

Las declaraciones que yo le dé al Agente de Servicios Previos al Juicio durante el curso de las funciones de esos servicios no podrán ser usadas en mi contra con respecto a la decisión de culpabilidad en un procedimiento judicial penal. Cualquier información podría afectar la decisión respecto a la aptitud para recibir la libertad previa al juicio.

Si hay fallo de culpabilidad, ya sea después de un juicio o después de haberme declarado culpable, la información que yo le dé al Agente de Servicios Previos al Juicio se pondrá a la disposición del Agente de Libertad Condicional para los propósitos de investigar mis antecedentes personales y para preparar un informe precondenatorio y esa información podría afectar mi sentencia.

Sé que tengo el derecho de hablar con un abogado antes de contestar cualquier pregunta. Si no puedo costear los servicios de un abogado, se me asignará uno para que me represente durante el interrogatorio.

He leído este formulario o me lo han leído y entiendo mis derechos.

_____	_____
Fecha	**Firma del (de la) Acusado(a)**
_____	_____
Hora AM PM	**Firma del Agente de Servicios Previos al Juicio**

Effective: December 1, 2002
Revised: March 21, 2007

RULE CR-5B. INITIAL APPEARANCE OF UNDOCUMENTED ALIEN DETAINED AS MATERIAL WITNESS

(a) Appearance. Upon the filing of an affidavit under 18 U.S.C. § 3144 alleging that an undocumented alien is a material witness, the witness must be brought before the court without unnecessary delay.

(b) Procedure. Upon presentation of an undocumented alien witness, the court must:

(1) consider, with the assistance of pretrial services, whether the witness may be released under 18 U.S.C. § 3142, including release under an available community release program; and

(2) appoint counsel to represent the witness under the Criminal Justice Act, 18 U.S.C. § 3006A, if the court determines that:

(A) the witness is financially unable to retain counsel, and

(B) the witness does not waive counsel.

(c) Detention. If the witness is ordered detained, the detention must accord with the provisions of Rule CR-15B.

Committee Note

Rule CR-5B is a new rule that prescribes procedures for initial appearances of undocumented aliens detained as material witnesses. Because undocumented alien material witnesses are illegally in the United States, the feasibility of their conditional release under 18 U.S.C. § 3142 depends on the continued cooperation of U.S. Pretrial Services Office, the U.S. Attorney, and the Department of Homeland Security.

RULE CR-6A. THE GRAND JURY

Grand jurors' selection, qualification, summoning, and exemption or excuse from service are governed by Appendix D.

Committee Note

The language of Rule CR-6A has been amended as part of the general restyling of the local criminal rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

RULE CR-6B. DIVISION IN WHICH INDICTMENT MAY BE PRESENTED AND FILED.

(a) In General. A case may be presented to a grand jury and may be filed in the following divisions:

(1) any division in which the offense was committed, in whole or in part; or

(2) with leave of the district judge supervising the grand jury before which the case is presented, any division whose borders are contiguous to any division in which the offense was committed, in whole or in part.

(b) Multiple Offenses. A case involving multiple offenses committed in separate divisions that are joined for indictment under Federal Rule of Criminal Procedure 8(a), may be presented to a grand jury in, and may be filed in, any division in which any one of the joined offenses could be presented and filed under subsection (a).

(c) Multiple Defendants. A case involving multiple defendants who are joined under Federal Rule of Criminal Procedure 8(b), may be presented to a grand jury in, and may be filed in, any division in which any one of the joined defendants could be charged under subsection (a).

Committee Notes

1. Rule CR-6B is a new rule that prescribes procedures for presentment and filing of indictments in divisions of the district. The rule allows, in certain circumstances, for an indictment to be presented and filed in a division contiguous to the one in which the offense was committed.

2. Leave of the district judge under subsection (a)(2) will normally be sought only when indictment in a division other than that in which the crime was committed is thought necessary to ensure a speedy trial, to avoid prejudice against the defendant, or when doing so would be in the interest of justice. The Committee contemplates that leave of the district judge will be documented in writing. Prosecution in contiguous divisions is currently allowed in Appendix D, the Amended Plan for the Random Selection of Grand and Petit Jurors in the Western District of Texas. Subsection (a)(2) deviates from the procedures in Appendix D, which currently requires the approval of the chief judge.

RULE CR-12. PRETRIAL MOTIONS

(a) Motion by Defendant. Unless otherwise ordered by the court, the defendant must file any pretrial motion:

(1) within 14 days after arraignment; or

(2) if the defendant has waived arraignment, within 14 days after the latest scheduled arraignment date.

(b) Motion by the Government. Unless otherwise ordered by the Court, the government must file any pretrial motion by the latest of the following dates:

(1) within 14 days after receiving defendant's motions;

(2) within 21 days after the arraignment; or

(3) if the defendant has waived arraignment, within 21 days after the latest scheduled arraignment date.

Committee Notes

1. The language of Rule CR-12 has been amended as part of the general restyling of the local criminal rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only, except as noted below.

2. The form of motions and responses, and the time for filing a response, are governed by CR-47.

3. Notwithstanding the preference in the Federal Rules of Criminal Procedure for case-specific scheduling orders (see Committee Note, proposed amendment to Fed. R. Crim. P. 12(c)), the rule retains the practice of setting motions deadlines by local rule, recognizing that the practice is suitable for the vast majority of criminal cases filed in this district, and that the district court may set specific deadlines different from the rule in appropriate cases.

(Rev: 12/17/09)

RULE CR-15A. DEPOSITION OF WITNESS OTHER THAN MATERIAL WITNESSES

(a) Manner Taken. Except in the case of the deposition of a material witness, an oral deposition ordered by the court under Federal Rule of Criminal Procedure 15, may be recorded stenographically or on videotape if taken in accordance with the "Guidelines for Non-Stenographic Deposition," set forth in Appendix I.

(b) Stenographic Deposition. The original of a stenographic deposition must be delivered to the party who sought the deposition after one of the following has occurred:

(1) the deponent has signed the original deposition;

(2) the deponent and all interested parties have waived on the record the signing by the deponent; or

(3) the stenographic reporter has certified that the deponent has failed to sign the deposition after giving reasonable notice of the availability of the transcript to the deponent and the deponent's attorney (if any).

(c) Videotape Deposition. The original of a videotape deposition must be delivered to the party who sought the deposition after one of the following has occurred:

(1) the deponent has reviewed the videotape and certified its accuracy; or

(2) the deponent and all interested parties have waived review and certification in writing; or

(3) the reporter has certified that the deponent has failed to sign an acknowledgment of review of the deposition after giving reasonable notice of the availability of the videotape to the deponent and the deponent's attorney (if any).

(d) Custody. The party who sought to take a deposition must maintain custody of the original transcript, or the original videotape deposition and certification, or any written waiver of certification. That party must make the deposition available for appropriate use by any party in a hearing or a trial of the case.

(e) Material Witnesses. The deposition of a material witness is governed by CR-15B.

Committee Note

The language of Rule CR-15A has been amended as part of the general restyling of the local criminal rules to make them more easily understood and to make style and terminology consistent throughout the rules. The rule has been revised to add procedures for the videotaping of depositions. The rule does not govern the depositions of detained material witnesses, which is addressed by Rule CR-15B.

RULE CR-15B. DEPOSITION AND RELEASE OF MATERIAL WITNESS IN CUSTODY

(a) Scope.

(1) This rule provides for the deposition and release of a material witness who:

(A) is held pursuant to 18 U.S.C. § 3144;

(B) is found by the court to be an alien illegally in the United States; and

(C) has not been released on conditions under 18 U.S.C. § 3142.

(2) This rule does not affect the determination whether a material witness should be released under 18 U.S.C. § 3142.

(b) Deposition.

(1) ***Entry and Service of Order***.

(A) Immediately after a material witness described in subsection (a) makes his or her first appearance before the court, the officer must enter an order setting the time and place for taking the deposition of the witness. No motion or notice is required by either the witness or any party. The order must comply with Federal Rule of Criminal Procedure 15. A form order is appended to this rule.

(B) An order entered under subsection (b)(1)(A) will serve as the notice of deposition required by Federal Rule of Criminal Procedure 15(b). The clerk of the court must serve the order on counsel for all parties; on counsel for the material witness; on an interpreter; and on the U.S. Marshals Service.

(2) ***When Taken; Cancellation or Continuance.***

(A) The court must order that the deposition be taken not later than 35 days after the witness first appeared before the officer.

(B) The deposition may be continued or canceled only on order of the court. If the government and the defendant or defendants reach an agreement disposing of related criminal charges before the deposition is taken, they must notify the court, which will then promptly determine whether to cancel or continue the deposition. The deposition cannot be continued beyond the 45-day deadline for release of the witness set out in subsection (c)(1).

(C) Subject to a finding of additional exceptional circumstances under Federal Rule of Criminal Procedure 15(a), the court must cancel the deposition if the material witness is released on conditions of release before the scheduled date of the deposition.

(3) ***Discovery.*** The parties must exchange all required discovery reasonably in advance of the date of the deposition.

(4) ***Location.*** Unless impracticable, the deposition should be taken in a court facility.

(5) ***Attendance.***

(A) All parties and persons served under subsection (b)(1)(B) of this rule must attend the deposition, except that any defendant may waive attendance by filing a written waiver before the date of the deposition, in accordance with Federal Rule of Criminal Procedure 15(c)(1).

(B) The U.S. Marshals Service must make available the witness and defendant in its custody, at the time and place of the deposition ordered by the court.

(6) ***How Taken.*** The deposition must be recorded by videotape. The U.S. Attorney's Office must provide a videographer to record the deposition, and will bear the costs and expenses of taking the deposition. Other expenses will be borne by the parties, except as provided in Federal Rule of Criminal Procedure 15(d).

(7) ***Review and Certification.***

(A) After the deposition is completed, the videotape recording must immediately be played back in the presence of the witness, the interpreter, and all parties attending the deposition, and their attorneys. Any corrections or modifications to the deposition must be recorded on the same videotape used to record the deposition, and should immediately follow the deposition on the recording.

(B) The deposition must be certified consistent with Federal Rule of Civil Procedure 30, except as otherwise provided by this rule or ordered by the court. It is not required for certification that the videotape recording be transcribed.

(C) The material witness and all interested parties may waive review and certification in writing, in accordance with Rule CR-15.

(8) ***Custody of Deposition.*** The government must maintain custody of the videotape deposition and certification, or any waiver of certification. Upon request, the government must provide a copy of the deposition to the witness or any defendant.

(9) ***Use as Evidence.*** The use and admissibility of the deposition are governed by Federal Rule of Criminal Procedure 15, the Federal Rules of Evidence, and applicable court precedent. The presiding judge should rule on any objections to the deposition at or before trial. Nothing in this rule relieves the proponent's burden of demonstrating the unavailability of the material witness under Federal Rule of Evidence 804(a).

(c) Release.

(1) ***Mandatory Deadline for Release.*** A material witness described in subsection (a) must be ordered released from the custody of the U.S. Marshals Service by the first to occur of the following deadlines:

(A) within 24 hours of the taking, and the certification or waiver of certification, of the witness' deposition; or

(B) within 45 days of the witness' first appearance before a court.

(2) ***Earlier Release.*** If the deposition is canceled under subsection (b)(2)(B), the court should determine promptly whether to order the release of the material witness from U.S. Marshals Service custody.

Committee Notes

1. Rule CR-15B is a new rule that prescribes procedures for deposing and releasing material witnesses in custody. The Committee notes that there is a conflict between Appendix I and CR-15B in that the appendix, which likely was drafted with civil depositions in mind, imposes the cost of copies on the party seeking the copy whereas CR-15B requires the government to furnish copies to the witness and defendant upon request. This conflict is addressed by language on the form order.

2. Notwithstanding subsection (b)(2)(B), the court may continue the deposition for "good cause." See Rule CR-1(e).

3. Subsection (b)(3) does not provide for discovery other than that ordered by the court. The Committee contemplates that the parties will exchange information as would be required as if the witness were testifying at trial, including discovery required by Fed. R. Crim. P. 15(e), Fed. R. Crim. P. 16, and Fed. R. Crim. P. 26.2; statements covered by the Jencks Act, 18 U.S.C. § 3500; and impeachment information under Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194 (1963), and Giglio v. United States, 405 U.S. 150, 92 S. Ct. 763 (1972).

4. The use of an interpreter should accord with 28 U.S.C. § 1827 and applicable directives of the Administrative Office of the U.S. Courts. The government bears the burden of providing an interpreter for the deposition.

5. The rule does not require a written transcript of the deposition but leaves to the court and the parties to determine whether a written transcript is necessary in any given case. The Committee notes that, unlike the U.S. Attorney and the Federal Public Defender, private counsel appointed under the Criminal Justice Act, 18 U.S.C. § 3006A, cannot obtain a written transcript without a court order. See 28 U.S.C. § 1915(c). The proposed order appended to the rule provides that a Criminal Justice Act panel attorney may request a written transcript.

Appendix to Local Court Rule CR-15B

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF TEXAS

SAN ANTONIO DIVISION

UNITED STATES OF AMERICA, **Plaintiff,**	§	
v.	§	**CRIMINAL NO. __-__ -CR-__**
, **Defendant(s)**.	§	

ORDER SETTING MATERIAL WITNESS DEPOSITION

Before the Court is the matter of the taking of the deposition of material witnesses in the above-styled and numbered cause. The Court finds that _____ (names of material witnesses) are aliens not lawfully admitted to the United States, that they are material witnesses in the case styled United States v. (Name of Defendant, cause no.), being held pursuant to 18 U.S.C. § 3144, and that they have not been released on conditions pursuant to 18 U.S.C. § 3142. As such, the Court finds that this case presents "exceptional circumstances" and that the "interest of justice" requires the taking of the deposition of the material witnesses. Rule 15(a), Fed.R.Crim.P. The Court further finds that there will be no failure of justice if the material witnesses are released after their depositions have been taken and certified in accordance with 18 U.S.C. § 3144 and Local Court Rule CR-15B.

IT IS THEREFORE ORDERED that the depositions of _____(names of material witnesses) are set for ____(date and time) at _____(place).

IT IS FURTHER ORDERED that the depositions shall be recorded by videotape. The videotape must provide an electronic sound recording which is sufficient to comply with 28 U.S.C. §1827(d)(2). They also may be recorded by stenographic means at the party's own expense. Notwithstanding the foregoing, subsequent to the completion of the deposition, a CJA panel attorney may request that a stenographic transcript of all or part of a deposition. Each deposition shall be certified consistent with Rule 30, Fed.R.Civ.P. and Local Rule CR-15B, and shall be accomplished by the immediate playback of the videotape recording in the presence of the material witness, the interpreter, all parties attending the deposition, and their attorneys. Any corrections or modifications to the deposition shall be recorded on the same videotape, following the recording of the deposition. Playback of the recording and certification may be waived in writing in accordance with Local Rule CR-15A. The government shall retain custody of the videotape depositions and written statements of certification or waiver of certification pending trial. Notwithstanding Appendix I to the Local Rules, the government shall, upon request, promptly provide to any defendant, material witness or counsel, copies of the videotape deposition and written statements of

certification or waivers of certification.

IT IS FURTHER ORDERED that the Clerk of the Court shall serve a copy of this order on the following: All defendants, counsel for defendants, the material witnesses, counsel for the material witnesses, counsel for the government, an interpreter, and the United States Marshals Service.

IT IS FURTHER ORDERED that the United States Marshals Service shall make the named witnesses and defendants in their custody available on the date, time and place in conformity with this order. If any defendant desires to waive appearance, that defendant must file a written waiver with the Clerk of the Court prior to the date of the deposition.

IT IS FURTHER ORDERED that within 24 hours after the deposition and certification or waiver have been completed, the material witness shall be brought before the court for release from the custody of the U.S. Marshals Service.

RULE CR-16. DISCOVERY AND INSPECTION.

(a) Discovery Conference and Agreement.

(1) The parties need not make standard discovery requests, motions, or responses if, not later than the deadline for filing pretrial motions (or as otherwise authorized by the court), they confer, attempt to agree on procedures for pretrial discovery, and sign and file a copy of the Disclosure Agreement Checklist appended to this rule.

(2) If the Disclosure Agreement Checklist indicates that a party intends to disclose, but does not currently possess, certain listed information, that party must disclose the information as soon as practicable.

(3) If the Disclosure Agreement Checklist indicates that a party refuses to disclose information, the other party may file motions regarding the undisclosed information within 14 days after filing of the checklist.

(4) Filing of the Disclosure Agreement Checklist does not preclude a party from filing motions relating to information not listed in the checklist.

(b) Timing of Discovery.

(1) ***Discovery deadlines.*** Unless otherwise ordered by the court, or agreed to by the parties in writing:

(A) The parties must provide discovery in connection with pretrial release or detention not later than the commencement of a hearing on pretrial release or detention;

(B) The parties must provide discovery in connection with a pretrial hearing, other than a pretrial release or detention hearing, not later than 48 hours before the hearing; and

(C) The parties must provide discovery in connection with trial, whether agreed to by the parties or otherwise required, not later than:

(i) 14 days after arraignment; or

(ii) if the defendant has waived arraignment, within 14 days after the latest scheduled arraignment date.

(2) ***Earlier disclosure.*** The court encourages prompt disclosure, including disclosure before the deadlines set out in this rule.

(3) ***Disclosure after motions deadline***. The disclosure of information after the expiration of a motions deadline usually provides good cause for an extension of time to file motions based on that information. (Rev: 12/17/09)

(4) ***Continuing duty to disclose.*** The parties have a continuing duty to disclose promptly to opposing counsel all newly discovered information the party is required to disclose, or has agreed to disclose in the Disclosure Agreement Checklist.

(c) Late Disclosure.

(1) The late disclosure of material information under this rule is not usually a ground for exclusion of evidence, unless:

(A) the information was within the party's possession, custody or control, and its existence was known, or by the exercise of due diligence could have been known, to the party's attorney; and

(B) the party's attorney has not made good faith efforts to obtain and disclose the information on time.

(2) If not excluded under subsection (c)(1), material information that is not timely disclosed usually provides good cause for:

(A) extending the time to file a motion or notice, or to request a hearing, based on the late-disclosed information;

(B) extending a deadline for reaching a plea-bargain agreement; and

(C) continuing the trial setting.

Committee Notes

1. Subsection (a) and the appended checklist provide a formal means by which the parties can, by agreement, regulate their discovery practice. This is not intended to preclude other agreed discovery methods (such as the open-file discovery regularly practiced in some divisions).

2. Subsection (c) deals with the problem of late-disclosed discovery. The rule recognizes that, when late disclosure of evidence is done in good faith, it should not usually provide grounds for excluding the evidence, but usually does provide cause for a continuance or other extension of time. Subsection (c) is not intended to limit the court's discretion under Federal Rule of Criminal Procedure 16(d).

3. The disclosure agreement checklist appended to the rule does not include specific reference to confidential informants. There are some cases in which an "informant" category on the checklist would not capture the unique circumstances regarding cooperating individuals; in those cases, any reference to informants on the checklist could be prejudicial to the Government, or misleading to the defense. Nevertheless, the identity and location of informants are important, recurring discovery issues. Subsection (a)(4) allows the defense to file discovery motions regarding informants; alternatively, the parties may address the issue in the "other matters" section of the checklist. If the checklist indicates that the Government refuses to disclose information regarding an informant, subsection (a)(3) would provide the defendant additional time to file a motion for disclosure.

UNITED STATES v. _____

CRIMINAL NO. _____

PARTIES' DISCLOSURE AGREEMENT CHECKLIST									
	Disclosed		Will Disclose Upon Receipt		Refuse to Disclose		Not Applicable		Comments
	Gov't	Def	Gov't	Def	Gov't	Def	Gov't	Def	
Police/Agent Reports									
Rule 12(d)(2) material									
Intercepted communications (18 U.S.C. § 2510, consensual)									
Rule 16 material: Defendant statement Defendant record Documents Tangible Objects Examination/test reports Experts									
FRE 404(b) material									
Immigration file									
Eyewitness ID (lineup showup, photo spread)									
Exculpatory material *(Brady)*									
Impeachment material (*Giglio*, *Napue*, FRE 608, 609)									
Witness List									
Witness Statements (Rule 26.2 18 U.S.C. § 3500)									
Guideline calculation material (U.S.S.G. § 6B1.2)									
Other matters:									

_____ _____ _____ _____

DEFENDANT'S ATTORNEY **DATE** **ASSISTANT U.S. ATTORNEY** **DATE**

RULE CR-17.1 MARKING EXHIBITS

A party must mark any exhibit it offers at a trial or hearing in accordance with Rule CV-16(g).

Committee Notes

1. Rule CR-17.1 is a new rule, consisting of the substance of former Rule CR-55(b), renumbered as Rule CR-17.1, to conform more closely to the organizational structure of the Federal Rules of Criminal Procedure. The language of Rule CR-17.1 has been amended as part of the general restyling of the local criminal rules to make them more easily understood and to make style and terminology consistent throughout the rules. The changes are intended to be stylistic only, except as noted below.

2. The rule extends the requirement to premark exhibits to hearings as well as trials, to reflect current practice.

RULE CR-18. PLACE OF TRIAL WITHIN DISTRICT

(a) Division in Which Prosecution and Trial May Occur.

(1) Unless a statute, other rule, or court order requires otherwise, the government may prosecute a case in any division in the district in which the offense was committed, in whole or in part.

(2) The court may fix trial in:

(A) any division within the district consistent with Federal Rule of Criminal Procedure 18; or

(B) any other division within the district, if the court is satisfied that there exists in the division where the prosecution is pending so great a prejudice against the defendant that the defendant cannot obtain a fair and impartial trial.

(b) Multiple Offenses. In cases involving multiple offenses joined for trial under Federal Rule of Criminal Procedure 8(a), the court may fix the place of trial in any division in which any one of the joined offenses may be tried.

(c) Multiple Defendants. In cases involving multiple defendants joined for trial under Federal Rule of Criminal Procedure 8(b), the court may fix the place of trial in any division in which any one of the joined defendants may be tried.

Committee Notes

1. Rule CR-18 is a new rule that prescribes procedures for fixing the place of trial within the district.

2. Subsection (a)(2) does not limit the court's duty or discretion to transfer a proceeding to another district, as provided by Fed. R. Crim. P. 21(a). Subsection (a)(2)(B) is intended to clarify a specific circumstance in which transfer to another division may be required for the "prompt administration of justice" provided by Fed. R. Crim. P. 18.

3. Subsections (b) and (c) are not intended to affect or limit the court's discretion to sever as provided by Fed. R. Crim. P. 14.

4. The Committee contemplates that when a case is assigned for trial in another division, the clerk will cause the case to be assigned to a district judge in the transferee division in accordance with the plan for the random assignment of cases, unless the transferring judge orders that he or she will continue to handle the case after transfer.

RULE CR-24. TRIAL JURORS

(a) Selecting Trial Jurors.

(1) Trial jurors' selection, qualification, summoning, and exemption or excuse from service are governed by Appendix D.

(2) To assist the court in selecting a jury, each prospective juror must complete the juror information form set out in Appendix D-1.

(b) Bailiff's Oath.

The bailiff, or other special officer appointed to attend upon a jury, must take the following oath:

> "You solemnly swear that you will keep this jury during their retirement, in some convenient place removed from the presence of other persons; that you will not, without leave of the Court, suffer any person to speak to them; that you will not without such leave, hold or have any communication with them yourself, except to ascertain whether they have agreed upon their verdict and to attend to their needs; and that you will well and faithfully discharge your duties as bailiff. So help you God."

Committee Notes

1. The language of Rule CR-24 has been amended as part of the general restyling of the local criminal rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

2. Subsection (a) of the restyled rule deletes as unnecessary the reference to the statute and the title of the Plan of Implementation.

3. The revised rule removes the reference to the clerk administering the oath and changed the text of the oath only to reflect that the bailiff shall attend to the "needs" of the jurors, without further specification.

RULE CR-32. SENTENCE AND JUDGMENT

(a) Time of Sentencing. Except for good cause, the court should sentence the defendant within 60 days after the date of the verdict or entry of guilty plea.

(b) Time Limits Regarding the Presentence Report. If the defendant and the government waive the time limits under Federal Rule of Criminal Procedure 32, the following time limits apply.

(1) ***Disclosing the Report***. The probation officer must give the presentence report to the defendant, the defendant's attorney, and the attorney for the government at least 24 days before sentencing. Delivery of an extra copy of the presentence report to the defendant's attorney constitutes giving the report to the defendant.

(2) ***Reviewing the Report.*** Within 10 days after the presentence report is given, the attorney for the defendant must certify to the probation officer that the defendant has reviewed the presentence report and consulted with the attorney regarding the report.

(3) ***Objecting to the Report.*** Within 10 days after the presentence report is given, the parties must state in writing any objections to the report.

(4) ***Acting on Objections.*** Within 10 days after receiving objections, the probation officer may meet with the parties to discuss the objections, investigate further, and revise the presentence report as appropriate.

(5) ***Submitting the Report.*** At least 4 days before sentencing, the probation officer must submit the presentence report, any revision to the report, and any addendum to the court and the parties.

(c) Changing Time Limits. The court may, for good cause, change any time limit prescribed in subsection (b), except that the time limit for objecting to the presentence report may be shortened only with the consent of the defendant, the defendant's attorney, and the attorney for the government.

(d) Sentencing. At sentencing, the court may:

(1) allow a party, for good cause, to make a new objection before sentence is imposed;

(2) accept the presentence report as accurate, except with regard to any unresolved objection; and

(3) in resolving an objection, consider any reliable information presented by the probation officer, the defendant, or the government.

(Rev: 12/17/09)

(e) Post-Sentencing Disclosures.

(1) ***Presentence Report***. After sentencing, the presentence report and its contents must remain confidential, except that the probation officer may disclose the presentence report or its contents to:

(A) the U.S. Sentencing Commission;

(B) the U.S. Parole Commission;

(C) the U.S. Pretrial Services Office;

(D) another U.S. Court;

(E) the Federal Bureau of Prisons, if a term of imprisonment is imposed; or

(F) any person as ordered by the court.

(2) ***Confidential Sentencing Recommendation.*** Except as ordered by the sentencing judge, the probation officer's confidential sentencing recommendation must not be disclosed.

Committee Notes

1. The language of Rule CR-32 has been amended as part of the general restyling of the local criminal rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only, except as noted below.

2. Subsection (a) extends the usual time for sentencing after a finding of guilt from 45 days to 60 days. The U.S. Probation Office indicates that a 60-day time frame would better reflect current practice across the district. The subsection also adds a "good cause" proviso, expressly allowing for variation from the 60-day practice.

3. Subsection (b)(3) deletes the former rule's reference to what must be included in the objections to the presentence report. This matter is covered by subsection (f)(1) of the restyled version of Fed. R. Crim. P. 32.

4. Subsection (b)(5) deletes the former rule's reference to what must be included in the addendum to the presentence report. This matter is covered by subsection (g) of the restyled version of Fed. R. Crim. P. 32.

5. Subsections (d)(1) and (d)(2) are taken from the former rule; they are substantially the same as subsections (h)(1)(D) and (h)(3)(A) of the restyled version of Fed. R. Crim. P. 32.

6. Subsection (e) deletes the former rule's prohibition on disclosing the presentence report to an inmate, instead providing generally that the presentence report remains confidential. Under subsection (e)(1)(F), any court of the district can order disclosure of a presentence report; under subsection (e)(2), by contrast, only the sentencing judge may order disclosure of the probation officer's confidential sentencing recommendation.

RULE CR-45. COMPUTING TIME.

In computing any time period in any criminal case, the provisions of Rule 45, Federal Rules of Criminal Procedure (as amended effective December 1, 2009) shall be applied.

(New: 12/17/09)

RULE CR-46. RELEASE FROM CUSTODY; REPORTS OF DETAINED MATERIAL WITNESSES.

(a) Management By Pretrial Services Officers of Defendants Working As Informants. The following procedures apply to a defendant under supervision of pretrial services working as an informant for a law enforcement agency:

(1) The law enforcement agency using a defendant as an informant must promptly notify the defendant's pretrial services officer.

(2) The pretrial services officer must provide the law enforcement agency a copy of the defendant's conditions of release and the pretrial services officer's intended supervision activities.

(3) The law enforcement agency must advise the pretrial services officer of any requirements of the investigation that will affect supervision activities or require a change in the conditions of release.

(4) The law enforcement agency must inform the pretrial services officer of any violations by the defendant of any conditions of release.

(b) Reports of Detained Material Witnesses.

(1) ***Government Report.*** Unless otherwise ordered by the court, government reports regarding detained witnesses under Federal Rule of Criminal Procedure 46(h) must be sent to:

(A) the judge presiding over the case in which the detainee is a witness;

(B) the judge who ordered the witness detained; and

(C) the Pretrial Services Office.

(2) ***Pretrial Services Office Recommendation.*** Unless otherwise ordered by the court, the Pretrial Services Office, within 7 days of receiving a government report regarding detained witnesses, must provide a recommendation as to each witness's continued detention or release. The recommendation must be provided to:

(A) the judge presiding over the case in which the detainee is a witness;

(B) the judge who ordered the witness detained; and

(C) if the Pretrial Services Office recommends a change in status, the attorneys for the detainee and for the parties to the case in which the detainee is a witness.

Committee Note

1. Rule CR-46 is a new rule that prescribes procedures for release from custody of informants and for making reports on detained material witnesses.

2. Subsection (a) incorporates into the local rules the terms of the July 18, 1995 Standing Order Regarding Management by Pretrial Services Officers of Defendants who are Confidential Informants.

3. Disclosure of a recommendation for change of status under (b)(2)(C) does not require that the basis for the recommendation be disclosed.

RULE CR-47. MOTIONS AND RESPONSES

(a) Requirements. When filing a motion or response, a party must:

(1) cite the legal authority upon which the party relies; and

(2) submit a proposed order stating the relief the party seeks.

(b) Time for Filing Response. If a party opposes a motion, the party must file its response with the clerk and serve a copy on all parties within 11 days of service of the motion.

Committee Notes

1. Rule 47 is a new rule consisting of portions of the substance of former CR-12, renumbered as CR-47 to conform more closely to the organizational structure of the Federal Rules of Criminal Procedure and to make it clear that the requirements apply to all motions and responses and not only pretrial motions and responses. These changes are intended to be stylistic only, except as noted below.

2. The rule requires the submission of a proposed order with motions and responses.

(Rev: 12/17/09)

RULE CR-49. SERVING AND FILING DOCUMENTS

(a) Filing and Service Requirements. RULE CV-5 of the Local Court Rules of the United States District Court for the Western District of Texas is applicable to criminal cases.

(b) Format of Documents.

(1) Any document presented to the clerk for filing must:

(A) be typed or printed, double-spaced, without erasures or interlineation materially defacing it, and, if by traditional filing, on 8½ by 11 inch paper;

(B) be endorsed with the style of the case and the descriptive name of the pleading or document; and

(C) contain either:

(i) the mailing address, signature, state bar card number and telephone and fax numbers (including area code) of the attorney, if filed by an attorney; or

(ii) the mailing address, signature, and telephone number (including area code) of the pro se party, if filed pro se.

(2) Any proposed order submitted with a traditionally filed document must be completely separate from any other paper or document.

(c) Nonconforming Documents. The clerk must file any document not conforming to this rule and advise the court of the violation of the rule.

RULE CR-55. REMOVAL OF RECORDS AND EXHIBITS

(a) Records.

(1) Except upon approval of the court, no record or paper in court files may be removed from the clerk.

(2) A party removing any record or paper must provide the clerk a receipt signed by the party or the party's attorney reflecting each record or paper removed from the clerk.

(b) Exhibits.

(1) ***Removal After Final Disposition.*** Within 60 days after final disposition of the case, including appeal, and denial of, or expiration of the time in which to file, a petition for writ of certiorari in the U.S. Supreme Court, the party who offered an exhibit must remove it from the clerk.

(2) ***Failure to Remove.*** Failure to remove any exhibit within 60 days of final disposition of the case may result in the clerk destroying or otherwise disposing of the exhibit.

Committee Notes

1. The language of Rule CR-55 has been amended as part of the general restyling of the local criminal rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only, except as noted below.

2. "Final disposition" has been clarified in subsection (b)(2) to include exhaustion of the pursuit of, or expiration of the time for seeking relief in the Supreme Court. This definition of final disposition is consistent with the interpretation of the one-year limitation applicable to a judgment of conviction becoming final for purposes of seeking post-conviction relief pursuant to 28 U.S.C. § 2255. See United States v. Gamble, 208 F.3d 536 (5th Cir. 2000).

3. The requirement that the receipt evidencing return of exhibits be signed by the party or attorney reflects current practice.

4. Former Rule CR-55(b) has been restyled as Rule CR-17.1 to conform more closely to the organizational structure of the Federal Rules of Criminal Procedure.

5. As a matter of practice exhibits often are removed by the parties immediately after trial. The clerk's policy and practice are set out in the Clerk's Guidelines for Handling Exhibits, which may be found at the Western District of Texas website at www.txwd.uscourts.gov.

RULE CR-58. PROCEEDINGS BEFORE MAGISTRATE JUDGES

(a) Authority of Magistrate Judges.

(1) The magistrate judges of this district are authorized to perform all duties assignable to magistrate judges as set forth in 28 U.S.C. § 636.

(2) The magistrate judges of this district are specially designated to exercise jurisdiction over misdemeanor offenses as provided by 18 U.S.C. § 3401.

(3) Proceedings before the magistrate judges are governed by the "Local Rules for the Assignment of Duties to United States Magistrate Judges," set forth in Appendix C.

(b) Paying a Fixed Sum in Lieu of Appearance.

(1) ***Waiver of Appearance and Forfeiture of Collateral.*** Unless otherwise ordered by a magistrate judge, a person charged with a petty offense as defined in 18 U.S.C. § 19, and listed in subsection (b)(2), may, in lieu of appearance:

(A) post collateral in the amount indicated for the offense;

(B) waive appearance before the magistrate judge; and

(C) consent to forfeiture of collateral.

(2) ***Offenses Subject to Forfeiture in Lieu of Appearance.*** The offenses for which collateral may be posted and forfeited in lieu of appearance by the person charged, together with the amounts of collateral to be posted, are identified in the exhibits referred to below, copies of which are available in the office of the clerk in each division of this court

(A) any petty offense listed in the schedule of offenses designated as Exhibit A, occurring on a U. S. Military Installation within the Western District of Texas;

(B) any violation listed in Exhibit B, and set forth in Title 36, Code of Federal Regulations, Chapters 2-5, occurring in a National Park or National Recreation area situated within the Western District of Texas;

(C) any violation of Fish and Wildlife laws listed in Exhibit C, and set forth in16 U.S.C. § 703, 16 U.S.C. § 718a, 16 U.S.C. § § 851- 856, 18 U.S.C. § § 41, 42, 44 and Parts 10 and 16 of Title 50, Code of Federal Regulations, occurring within the Western District of Texas;

(D) any petty offense listed in the schedule of offenses designated as Exhibit D, involving the public use of Veterans Administration properties, occurring within the Western District of Texas;

(E) any violation of Title 36, Code of Federal Regulations, Chapter III, Part 327, (Corps of Engineers), listed in Exhibit E, occurring within the Western District of Texas;

(F) any petty offense listed in Exhibit F, set forth in 40 U.S.C. § 318 and Title 41, Code of Federal Regulations, Chapter 101, occurring on General Services Administration property within the Western District of Texas;

(G) any petty offense listed in Exhibit G, set forth in 16 U.S.C. §§ 433, 460, 670, 18 U.S.C. §§ 1361, 1852, 1853, 1856, 1857, 1858, 43 U.S.C. § 1061 and Title 43, Code of Federal Regulations, occurring on Bureau of Land Management property within the Western District of Texas; and

(H) any petty offense listed in Exhibit H, set forth in 39 U.S.C. § 401 and Title 39, Code of Federal Regulations, as made available to the United States Postal Service by Title VI of Public Law 93-143, State. 525, occurring on Postal Service property within the Western District of Texas;

(I) any petty offense listed in Exhibit I, set forth in Title 32, Code of Federal Regulations, occurring on National Security Agency property within the Western District of Texas.

(3) Punishment Other than Forfeiture of Collateral. If a person charged with an offense described in subsection (b)(2) fails to post and forfeit collateral, any punishment, including fine, imprisonment, or probation, may be imposed within the limits established by law upon conviction.

(4) ***Other Offenses.*** A person charged with a petty offense which is not listed in subsection (b)(2) must appear before a magistrate judge.

(5) ***Arrest and Appearance Before Magistrate Judge.*** Nothing contained in this rule prohibits a law enforcement officer from:

(A) arresting a person for the commission of any offense covered by this rule; or

(B) requiring the person arrested or charged for any offense covered by this rule to appear before a magistrate judge.

(6) ***Special Assessment.*** The collateral amounts set forth in Exhibits A through I include any special assessment required by 18 U.S.C. § 3013.

Committee Notes

1. Rule CR-58 is a new rule, consisting of the substance of former Rules CR-1(f) and CR-61. The language of Rule CR-58 has been amended as part of the general restyling of the local criminal rules to make them more easily understood and to make style and terminology consistent throughout the rules. The changes are intended to be stylistic only.

2. Subsections (b)(2)(F) and (b)(2)(H) correspond to subsection (a)(6) of former Rule CR-61 and conform to the separate schedules of collateral currently on file as Exhibits F and H. Exhibits A through H are also available on the Western District of Texas website at www.txwd.uscourts.gov in the Local Rules area.

Local Rule CR-58(b)(2)(A)
Exhibit A
Forfeiture of Collateral Schedule
Military Reservations
Western District of Texas
(Revised September 18, 2014)

TEXAS TRANSPORTATION CODE
***MCA Denotes Mandatory Court Appearance**

SECTION NUMBER		COLLATERAL
§472.022	Failure to obey warning signs	$90
§502.059(f)	Operation of motorcycle without registration insignia	$75
§502.472	Operation of unregistered or improperly registered vehicle	$75
§502.473	Operation of vehicle without registration insignia	$75
§504.943	Operation of vehicle without a license plate	$75
§504.944	Operation of vehicle with wrong license plate	$75
§504.945	Displaying wrong, fictitious, altered or obscured license plate	$75
§521.021	Operating a motor vehicle with no driver's license issued	$75
§521.025	Operating a motor vehicle while not possessing driver's license	$75
§521.054	Failure to notify change of address within 30 days	$35
§521.221	Failure to obey license restrictions	$35
§521.453	Fictitious license or certificate	$150
§521.457	Driving while license invalid	$110
§521.458	Permitting unauthorized minor to drive	$85

§544.004	Compliance with a traffic control device	$85
§544.007	Failure to obey traffic control signal	$85
§544.008	Failure to stop at flashing red signal	$85
§544.009	Lane direction control signals	$85
§544.010	Failure to obey stop/yield sign	$85
§545.051	Failure to drive on right side of roadway	$85
§545.053	Improper passing on the left	$85
§545.054	Unsafe distance when passing on the left	$85
§545.055	Passing in a no passing zone	$85
§545.056	Improper driving to left of center of roadway when not passing	$85
§545.057	Improper passing on the right	$85
§545.059	Driving in the wrong direction on one-way street or rotary	$85
§545.060	Failure to maintain traffic lane	$85
§545.062	Unsafe following distance	$85
§545.066	Passing a school bus receiving or discharging students **1st Offense** – Minimum $500; Maximum $1250 **2nd Offense** – Minimum $1000; Maximum $2000 Class A Misdemeanor if injuries	MCA
§545.101	Improper turn at intersection	$85
§545.102	Improper U-turn on curve or crest of a grade	$85
§545.103	Unsafe turn	$85

§545.104	Signaling turns; use of turn signals		$85
§545.151	Failure to yield the right of way at intersection		$85
§545.152	Failure to yield the right of way while making a left turn into approaching traffic		$85
§545.153	Failure to yield the right of way at stop/yield sign		$85
§545.155	Failure to yield right of way when entering from alley, building, private road or driveway		$85
§545.156	Failure to yield the right of way to emergency vehicles		$85
§545.157	Improper passing of emergency or TXDOT vehicle Maximum $200		MCA
§545.251	Failure to obey railroad crossing signal/device		$100
§545.252	Failure to stop at railroad grade crossing		$100
§545.253	Failure to stop at railroad grade crossing (bus)		$125
§545.2535	Failure to stop at railroad grade crossing (school bus)		$135
§545.256	Emerging from alley, driveway or building		$85
§545.301	Obstructing traffic by stopping or parking (main roadway)		$65
§545.302	Prohibited parking of vehicle		$35
§545.303	Parking against the flow of traffic		$35
§545.351	Maximum speed requirement		$65
§545.352	Speeding	1-10 MPH above posted limit	$90
		11-15 MPH above posted limit	$100
		16-20 MPH above posted limit	$110
		21+ MPH above postal limit	$120

§545.363	Minimum speed regulations/impeding traffic	$65
§545.401	Reckless driving	$120
§545.402	Unsafe start from stop	$70
§545.404	Unattended motor vehicle	$60
§545.412	Child passenger safety seat systems	$150
§545.413(a)	No Seat Belt	$50
§545.413(b)	Driver responsibility for seat belt/passenger under 17	$200
§545.414	Riding in open beds of pickups or trailer	$70
§545.415	Improper backing	$85
§545.416	Improper riding on motorcycle	$75
§545.417	Obstruction of operator's view or vehicle operation	$75
§545.420	Racing on highway	$85
§545.421	Fleeing or attempting to elude a police officer	$125
§545.422	Crossing sidewalk or hike/bike trail	$60
§545.423	Cutting across certain property prohibited	$70
§545.424	Operation of vehicle by person under 18 years of age	$85
§545.425(c)	Use of wireless communications device while operating a school bus	MCA
§545.4252	Use of wireless device on school property	MCA
§547.004	Defective equipment/unsafe operation	$65
§547.302	Duty to display lights	$65

§547.303	Color of lighting/signaling device and reflector	$65
§547.305	Restrictions on use of lights	$65
§547.321	Improperly equipped headlamps	$65
§547.322	Improperly equipped tail lights/license plate light	$65
§547.323	Improperly equipped stoplamps	$65
§547.324	Improperly equipped turn signals	$65
§547.328	Improperly equipped fog lamps	$65
§547.333	Failure to dim headlamps	$65
§547.501	Defective/improper use of audible warning device	$65
§547.601	Safety belts required (installed)	$65
§547.602	Rear view mirror required (installed)	$65
§547.603	Operational windshield wipers required (installed)	$65
§547.604	Defective equipment – muffler	$65
§547.607	No fire extinguishers on school bus or public transportation	$85
§547.612	Defective equipment – tires	$65
§547.613	Window tinting/obstructing windows	$65
§547.616	Use of radar interference devices	MCA (not to exceed $500)
§547.801	Defective lights on motorcycle	$65
§548.602	Expired or no state inspection sticker	$75

§548.603	Fictitious or counterfeit inspection/insurance	$175
§550.024(b)(1)	Duty upon Striking unattended vehicle	$150
§550.025(b)(1)	Duty upon Striking structure	$150
§551.102	Improper bicycle riding	$40
§551.104	Lamps and other equipment on bicycles	$40
§552.002	Pedestrian crossing on "Don't Walk" or "Wait" signal	$50
§552.003(a)	Failure to yield to pedestrian in crosswalk	$75
§552.003(b)	Pedestrian fails to yield right-of-way to motor vehicle	$50
§552.003(c)	Passing of vehicle stopped for pedestrian in crosswalk	$50
§552.007	Solicitation by Pedestrian (hitch hiking)	$50
§601.004	Fail to report accident within 10 days Fine not to exceed $25 for valid report Fine not to exceed $1000 for fictitious report	MCA
§601.191	No liability insurance (1st offense)	$175
§601.191	No liability insurance (2nd offense)	$350
§681.011(a)	Fraudulent use of handicapped/DV plate	MCA
§681.011(b)	Parking in area designated for disabled (no display of placard)	MCA

§681.011(c)	Parked so as to block handicapped access **1st Offense** - $500 minimum; $750 maximum **2nd Offense** - $500 minimum; $800 maximum and up to 10 hours of community service **3rd Offense** - $550 minimum; $800 maximum and not less than 20 hours or more than 30 hours community services **4th Offense** - $800 minimum; $1,100 maximum and up to 50 hours of community service **5th Offense** - $1250 fine and up to 50 hours of community service	MCA
§725.021	Uncovered load of loose materials	$75

TEXAS PENAL CODE

§49.031	Open container (possession of alcoholic beverage in motor vehicle)	$100

Forfeiture of Collateral Schedule
National Park Service
Western District of Texas
Title 36 - Code of Federal Regulations
EXHIBIT B
Revised January, 2011

			Fine
1.5	(f)	Closures and Public Use Limits	$50.00
1.6	(g)	No Permit or Permit Violations (Special Use)	$100.00
1.10	(a)	Symbolic Signs-Engaging in activity symbolized by sign bearing slash mark	$50.00

PART 2-Resource Protection, Public Use and Recreation

2.1		**Preservation of Natural, Cultural, and Archeological Resources**	
	(a)(1)(i)	Possessing, destroying, injuring, removing or disturbing living or dead wildlife or fish	$250.00
	(a)(1(ii)	Plants or parts of plants	$250.00
	(a)(1(iii)	Non-fossilized and fossilized specimens, etc.	$250.00
	(a)(1(iv)	Mineral resource or cave formations	$250.00
	(a)(2)	Introducing wildlife or fish or plants	$200.00
	(a)(3)	Toss throw, or roll rocks inside caves or caverns.	$150.00
	(a)(4)	Using/possessing wood (not including dead & down where permitted.	$150.00
	(a)(5)	Walking, climbing an archeological, cultural, or historic structure	$100.00
	(a)(6)	Possess, destroy, injure, deface, or disturb a structure or fixture of cultural or archeological resource.	$250.00
	(a)(7)	Possessing or using a metal detector	200.00
	(b)	Leaving a trail or walkway.	$75.00
	(c)(3)(i)	Gather/possessing undesignated natural products.	$250.00
	(c)(3)(ii)	Violation of size or quantity of natural products	$75.00
	(c)(3)(iii)	Removal of natural products	$250.00
	(c)(3)(iv)	Gathering natural products outside of designated areas	$100.00
	(c)(3)(iv)	Sale or commercial use of natural products	Mandatory Appearance
2.2		**Wildlife Protection**	
	(a)(1)	Hunting or taking of wildlife.	$500 + Value
	(a)(2)	Feeding, touching, or disturbing wildlife	$100.00
	(a)(3)	Possessing unlawfully taken wildlife.	$500+ Value
	(a)(4)	Hunting not in accordance with Federal and State laws	$100.00
	(d)	Transport lawful taken wildlife (violate condition of permit).	$50.00
	(e)	Use of artificial light in a closed area.	$150.00
2.3		**Fishing**	
	(a)	State Fishing laws Applicable	$50.00
		Fishing without a state license	$50.00
	(d)(1)	Fish with other than hook and line (Spear/Bow fish)	$50.00
	(d)(2)	Posses use as bait; live fish/amphibians/non-preserved fish eggs/or fish roe.	$100.00
	(d)(3)	Place fish eggs, roe, food, fish parts, and chemicals to feed/attract fish.	$50.00
	(d)(4)	Commercial Fishing except where authorized.	$100.00
	(d)(5)	Fish by use of drugs, poisons, electricity or explosives.	$150.00
	(d)(6)	Digging for bait except in private lands	$50.00
	(d)(7)	Failure to return undersize or species restricted fish.	$50.00
	(d)(8)	Fishing from bridges, docks, etc.	$50.00
		Other state fishing laws	$ 50.00

2.4		**Weapons, Traps, and Nets**	
	(a)(1)	Possessing/carrying/using weapon, trap, or net	$150.00
	(b)	Carrying/possessing loaded weapon in vehicle/vessel/conveyance	$100.00
	(c)	Using weapon/trap/net in manner that endangers persons or property	$250.00
	(d)	Violating permit to carry/possess weapon, trap or net	$100.00
	(f)	Carrying/possessing weapon, trap, net in violation of federal/state laws.	$150.00
2.5	(a)	**Taking Specimens Without a Permit**	$200.00
2.10		**Camping and Food Storage**	
	(b)(1)	Digging or leveling ground at a campsite	$50.00
	(b)(2)	Leaving camping equipment site alterations or refuse	$100.00
	(b)(3)	Camping within 100 feet of a flowing stream or river.	$50.00
	(b)(4)	Creating/sustaining unreasonable noise between 10:00 pm & 6:00 am	$50.00
	(b)(5)	Installing a permanent campsite	$50.00
	(b)(6)	Displaying wildlife carcasses	$50.00
	(b)(7)	Connecting to a utility system.	$50.00
	(b)(8)	Failure to obtain a permit	$50.00
	(b)(9)	Violations of conditions which may be established	$50.00
	(b)(10)	Camping in undesignated area	$50.00
	(d)	Failure to properly store food	$50.00
2.11		**Picnicking**	$50.00
2.12		**Audio Disturbances**	$50.00
	(a)(1)	Excessive Noise or Device	$50.00
	(a)(2)	Operating a power saw in developed area	$50.00
	(a)(3)	Operating motor or engine without permit in undeveloped area	$50.00
	(a)(4)	Operating a public address system without a permit	$150.00
	(b)	Violation of terms and conditions of a permit	150.00
2.13		**Fires**	
	(a)(1)	Lighting or maintaining a fire in undesignated area	$100.00
	(a)(2)	Using stoves or lanterns in undesignated areas	$100.00
	(a)(3)	Light, tend, use a fire, stove or lantern in a manner that threatens causes damage, or property loss.	$150.00
	(a)(4)	Unattended fire	$200.00
	(a)(5)	Throwing discarding lighted material	$200.00
	(b)	Fail to extinguish a fire	$200.00
2.14		**Sanitation and Refuse**	
	(a)(1)	Improper disposal of waste (littering)	$150.00
	(a)(2)	Unauthorized use of government disposal receptacles	$100.00
	(a)(3)	Deposit of refuse in plumbing fixtures or toilets.	$150.00
	(a)(4)	Improper draining of refuse from vehicle or trailer.	$150.00
	(a)(5)	Bathing washing food or property at undesignated public water outlet	$125.00
	(a)(6)	Polluting contaminating park water system.	$300.00
	(a)(7)	Improper disposal of fish remains-undesignated area.	$100.00
	(a)(8)	Disposing human waste in developed areas outside of designated locations or fixtures.	$150.00
	(a)(9)	Disposing human waste in undeveloped areas w/in 100 Ft of water/trail.	$150.00
	(b)	Violating conditions of human waste carry out policy.	$150.00

2.15		**Pets in a closed area**	
	(a)(1)	Pets in a closed area	$50.00
	(a)(2)	Failures to crate, cage or restrain a pet on a leash.	$50.00
	(a)(3)	Unattended and/or tied pet to an object.	$50.00
	(a)(4)	Allowing pet to make unreasonable noise	$50.00
	(a)(5)	Failure to comply with pet excrement disposal	$50.00
	(e)	Violation of conditions for keeping pets by park residents	$50.00
2.16		**Horse and Pack Animals**	
	(a)	Using animals other than "pack animals" for transporting equipment.	$75.00
	(b)	Use of horse outside designated areas	$100.00
	(c)	Use of horse on park road	$75.00
	(d)	Unattended horse or pack animals	$100.00
	(e)	Fail to slow to walk when passing pedestrians/bridges	$100.00
	(f)	Obstructing trail marking noise or gesture while horses are passing	$100.00
	(g)	Violation of established conditions concerning use of horses or pack animals	$75.00
2.17		**Aircraft and Air Delivery**	
	(a)(1)	Operating or use of aircraft on land or water	$150.00
	(a)(2)	Operating within 500 ft of swim beaches, boat docks, piers, or ramps	$100.00
	(a)(3)	Deliver/retrieve a person or object without permit	$250.00
	(c)(2)	Failure to comply with removal of downed aircraft	Mandatory Appearance
	(d)	Violation of FAA regulations	$150.00
	(e)	Hovercraft prohibited	$100.00
2.18		**Snowmobiles**	
	(b)	State law standards for equipment and operation adopted	$25.00
	(c)	Use of snowmobiles prohibited except in designated areas.	$25.00
	(d)(1)	Operating snowmobile that makes excessive noise.	$50.00
	(d)(2)	Operating without lights at night	$50.00
	(d)(3)	Operating without brakes in good working order	$50.00
	(d)(4)	Racing, or operating in excess of 45 mph.	$50.00
	(e)(1)	Operation by person under 16, unless supervised by someone over 21.	$50.00
	(e)(3)	Operation by person under 12, unless accompanied by someone over 21.	$50.00
	(3)	Supervising more than one person under 16	$50.00
2.19		**Winter Activities**	
	(a)	Skiing or sledding on roads, parking areas, or posted areas.	$75.00
	(b)	Towing person on skis or sled.	$75.00
	(c)	Failure to abide by designations and or established restrictions	$75.00
2.20		**Skating, Skateboards and Similar Devices**	$75.00
2.21		**Smoking**	
	(a)	Smoking in a Closed Area	$50.00
	(b)	Smoking in caves or caverns	$50.00
2.22		**Property**	
	(a)(1)	Abandoned property	$100.00
	(a)(2)	Unattended property for more than 24 hours	$50.00
	(a)(3)	Failing to turn in found property	$50.00
2.23	(b)	**Fail to Pay Recreational Services**	$50.00

2.30		**Misappropriation of Property and Services**	
	(a)(1)	Obtaining or unlawful possession of another's property	Mandatory Appearance
	(a)(2)	Obtaining property or services without paying	$100.00
	(a)(3)	Obtaining property or services by deception or fraud	Mandatory Appearance
	(a)(4)	Concealing unpurchased merchandise or paying less by deception	$100.00
	(a)(5)	Acquiring or possessing property that is stolen	Mandatory Appearance
2.31		**Trespass, Tamper and Vandalism**	
	(a)(1)	Trespassing, entering or remain in or on property not open to the public.	$150.00
	(a)(2)	Tampering or attempting to tamper with property.	$150.00
	(a)(3)	Vandalism-Destroying injuring, defacing or damaging property or real property.	$500.00
2.32		**Interfering with Agency Functions**	
	(a)(1)	Interfering/threatening/resisting/intimidating	Mandatory Appearance
	(a)(2)	Disobey lawful order	$100.00
	(a)(3)	False information	$150.00
	(a)(4)	False report	Mandatory Appearance
2.33		**Report of Injury or Damage**	
	(b)	Property or personal damage over $ 300.00.	$100.00
2.34		**Disorderly Conduct**	
	(a)(1)	Engaging in fighting or threatening or violent behavior	Mandatory Appearance
	(a)(2)	Obscene/threatening/menacing language or act	$150.00
	(a)(3)	Unreasonable noise	$100.00
	(a)(4)	Creating a hazardous or physically offensive condition	$150.00
2.35		**Alcoholic Beverages and Controlled Substances**	
	(a)(2)(i)	Gift or sale of alcohol to person(s) under 21	$250.00
	(a)(2)(ii)	Possession of alcoholic by persons(s) under 21	$100.00
	(a)(3)(iii)	Consumption/open container of alcohol in a closed area	$50.00
	(b)(1)	Unlawful delivery of controlled Substances	Mandatory Appearance
	(b)(2)	Possession of a controlled Substance	$150.00
	(c)	Under influence of alcohol/drugs to degree that may endanger.	Mandatory Appearance
2.36		**Gambling**	$100.00
2.37		**Non Commercial Solicitation-Solicit demand gifts, money, goods, or service prohibited**	$50.00
2.38		**Explosives**	
	(a)	Using, possessing, storing, or transporting explosives	$500.00
	(b)	Using fireworks, possessing fireworks or firecrackers.	$125.00
	(c)	Violation of terms and conditions of a permit is prohibited	$100.00
2.50	**(e)**	**Special Events-Violation of terms and conditions of a permit**	$250.00
2.51		**Public Assemblies and Meetings**	
	(a)	Obstructing, impeding, or harassing park visitors.	$150.00
	(h)	Violation of terms and conditions of a permit.	$150.00
2.52		**Sale or Distribution of Printed Matter**	
	(a)	Obstructing, impeding, or harassing park visitors.	$100.00
	(h)	Violation of terms and conditions of a permit.	$150.00

2.60		**Livestock Use and Agriculture**	
	(a)	Unauthorized herding, pasturing, grazing or trespassing	$100.00 / head
	(c)	Violation of terms and conditions of a permit.	$100.00
2.61		**Residing on Federal Lands**	
			$150.00
2.62		**Memoralization**	
	(a)	Installing monument, memorial, tablet, structure, or other	$50.00
	(b)	Scattering of human ashes without permit	$50.00
	(c)	Failure to abide by area designations and established conditions.	$50.00
	(d)	Violation of terms and conditions of a permit	$50.00

PART 3-Boating and Water Use Activities

3.2	(a)		
		33 CFR 87.3 Improper use of distress signals.	$50.00
		33 CFR 173.15 Vessel without registration number	$50.00
		33 CFR 173.21 Certification of Numbers	$50.00
		33 CFR 175.15 Insufficient number of PFD on board.	$50.00
		33 CFR 173.110 Visual distress signals required	$50.00
		33 CFR 177.05 Failure to correct hazardous condition or terminate voyage	$50.00
		33 CFR 177.07a Navigation lights	$50.00
		33 CFR 177.07c Fuel in bilge or fuel leak	$50.00
		46 CFR 25.25 PFD Violations on a commercial vessel	$50.00
		46 CFR 25.30 Fire Extinguisher required	$50.00
		46 CFR 25.35 Flame Arrestor required	$50.00
		46 CFR 25.40 Ventilation	$50.00
		Other applicable regulations	$50.00
3.8		**Prohibited Operations**	
	(a)(1)	Launching or operating an airboat	$100.00
	(a)(2)	Launching or recovering a vessel, except at a launch site designated by the Supt.	$100.00
	(a)(3)	Operating a power-driven vessel on waters not accessible by road	$50.00
	(a)(4)	Operating a vessel in excess of length, width or horsepower restrictions established by the Supt.	$50.00
	(b)(1)	Operating a power-driven or sailing vessel within 100 ft of a divers flag	$100.00
	(b)(2)	Failing to observe restrictions established by a regulatory marker.	$100.00
	(b)(3)	Operating a vessel in excess of flat wake speed in a designated area	$100.00
	(b)(4)(i)	Operating a vessel in excess of flat wake speed within 100 ft. of downed water skier.	$100.00
	(b)(4)(ii)	Operating a vessel in excess of flat wake speed within 100 ft. of person swimming, wading, fishing from shore or floating in floatation device	$100.00
	(b)(4)(iii)	Operating a vessel in excess of flat wake speed within 100 ft. of a designated launch site.	$100.00
	(b)(4)(iv)	Operating a vessel in excess of flat wake speed within 100 ft. anchored or drifting vessel.	$100.00
	(b)(5)	Operating a vessel within 500 ft of shoreline designated as a swimming beach.	$200.00
	(b)(6)	Operating a vessel while a person is riding on the decking over the bow, gunwales, top edges of transom, motor cover, or any other unsafe position	$100.00
	(b)(7)	Operating a vessel driven engine or generator with a person sitting, riding or hanging on to a swim platform or ladder.	$100.00
	(b)(8)	Operating or allowing a person to operate a vessel in a negligent manner.	$150.00
	(b)(9)	Operating or allowing a person to operate a vessel in a grossly negligent manner.	Mandatory Appearance
3.10		**Boating Under the Influence of Alcohol/Drugs**	
	(a)(1)	Under the Influence of alcohol or drugs rendering the operator incapable of safe operation.	Mandatory Appearance
	(a)(2)	Operating a vessel with BAC greater than 0.08%	Mandatory Appearance
3.11	(a)(3)	**Refusal to submit to blood, breath, or urine test.**	Mandatory Appearance

3.12		**Water Skiing**	
	(a)	Towing a person outside designated waters	$100.00
	(b)	Towing a person using a parasail, hang glider, or other airborne device without a permit.	Mandatory Appearance
	(c) (1)	Towing allowed between hours of sunrise and sunset.	$ 50.00
	(c) (2)	Boat operator must be at least 12 yrs of age.	$100.00
	(c)(3)	Person being towed without Coast Guard approved PFD	$100.00
	(c) (4)	Person being towed acting in a manner that endangers.	Mandatory Appearance
	(c) (5)	Operating a vessel without the capacity to carry person(s) being towed.	$100.00
	(c) (6)	Operating a power-driven boat using a rope 20 ft. or less when towing a person.	$ 100.00
3.13		**Marine Sanitation Device (MSD)**	
	(a)	Discharging sewage from a vessel, treated or not, in a body of fresh water	Mandatory Appearance
	(b)(1)	Closing the seacock and removing the handle	$100.00
	(b)(2)	Padlocking the seacock in a closed position	$100.00
	(b)(3)	Using a non-releasable wire tie to hold seacock in closed position	$100.00
	(b)(4)	Locking door to space enclosing toilets	$100.00
	(c)	Violation of Superintendent conditions for MSD	$100.00
3.15		**Noise Abatement**	
	(a)(1)	In excess of 75 dB while underway	$100.00
	(a)(2)	In excess of 85 dB while stationary	$100.00
3.17		**Swimming Areas and Beaches**	
	(a)	Swimming in closed areas or beaches	$500.00
	(b)	Use of a surfboard or other rigid device in a swimming area	$50.00
	(c)	Violation of Superintendent conditions for swimming beaches	$50.00
3.18		**SCUBA and Snorkeling**	
	(a)	In designated swimming, docking and mooring areas.	$100.00
	(b)	Without display standard or diver flag	$100.00
3.19		**Use of Submersibles in Park Waters**	Mandatory Appearance

PART 4-Vehicles and Traffic Safety

4.2	(a)	**Texas State Law Applicable**	
		TRC 502.402 Operating an Unregistered vehicle	$100.00
		TRC 502.407 Operation vehicle with expired license plate	$100.00
		TRC 502.409 Operation of vehicle with wrong/fictitious/unclean license plate	$100.00
		TRC 521.021 Drivers License required	$115.00
		TRC 521.025 Drivers License to be carried and exhibited on demand	$115.00
		TRC 521.457 Driving while license invalid	$115.00
		TRC 521.458 Permitting unauthorized person to drive	$115.00
		TRC 545.055 Passing to the left; passing zones	$105.00
		TRC 545.056 Passing to the left; return, being passed	$105.00
		TRC 545.057 Passing to the right	$105.00
		TRC 545.062 Following distance-Following too close	$105.00
		TRC 545.104 Signaling turns; use of turn signal	$105.00
		TRC 545.151 Right of way-Vehicle approaching or entering intersection.	$105.00
		TRC 545.152 Right of way-Vehicle turning left.	$105.00
		TRC 545.156 Right of way-Vehicle approached by authorized Emergency Vehicle.	$105.00
		TRC 545.401 Reckless Driving	$100.00
		TRC 545.421 Fleeing or Attempting to Elude Police Officer	Mandatory Appearance
		TRC 601.191 Violation of Liability Insurance Requirement 1st Offense	$300.00
		TRC 601.191 Violation of Liability Insurance Requirement 2nd Offense	$500.00
		TRC 661.003 Not Wearing Protective Headgear for Motorcycle Operator or Passenger	$110.00
		Other State Vehicle Laws	$50.00
4.4		**Report of a Motor Vehicle Accident**	
	(a)	Fail to Report Accident within 24 hours	$100.00
	(b)	Towing/moving vehicle involved in accident without notifying Superintendent.	$125.00
4.10		**Travel on park Roads and Designated Routes**	
	(a)	Travel off Road/Parking Area	$150.00
	(c)(1)	Operating motor vehicle not equipped with pneumatic tires.	$50.00
	(c)(2)	Operating motor vehicle that causes unreasonable damage to road	$100.00
	(c)(3)	Operating motor vehicle on/off road use, at night without lights	$75.00
4.11		**Load, Weight and Size Limits**	
	(b)(1)	Operating vehicle that exceeds load, weight or size limit	$100.00
	(b)(2)	Failure to obtain a permit when required	$100.00
	(b)(3)	Violating a term of condition of a permit	$150.00
	(b)(4)	Operating a vehicle with an side mirror beyond 10 inches	$150.00
4.12		**Traffic Control Devices**	$50.00
4.13		**Obstructing Traffic**	
	(a)	Stopping or parking vehicle upon a park road	$100.00
	(b)	Operating a vehicle interfering with the normal flow of traffic	$50.00
4.14		**Open Container of Alcoholic Beverages in a Motor Vehicle**	$50.00
4.15	(a)	**Safety Belts or Child Restraint Systems**	$150.00
4.20		**Fail to Yield Right of Way to Pedestrians or Animals**	$50.00

4.21	(c)	**Speeding**	
		1-5 MPH over Limit	$100.00
		6-10 MPH over Limit	$115.00
		11-15 MPH over Limit	$130.00
		16- 20 MPH over Limit	$140.00
		21-25 MPH over Limit	$175.00
		26-30 MPH over Limit	$190.00
		31-35 MPH over Limit	$245.00
		36 MPH or Higher over Limit	Mandatory Appearance
4.22		**Unsafe Operation**	
	(b)(1)	Operating a vehicle without due care	$100.00
	(b)(2)	Operating a vehicle which causes its tires to squeal, skid or break free	$100.00
	(b)(3)	Failure to maintain control of vehicle	$100.00
	(b)(4)(i)	Allowing person's to ride in towed vehicle/trailer	$100.00
	(b)(4)(ii)	Allowing person's to ride on exterior of vehicle	$100.00
4.23		**Operating a Vehicle Under the Influence of Alcohol or Drugs**	
	(a)(1)	Incapable of safe operation (Unsafe Operation).	Mandatory Appearance
	(a)(2)	Operating a vehicle with BAC greater than 0.08%.	Mandatory Appearance
	(c)(2)	Refusal to submit to blood, breath, or urine test.	Mandatory Appearance
4.30		**Bicycles**	
	(a)	Use in undesignated areas.	$75.00
	(d)(1)	Possessing a bicycle in a wilderness area	$75.00
	(d)(2)	Operating bicycle during low visibility without lights or reflectors	$75.00
	(d)(3)	Operating bicycle abreast of another bicycle	$75.00
	(d)(4)	Operating bicycle while consuming alcohol or carrying open container of alcohol.	$75.00
4.31		**Hitchhiking**	$50.00

PART 5 COMMERCIAL/PRIVATE OPERATIONS

5.1		Advertising	$100.00
5.2	(a)	Alcoholic Beverages-Sales of Intoxicants	$100.00
5.3		**Business Permits-Engaging in or soliciting any business without a permit.**	$150.00
5.5		**Commercial Photography**	
	(a)	Motion picture commercial photography without a permit.	$250.00
	(b)	Still commercial photography without a permit.	$250.00
5.6	(b)	**Commercial Vehicles**	$100.00
5.7		**Construction of Buildings or Other Facilities Without a Permit**	Mandatory Appearance
5.8		**Discrimination Employment Practices**	Mandatory Appearance
5.9	(a)	**Discrimination Furnishing Public Accommodating and Transport Services**	Mandatory Appearance
5.13		**Nuisance-Creating or Maintaining a Nuisance**	Mandatory Appearance
5.14		**Prospecting Mining and Mineral Leasing**	Mandatory Appearance

Part 7- Special Regulations

7.41		Special Regulations for Big Bend NP	
	(a)	Fishing in closed waters	$100.00
	(b)(2)	Use of seines or nets, except minnow seines no greater than 20 ft.	$100.00
	(c)	Fishing possession of more than 25 fish.	$100.00
7.79		Special Regulations for Amistad National Recreation Area	
	(a)(1)	Hunting allowed at designated times and locations.	$100.00
	(a)(2)	Hunting season and species designated by Superintendent.	$100.00
	(a)(3)	Deer, Javelina and Turkey taken only by long bow. Water fowl and birds with shotgun only.	$100.00
	(b)	Fishing in designated areas only.	$100.00
	(c)	Water Sanitation.	$100.00
	(d)	PWC allowed with the following exceptions.	$100.00
	(i)(A)	Hidden Cave Cove	$100.00
	(i)(B)	Painted Canyon	$100.00
	(i)(C)	Seminole Canyon	$100.00
	(i)(D)	Government Coves Diablo East and Rough Canyon.	$100.00
	(i)(E)	All Terrestrial cave and karst features.	$100.00
	(i)(F)	Lower Rio Grande below Dam.	$100.00
	(i)(G)	Water area 1000 feet from concrete portion of Dam.	$100.00
	(ii)	PWC prohibited from landing on any island posted closed.	$100.00
	(a)(2)	Superintendent Closure.	
7.93		Special Regulations for Guadalupe Mountains National Park	
	(a)	Cave Entry	$100.00

EXHIBIT "C"
FORFEITURE OF COLLATERAL SCHEDULE
UNITED STATES FISH AND WILDLIFE SERVICE
WESTERN DISTRICT OF TEXAS

NOTE: Due to increased liability and potential severity for environmental degradation posed by commercial and organized activities, collateral amounts for violations listed herein shall be doubled for corporations, businesses, partnerships, hunt clubs, and other organizations committing such violations (18 USC 3571 (c) - Fines For Organizations).

Value= the current established replacement value of animals or plants listed in Appendix A.

Item= per specimen

General Fish & Wildlife Regulations

(16 USC 704; 16 USC 668a; 16 USC 1538(d); 16 USC 3373)

50 CFR 13: General Permit Procedures

Section Number	Offense	Collateral
13.1 thru 13.29	General violation of permit requirements	**150.00**
13.41	Failure to maintain humane and healthful conditions for live wildlife	**250.00**
13.42	Violation of terms/conditions set forth in permit	**250.00**
13.43	Alteration of permit	**500.00**
13.44	Failure to display permit upon request	**150.00**
13.45	Failure to file reports as required	**150.00**
13.46	Failure to maintain records as required	**250.00**
13.47	Failure to permit premise inspection	**500.00**
13.48	Failure to comply with conditions of permit	**250.00**
13.49	Failure to surrender permit upon suspension or revocation	**250.00**
13.50	Failure to assume liability and responsibility for the conduct of any activity conducted under the authority of permit	**250.00**

General Regulations for Importation, Exportation & Transportation of Wildlife

(16 USC 3371, 16 USC 1538)

50 CFR 14: Import, Export & Transportation Regulations

Section Number	Offense	Collateral
14.11	Import or export wildlife at a non-designated port	**500.00**
14.14(b)	Knowingly unload intransit shipment in U.S.	**1000.00**

Section Number	Offense	Collateral
14.32 & 14.33	Violation of non-designated port permit conditions	**300.00**
14.51	Refusal to allow detention/inspection of wildlife	**1000.00**
14.52	Failure to obtain FWS clearance prior to release from U.S. Customs	**500.00**
14.61 thru 14.63	Failure to file completed declaration as required	**500.00**
14.81	Ship wildlife in interstate commerce without marked containers	**350.00**
14.82	Ship in interstate or foreign commerce without complying with marking requirements or alternatives	**250.00**
14.91	Engage in business as importer/exporter of wildlife without obtaining import/export license	**500.00**

50 CFR 14: Humane and Healthful Transport of Wild Mammals and Birds to the U.S.

Section Number	Offense	Collateral
14.103	Import, transport, cause or permit transport to the U.S. any wild mammal or bird in violation of Humane Transport Regulations	**500.00 + value**
14.104	Failure to provide English translation for any required certificate/document	**150.00**
14.105	Unauthorized acceptance by carrier of any wild mammal or bird for transport to the U.S.	**500.00 + value**
14.106	Failure by carrier to require proper primary enclosures for transport to U.S.	**250.00 + value**
14.107	Improper animal cargo space of a conveyance	**500.00 + value**
14.108	Violation by carrier of food/water requirements	**250.00 + value**
14.109(b)	Improper ambient air temperature and ventilation provided by holding area, transporting device, conveyance or terminal facility	**350.00 + value**
14.110	Improper or lack of animal holding area	**500.00**
14.111	Violation of handling requirements	**250.00 + value**
14.121 thru 14.172	Violation of primary enclosure specifications	**500.00 + value**

16 USC 4901-4916
Wild Bird Conservation Act of 1992

Statute:	Offense	Collateral
16 USC 4901 *et seq*.		
(50 CFR 15)	Violate any regulations, prohibitions, or regulations of Act relating to the import of any exotic bird...	
	Non-commercial	**500.00 + value**
	Commercial	**1,000.00 + value**

18 USC 42
Lacey Act

Statute:	Offense	Collateral
18 USC 42(c)		
	Importation of wildlife under inhumane or unhealthful conditions	**250.00 + value**

50 CFR 16: Regulations for the Importation or Shipment of Injurious Species

Section Number	Offense	Collateral
16.3 thru 16.13(a)	Unauthorized import, transport, acquire or release of prohibited species or their progeny	**500.00** + **25.00/item**
16.13(b)(1)	Import live/dead or eggs of salmonid of the family Salmonidae which are not accompanied by the required disease-free health certificate	**500.00** + **25.00/fish**
16.14 & 16.15	Release of imported live wild amphibians/ reptiles or progeny or eggs thereof to the wild without authorization	**500.00** + **25.00/item**
16.22(b)(1)	Failure to properly confine injurious species	**500.00** + **25.00/item**
16.22(b)(2)	Transfer of injurious species to unauthorized person	**500.00** + **25.00/item**

16 USC 3371-3778
Lacey Act Amendments of 1981

Statute: Offense

16 USC 3372(a)

(1) to import, export, transport, sell, receive, acquire, or purchase any fish/wildlife/plant taken, possessed, transported or sold in violation of any law/treaty/regulation of the U.S. or in violation of any Indian Tribal Law.

(2) to import, export, transport, sell, receive, acquire, or purchase in interstate commerce or foreign commerce-

(A) any fish/wildlife taken, possessed, transported, or sold in violation of any law/regulation of any State or

in violation of any foreign law, or
(B) any plant taken, possessed, transported, or sold, in violation of any law or regulation of any State

(3) within the special maritime and territorial jurisdiction of of the United States -
(A) to possess any fish/wildlife taken, possessed, transported, or sold in violation of any law or regulation of any state, or in violation of any foreign law or Indian Tribal law, or
(B) to possess any plant taken, possessed, transported, or sold in violation of any law or regulation of any State.

Fish.....	**250.00 + value**	Big Game.....	**1,000.00 + value**
Small game....	**250.00 + value**	Furbearer.....	**250.00 + value**
Bird.....	**500.00 + value**	Plant.....	**250.00 + value**
Reptile.....	**250.00 + value**	Amphibian....	**250.00 + value**
Other.....	**250.00 + value**		

Statute	Offense	Collateral
16 USC 3372(a)(4)		
	Attempt to commit any act described in 3372(a) paragraphs (1) through (4)	**Same as defined offense**
16 USC 3372(c)		
	(1) it is deemed a sale of fish/wildlife in violation of this chapter for a person for money or other consideration to offer or provide **(A)** guiding, outfitting, or other services; or **(B)** a hunting or fishing license or permit; for the illegal taking, acquiring, receiving, transporting, or possessing of fish or wildlife	**500.00 + value**
16 USC 3372(c)		
	(2) it is deemed to be a purchase of fish/wildlife in violation of this chapter for a person to obtain for money or other consideration- **(A)** guiding, outfitting, or other services; or **(B)** a hunting or fishing license or permit; for the illegal taking, acquiring, receiving, transporting, or possessing of fish or wildlife	**500.00 + value**
16 USC 3372(d)		
	Unlawful for any person to make or submit any false record, account, or label for, or any false identification of, any fish, wildlife, or plant which has been, or is intended to be-	

(1) imported, exported, transported, sold, purchased, or received from any foreign country; or
(2) transported in interstate or foreign commerce

Fish.....	**250.00 + value**	Big Game.....	**1,000.00 + value**
Small game....	**250.00 + value**	Furbearer.....	**250.00 + value**
Bird.....	**500.00 + value**	Plant.....	**250.00 + value**
Reptile.....	**250.00 + value**	Amphibian....	**250.00 + value**
Other.....	**250.00 + value**		

16 USC 1538
Endangered Species Act

Statute:	Offense	Collateral
16 USC 1538(a)(1)(A) thru 16 USC 1538(a)(1)(G)	Import or export any endangered species; take within the U.S. or territorial seas of the U.S.; take upon the high seas; deliver, carry, transport, or ship in interstate commerce in the course of a commercial activity; sell in interstate or foreign commerce	**1,000.00 + value**
16 USC 1538(a)(2)(A) thru 16 USC 1538(a)(2)(D)	Import or export any endangered plant; take within the U.S. or territorial seas of the U.S.; take upon the high seas; deliver, carry, transport, or ship in interstate commerce in the course of a commercial activity; sell in interstate or foreign commerce	**500.00 + value**

50 CFR 17: Regulations pertaining to Endangered Wildlife

Section Number	Offense	Collateral
17.21 (a)(b)(d)	General Endangered Species prohibitions: Attempt, solicit, cause; import, export; possess, transport unlawfully taken wildlife	**500.00 + value**

Section Number	Offense	Collateral
17.21 (c)(e)(f)	Take; Sell; Transport; Interstate or Foreign Commerce	**1000.00 + value**
17.21(g)	Captive-bred wildlife violations	**350.00 + 50.00/animal**

Statute:	Offense	Collateral
17.22 thru 17.23	Endangered species permit violations	**350.00 + 50.00/animal**

50 CFR 17: Regulations pertaining to Threatened Wildlife

Section Number	Offense	Collateral
17.31	Violate threatened wildlife prohibitions	**500.00 + value**
17.40 thru 17.47	Violate special regulations pertaining to threatened wildlife	**350.00 + value**

50 CFR 17: Regulations pertaining to Endangered Plants

Section Number	Offense	Collateral
17.61	Violation of Endangered Plant regulations	**500.00 + value**
17.62 & 17.63	Fail to comply with Permit Conditions	**250.00**

50 CFR 17: Regulations Pertaining to Threatened Plants

Section Number	Offense	Collateral
17.71	Violation of Threatened Plant regulations	**350.00 + value**
17.72	Fail to comply with permit conditions	**250.00**

50 CFR 17: Other Endangered & Threatened Plant Regulations

Section Number	Offense	Collateral
17.82	Violation of general Experimental regulations	**250.00 + value**
17.84 to end	Violation of special regulations	**250.00 + value**

16 USC 1371-1372

Marine Mammal Protection Act

Statute:	Offense	Collateral
16 USC 1371 thru 16 USC 1372	Take, or import any marine mammal, marine mammal parts, or products made thereof	**1,000.00 + value**

15 CFR 18: Regulations Pertaining to Marine Mammals

Section Number	Offense	Collateral
18.11	Unlawful take of marine mammal	**500.00 + value**
18.12	Unlawful import of marine mammals	**500.00 + value**
18.13	Unlawful port use, transport, purchase, sale of any marine mammal or marine mammal product	**500.00 + value**

16 USC 742j
Airborne Hunting Act

Statute:	Offense	Collateral
16 USC 742j-1	General Airborne Hunting Act Violations	**1,000.00 + value**

50 CFR 19: Regulations Pertaining to Airborne Hunting

Section Number	Offense	Collateral
19.11(a)(1)	Shoot from an aircraft for purposes of capturing or killing wildlife	**1,000.00+ value**
19.11(a)(2)	Use aircraft to harass wildlife	**500.00**
19.11(a)(3)	Participate in using aircraft to shoot or harass wildlife	**1,000.00+ value**
19.32(a)	Failure to file annual report	**250.00**

16 USC 703-711
Migratory Bird Treaty Act

Statute:	Offense	Collateral
16 USC 703	Taking, pursuing, hunting, capturing, killing, or the attempt thereof; possess, sell, barter, purchase, ship, export, import, carry, transport, offer, or cause thereof; migratory birds, their parts, nests, or eggs, without authorization	**500.00 + 50.00 / value**
	per part, nest, egg, item per each bird	

16 USC 704(b)(2) and 16 USC 707(c)	Placed or directed placement of bait on or adjacent to an area for the purpose of causing, inducing, or allowing any person to take migratory game birds by the aid of baiting on and over a baited area.	**1,000.00 + value**

16 USC 705

Ship, transport, carry in interstate or foreign commerce, any bird, part, nest, or egg, thereof, carried contrary to the law of the place where captured, killed, taken, shipped, transported, or carried	**350.00 +**
per part, nest, egg, item per each bird	**50.00 / value**

<u>**50 CFR 20**: Migratory Game Bird Hunting Regulations</u>

Section Number	Offense	Collateral
20.21(a)	Take with illegal device or substance	**500.00 + value**
20.21(b)	Take with shotgun capable of holding more than three(3) shells	**100.00 + value**
20.21(c)	Take by means, aid or use of sink box	**150.00 + value**
20.21(d)	Take from or by means, aid, or use of a motor driven conveyance, motor vehicle or aircraft	**400.00+ value**
20.21(e)	Take by means of motorboat or other craft having motor attached and under power	**400.00+ value**
20.21(f)	Take by use or aid of live decoys	**250.00 + value**
20.21(g)	Take by use or aid of electronic/recorded calls	**250.00 + value**
20.21(h)	Take by means or aid of motor driven conveyance for concentrating, driving, or rallying, or stirring up waterfowl	**200.00 + value**
20.21(i)	Take by aid of bait or on or over baited area (where the defendant knew, or reasonably should have known, that the area was a baited area)	**500.00+ value**

Section Number	Offense		Collateral
20.21(j)	Take while possessing toxic shotshells or shot		**100.00 + value + 20.00/toxic shell + forfeit toxic shells**
20.22	Take during closed season		**500.00 + value**
20.23	Take before/after legal shooting hours	1-15 min	**100.00+ value**
		16-30 min.	**200.00+ value**
		31-45 min.	**300.00 + value**
		45+ min.	**400.00 + value**
20.24	Take in excess of daily bag limit		**300.00 + value**
20.25	Wanton Waste of migratory birds		**200.00 + value**
20.26(c)	Failure to comply with temporary closure regs		**250.00 + value**
20.31	Possession of birds taken in violation of 20.21 thru 20.23		**150.00 + value**
20.32	Possess freshly killed migratory birds during closed season		**300.00 + value**
20.33	Exceed possession limit of migratory birds taken in the U.S		**250.00 + value**
20.34	Possess in excess of daily bag limit opening day		**200.00 + value**
20.35	Possess or transport in excess of daily field limit		**250.00 + value**
20.36	Violation of tagging regulations		**150.00 + value**
20.37	Custody of untagged birds of another		**150.00 + value**
20.38	Live wounded birds in possession		**100.00 + value**
20.40	Receive, possess, give to another untagged birds		**100.00 + value**
20.41	Transport birds taken in violation of 20.21 thru 20.24		**150.00 + value**
20.42	Transportation of untagged birds of another		**150.00 + value**

Section Number	Offense	Collateral
20.43	Transport mig. game birds with species ID removed	**100.00 + value**
20.44	Transport unmarked or improperly marked package containing mig. game birds via postal service or common carrier	**100.00 per package**
20.51	Export birds taken in violation of 20.12 through 20.24	**200.00 + value**
20.52	Export birds with species ID removed	**150.00 + value**
20.53	Export unmarked or improperly marked packages containing mig. birds as required	**150.00 per package**
20.61	Import mig. game birds in excess of legal limit	**200.00 + value**
20.62	Import mig. game birds belonging to another	**150.00 + value**
20.63	Import mig. game birds with species ID removed	**150.00 + value**
20.64	Import, possess, transport birds killed in foreign country without required export permits	**150.00 + value**
20.65	Import birds not drawn or dressed as required	**150.00 + value**
20.66	Import unmarked or improperly marked packages containing mig. birds as required	**150.00 per package**
20.71	Take, possess, transport, or export migratory birds, their parts, nests, or eggs in violation of any other federal law or regulation	**250.00 + value**
20.72	Take, possess, transport, or export migratory birds, their parts, nests, or eggs in violation of any other state law or regulation	**250.00 + value**
20.73	Import, possess, or transport, migratory birds, their parts, nests, or eggs if taken, bought, sold, transported, possessed, or exported contrary to any law or regulation of any foreign country, state, or province thereof	**250.00 + value**

Section

Number	Offense	Collateral
20.81	Commercial facility with untagged mig. birds of another as required under 20.36	**200.00 + value**
20.82	Violation of record keeping requirement	**200.00**
20.83	Failure to permit premise inspection	**500.00**
20.91(a)	Purchase, sell, barter, or offer thereof for millinery or ornamental use, the feathers of migratory game birds	**500.00**
20.91(b)	Purchase, sell, barter, or the offer thereof, mounted specimens taken by hunting	**250.00 + value**
20.100	Take mig. game birds for which no season has been established	**250.00 + value**
20.133	Violation of crow hunting regulations	**50.00 + 50.00/bird**

50 CFR 21: Migratory Bird Permit Violations

Section Number	Offense	Collateral
21.2 thru 21.27	Migratory Bird Permit Violations	**200.00 + value**
21.28	Violation of Falconry Permit requirements	**250.00 + value**
21.28(d)(1)	Take, possess, transport, golden eagle for falconry without a permit	**500.00 + value**
21.28(d)(3)	Unauthorized purchase, sale, or barter of raptor	**500.00 + value**
21.29	Violation of Falconry Standards	**250.00**
21.29(e)(3)	Take, possess, transport raptor in violation of 50 CFR 21.29	**250.00 + value**
21.29(e)(3)(v)	Unauthorized take of a threatened species	**500.00 + value**
21.29(i)	Unauthorized take of raptor	**350.00 + value**

Section Number	Offense	Collateral
21.29(g)	Failure to comply with facility/equip. standards	**150.00 + value**
21.29(j)	General violations of Misc. Falconry Regs	**150.00 + value**
21.29(j)(5)	Retain or exchange molted feathers for other than imping purposes	**150.00 + 50.00/feather**
21.30	General violation of Raptor propagation permit	**250.00 + $100/bird**
21.30(a)	Take, possess, transport, sell, purchase, barter or transfer any raptor, raptor egg, or raptor semen, for propagation without authorization	**350.00 + $100/bird**
21.30(d)(7)	Unauthorized hybridization of raptors	**500.00**
21.41 thru 21.43	Violation of Depredating Bird regulations	**200.00 + value**
21.41(c)(1)	Unauthorized killing of depredating mig. birds	**200.00 + value**
21.42(c)(2)	Take of depredating birds by unauthorized method or in unauthorized area	**200.00 + value**

16 USC 718
Migratory Waterfowl Hunting and Conservation Stamp Act

Statute:	Offense	Collateral
16 USC 718a	Hunt migratory waterfowl without a federal waterfowl hunting stamp	**200.00 + value**
16 USC 718b	Hunting migratory waterfowl with an invalid (unsigned) federal waterfowl stamp	**100.00 + value**
16 USC 718e(a)	Loan or transfer valid migratory stamp to another person, or use stamp validated by another	**300.00**
16 USC 718e(b)	Alter, mutilate, imitate, or counterfeit migratory waterfowl stamp	**500.00**

16 USC 668d
Bald and Golden Eagle Protection Act

Statute:	Offense	Collateral
16 USC 668d	Take, possess, transport, sell, purchase, barter, trade, import, export any bald or golden eagle or parts, nests, or eggs thereof	**1000.00 + value**

50 CFR 22: Regulations Pertaining to Bald and Golden Eagles

Section Number	Offense	Collateral
22.11	Take, possess, or transport a bald or golden eagle	**1000.00 + value**
	or parts, nest or eggs thereof	**250.00**
22.12	Sell, purchase, trade, barter, export, import, or offer thereof any bald or golden eagle	**1000.00**
	or parts, nest or eggs thereof	**250.00**
22.21 thru 22.32	Violation of eagle permit requirements	**250.00**

16 USC 1531-1543
Endangered Species Act - Convention on International Trade (CITES)

Statute:	Offense	Collateral
16 USC 1538(c) thru 1538(d)	Violations of Convention on International Trade in Appendix designated wildlife & plants	**1,000.00 + Value**

50 CFR 23: Regulations pertaining to import/export of protected wildlife & plants

Section Number	Offense	Collateral
23.13(a)	Import, export, re-export, or engage in international trade with any specimen of a species listed in Appendix I, II, or III of CITES.	**[as per 23.13(d)]**
23.13(b)	Introduce from the sea any specimen of a species listed in Appendix I or II of CITES.	**[as per 23.13(d)]**

Section Number	Offense	Collateral
23.13 (c)	Possess any specimen of a species listed in Appendix I, II, or III of CITES imported, exported, re-exported, introduced from the sea, or traded contrary to the provisions of CITES, the ESA, or this part.	**[as per 23.13(d)]**
23.13 (d)	Attempt to commit, solicit another to commit, or cause to be committed any of the activities described in paragraphs (a) through (c) of this section.	
	Appendix I species:	**1000.00 + value**
	Appendix II species:	**500.00 + value**
	Appendix III species:	**250.00 + value**

50 CFR 24: Regulations pertaining to the import/export of plants

Section Number	Offense	Collateral
24.11	Import, export, re-export plants at non-designated port of entry	**250.00 + value**

16 USC 4201-4245
African Elephant Conservation Act

Statute:	Offense	Collateral
16 USC 4223		
	Import or export raw or worked ivory contrary to the provisions of the act	
	commercial	**1,000.00 + value**
	non-commercial	**500.00**

16 USC 5301 - 5306
Rhinoceros and Tiger Conservation Act of 1998

Statute:	Offense	Collateral
16 USC 5305(a)		
	Sale, import or export of any product, item or substance intended for human consumption or application containing or labeled or advertised as containing any substance derived from any species of rhinoceros or tiger.	**250.00 + value**

16 USC 431-433
American Antiquities Act

Statute:	Offense	Collateral
16 USC 433		
	Appropriate, excavate, injure, or destroy historic or prehistoric ruins, or monument, or any object of antiquity	**500.00**

16 USC 470aa et seq.
Archaeological Resources Protection Act of 1979

Statute:	Offense	Collateral
16 USC 470ee(a)		
	Knowingly excavate, remove, damage, alter, deface or the attempt thereof, any archaeological resource on public or Indian lands without a permit or exemption...	
	Non-commercial	**500.00 + value**
	Commercial	**1,000.00 + value**
16 USC 470ee(b)		
	Knowingly sell, purchase, exchange, transport, receive, or offer thereof, any archaeological resource if such resource was excavated or removed from Public or Indian lands in violation of 16 USC 470ee(a) or any provision, rule, regulation, ordinance or permit in effect under any other Federal law...	
	Non-commercial	**750.00 + value**
	Commercial	**1,500.00 + value**
16 USC 470ee(c)		
	Knowingly sell, purchase, exchange, transport, receive, or offer thereof, any archaeological resource if such resource was excavated or removed from Public or Indian lands in violation of 16 USC 470ee(a) or any provision, rule, regulation, ordinance or permit in effect under any other State law...	
	Non-commercial	**750.00 + value**
	Commercial	**1,500.00 + value**
16 USC 470ee(d)		
	Knowingly violate, counsel, procure, solicit, or	

employ any other person to violate any prohibition..

Non-commercial	**500.00**
Commercial	**1,000.00**

16 USC 668dd(c)
National Wildlife Refuge Act - Prohibited Acts

Statute:	Offense	Collateral
16 USC 668dd(c)	Knowingly disturb, injure, cut, burn, remove, destroy, or possess any real or personal property of the United States...or take or possess any fish, bird, mammal, or other wild vertebrate or invertebrate animal or part or nest or egg thereof ...or enter, use, or otherwise occupy any such area for any purpose without a permit or authorization	**500.00 + value**

16 USC 668dd
Wildlife Conservation Easement Provisions

Violations of Conservation Easement Contracts

Section Number	Offense	Collateral
1.	Dwellings, barns, outbuildings, or other structures built without authorization within easement areas	**500.00 + removal**
2.	Alter vegetation	**100.00 + restoration**
3.	Alter hydrology	**50.00 + restoration**
4.	Unauthorized cutting or mowing	**100.00 per acre**
5.	Unauthorized cultivation	**200.00 per acre**
6.	Unauthorized grazing	**50.00 per animal**
7.	Unauthorized harvesting or cutting of wood	**200.00 + value**
8.	Unauthorized burning	**100.00 per acre**
9.	Place refuse, waste, sewage or other debris	**500.00 + removal**
10.	Littering	**50.00**
11.	Drain, dredge, channel, or fill	**500.00 + restoration**

Section Number	Offense	Collateral
12.	Pump, dike, or impound, and related activity	**500.00 + restoration**
13.	Divert or affect the natural flow or surface or underground water into, within, or out of easement	**500.00 + restoration**
14.	Fail to control noxious weeds/other undesirable plants	**100.00**
15.	Hunting on a closed area	**200.00 + value**
	Fishing on a closed area	**100.00 + value**
16.	Taking or attempting to take fish & wildlife in violation of a Federal, state, or local game/fish regulations	**100.00 + value**
17.	Failure to allow inspection, entry, or egress by an authorized official, agent, or employee	**500.00**
18.	Trespass on a closed area	**100.00**
19.	Interfere with the management of easement area	**100.00**

16 USC 668dd and 16 USC 721-731
National Wildlife Refuge Administrative Act

50 CFR 25: Administrative Provisions

Section Number	Offense	Collateral
25	All other admin. provisions regulations	**100.00**
25.21	Enter a closed portion of National Wildlife Refuge	**200.00**
25.31	Failure to comply with special regulations	**150.00**

Section Number	Offense	Collateral
25.42	Failure to display permit when requested	**100.00**
25.72	Failure to report accidents	**100.00**

50 CFR 26: Regulations Pertaining to Public Entry & Use

Section Number	Offense	Collateral
26	All other public entry and use regulations	**150.00**
26.21(a)	Trespass on National Wildlife Refuge (NWR)	**200.00**
26.21(b)	Permit unconfined domestic animal to enter a NWR	**100.00 + 50.00/animal**
26.36	Conduct public assembly/demonstration without a permit	**100.00**

50 CFR 27: Prohibited Acts

Section Number	Offense	Collateral
27.21	Take any animal or plant without authorization	**250.00 + value**
27.31	Travel on other than a designated route of travel	**100.00**
27.31(a)	Operate a vehicle in violation of state law	**100.00**
27.31(b)	Operate a vehicle under the influence of drugs or intoxicating beverage	**250.00**
27.31(c)	Operate a vehicle carelessly or heedlessly	**150.00**
27.31(d)	Exceed 25 mph or posted speed limit	**50.00 + 2.00/mph over speed limit (21 mph or more over speed limit: 150.00)**
27.31(e)	Operate vehicle without a muffler/spark arrester	**100.00**
27.31(f)	Operate vehicle without license plate/registration	**100.00**
27.31(g)	Operate vehicle without a drivers license	**100.00**
27.31(h)	Block road access for other vehicles	**100.00**
27.31(i)	Failure to obey orders of traffic control officer	**250.00**
27.31(j)	Operate over-sized/over-weight vehicle	**200.00**

Section Number	Offense	Collateral
27.31(k)	Moving of vehicle involved in accident	**150.00**
27.31(l)	Operate a vehicle without proper headlights, tail-lights, or brake lights	**50.00**
27.31(m)	Violation of other established special vehicle requirements	**100.00**
27.32(a)	Unauthorized use of a boat	**200.00**
27.32(b)	Operate boat in violation of either Coast Guard or State laws	**50.00**
27.32(b)(2)	Operate boat in reckless/negligent manner	**150.00**
27.32(b)(3)	Operate boat under influence of an intoxicant	**250.00**
27.32(b)(4)	Interfere with operation of other boats	**100.00**
27.32(b)(5)	Operate boat without proper marine head	**50.00**
27.32(b)(6)	Operate a sailboat without required lights	**50.00**
27.32(b)(7)	Leave boat unattended for 72 hrs	**100.00**
27.32(b)(8)	Unauthorized use of government boat dock	**50.00**
27.33	Unauthorized waterskiing on NWR	**75.00**
27.34	Unauthorized operation of aircraft on/over NWR	**250.00**
27.41	Carry, possess or discharge a firearm	**200.00**
	Carry, possess or discharge fireworks/explosive	**200.00**
27.42	Firearms; other violations	**200.00**
27.43	Use of weapons other than firearms	**200.00**
27.51	Disturb, injure, damage animals on NWR	**200.00 + value**
	Disturb, injure, damage plants on NWR	**100.00 + value**

Section Number	Offense	Collateral
27.52	Introduction of plants/animals on NWR	**100.00 + 50.00/item**
27.61	Destruction or removal of property from NWR	**200.00**
27.62	Search for or remove objects of antiquity	**200.00**
27.63	Unauthorized search for valued objects; no permit	**200.00**
27.64	Unauthorized prospecting/mining on a NWR	**500.00**
27.65	Tamper with vehicles or equipment	**200.00**
27.71	Take or film motion pictures for commercial use	**200.00**
27.72	Cause unreasonable disturbances w/ audio equip	**200.00**
27.73	Use of artificial light to take wildlife	**200.00 + value**
27.81	Enter NWR under the influence of alcohol	**300.00**
27.82(b)(1)	Deliver controlled substance	**500.00**
27.82(b)(2)	Possess controlled substance on a NWR	**250.00**
27.82(b)(3)	Under influence of a controlled substance	**250.00**
27.83	Indecency or disorderly conduct	**250.00**
27.84	Interference with persons engaging in authorized activity	**300.00**
27.85	Gambling on NWR	**100.00**
27.86	Begging or soliciting	**100.00**
27.91	Conducting field trials	**200.00**
27.92	Construct, install, occupy private structure	**250.00**
27.93	Abandon private property	**300.00**
27.94	Litter on a NWR	**200.00**

Section Number	Offense	Collateral
	Dumping refuse or waste	**500.00**
	Depositing environmental contaminants	**1,000.00**
27.95(a)	Setting unauthorized fire	**200.00**
	Setting unauthorized campfire	**100.00**
27.95(b)	Leaving fire unattended	**150.00**
27.95(c)	Throw burning cigarette, match, etc. where it may start a fire	**150.00**
27.95(d)	Smoking violation	**100.00**
27.96	Unauthorized advertising	**100.00**
27.97	Conduct private commercial operation	**200.00**

50 CFR 28: Regulations pertaining to Refuge Special Regulations-General

Section Number	Offense	Collateral
28.31	Violate any provision, rule, regulation, sign, or special regulation	**150.00**

50 CFR 31: Regulations pertaining to Commercial Fishing & Trapping

Section Number	Offense	Collateral
31.13	No refuge commercial fishing permit	**250.00 + value**
31.16	Violation of federal trapping permit regulations, state trapping laws, or other special trapping laws, or special trapping regulations	
	Violate state law	**100.00 + value**
	Violate permit conditions, etc	**100.00 + value**
	Failure to inspect traps	**100.00 + value**
	Unlawful sets; unlawful equipment	**150.00 + value**
	Animal unlawfully trapped	**150.00 + value**

50 CFR 32: Regulations pertaining to Hunting

Section Number	Offense	Collateral
32.2(a)	Hunt without a State license	**200.00 + value**
32.2(b)	Hunt without a migratory waterfowl stamp	**200.00 + value**
32.2(c)	Hunt in violation of federal law	**150.00 + value**
32.2(d)	Hunt in violation of state law	**150.00 + value**
32.2(e)	Hunt in violation of special access requirements	**100.00 + value**
32.2(f)	Failure to comply with special regulations, as per 32.12, 32.22, 32.32	**150.00**
32.2(g)	Bow hunt with any drug on a arrow	**500.00 + value**
32.2(h)	Distribution of bait and hunting over bait on NWR	**500.00 + value**
32.2(i)	Use of nails, wire, screws or bolts to attach a tree stand to a tree, or hunt from tree into which a metal object has been driven	**100.00**
32.2(j)	Use or possession of alcohol while hunting	**200.00**
32.2(k)	Use or possession of toxic shot while hunting with shotgun or muzzle-loader on Waterfowl Production Areas, or other designated areas	**100.00 + value + 20.00/toxic shell + forfeit toxic shells**

50 CFR 32.5: Regulations pertaining to Fishing

Section Number	Offense	Collateral
32.5(a)	Fish without a state license	**100.00 + value**

Section Number	Offense	Collateral
32.5(b)	Noncompliance with applicable federal law	**100.00 + value**
32.5(c) thru 32.5(e)	Violations of State and applicable special regulations on fishing	**100.00 + value**

50 CFR 70: Regulations pertaining to National Fish Hatcheries

Section Number	Offense	Collateral
70.2	Administrative provisions as adopted from Part 25	**As noted in Part 25**
70.4(a)	Prohibited Acts as adopted in Part 27	**As noted in Part 27**
70.4(b)	Unauthorized taking, or attempt to take fish, amphibians, or other aquatic animals	**200.00 + value**
70.4(c)	Unauthorized take of any animal	**200.00 + value**
70.4(d)	Disturbing spawning fish	**100.00**
70.6	Public Entry & Use as adopted from Part 26	**As noted in Part 26**

50 CFR 71: Regulations pertaining to Hunting & Fishing on National Fish Hatcheries

Section Number	Offense	Collateral
71.2(a)	Hunt without a State license	**100.00**
71.2(b) thru 71.2(f)	Noncompliance with other laws or regulations	**100.00**
71.12(a)	Fish without a State license	**100.00**
71.12(b) thru 71.12(e)	Noncompliance with other laws or regulations	**100.00**

Oversight Provision

All regulatory provisions of 50 CFR *et seq.* not previously enumerated

Section Number	Offense	Collateral
As listed	Violations of permits or permit requirements	**100.00**
	Violations of taking, sale, purchase or barter	**250.00**
	Violation of possession, transport, import/export	**150.00**
	All other violations or noncompliance	**50.00**

18 USC 13
Assimilative Crime Act

Statute:	Offense	Collateral
18 USC 13	Violation of state statutes on land administered by the FWS	**300.00 + value**

10 USC 2671(a)
Hunting, Fishing, Trapping on Military Reservations

Statute:	Offense	Collateral
10 USC 2671(a)	Violation of state statutes for wildlife or plants while on military reservation	**300.00 + value**

APPENDIX A

Wildlife & Plant Value Table

Category	Species	Comments	Value	
Big Game Animals	elk/caribou	whole/trophy	cow:	$1,000.00
			bull:	$5,000.00
	moose/bison	whole/trophy	cow:	$2,000.00
			bull:	$7,000.00
	sheep/mtn. goat	whole/trophy	$10,000.00	
	deer/pronghorn	whole/trophy	doe:	$500.00
			buck:	$2,000.00
	blk. bear/cougar	whole/trophy	$5,000.00	
	brown bear	whole/trophy	$7,000.00	
	polar bear	whole/trophy	$10,000.00	
	rhino/hippo buffalo/elephant/ felines	whole/trophy	$10,000.00	
	all other African/ Asian/S. American/ European	whole/trophy	$2,500.00	
	all other	whole/trophy	$1,000.00	
	all parts/products	per item	$100.00 or DEC value	
Small Game animals	All whole/trophy	per item	$100.00	
	All parts/products	per item	$25.00	
	All whole/skin	per item	$100.00	
Fur bearing animals	Rodent family	whole/skin	$25.00	
	Canine family	whole/skin	$100.00	

Category	Species	Comments	Value
	Procyon/Mustelid family	whole/skin	$50.00
	Feline family	whole/skin	$250.00
	All others	whole/skin	$25.00
	All parts/products	per item	$25.00 or DEC value
Non-game animals	Carnivores	whole/skin	$1500.00
		parts	$500.00
	Primates	whole	$1000.00
	Others	whole	$300.00
	All parts/products	per item	$250.00
Migratory game birds	Swans	whole/mount	$1000.00
	Geese	whole/mount	$75.00
	Ducks	whole/mount	$50.00
	Doves/Pigeons	whole/mount	$25.00
	All other	whole/mount	$50.00
	All parts/products	per item	$25.00 or DEC value
Migratory non-game birds	Eagles	whole/mount	$1000.00
		parts/products	$250.00
	Hawks/Owls	whole/mount	$500.00
	Song birds	whole/mount	$100.00
	All others	whole/mount	$100.00

Category	Species	Comments	Value
	All parts/products	per item	$50.00 or DEC value
Other game birds	Wild turkey	whole/mount	$500.00
	Grouse/Prairie chickens	whole/mount	$250.00
	All other	whole/mount	$100.00
	All parts/products	per item	$25.00 or DEC value
Parrots	Macaws/Cockatoos	whole/mount	$1000.00
	Parrots	whole/mount	$500.00
	All others	whole/mount	$100.00
	All parts/products	per item	$25.00 or DEC value
Other pet birds	All	whole/mount	$100.00
	All parts/products	per item	$10.00
Other animals	All whole/product	per item	$50.00 or DEC value
Endangered/ Threatened wildlife	All	whole/trophy	$2,000.00
	All	parts	$500.00
		curios/jewelry	$100.00 or DEC value
Endangered/ Threatened plants	All		$1,000.00

Category	Species	Comments	Value
Marine Mammals	All (except polar bear)	whole/trophy	$2,000.00
		parts/curios/ other	$100.00 or DEC value
Game Fish	trout/salmon/walleye/ bass/pike/ etc.	whole/trophy	$75.00
Sport Fish	pan fish/catfish/ etc.	whole/trophy	$25.00
Other fish	Paddle/Sturgeon/etc.	whole/trophy	$500.00
	Eggs/Roe	per pound	$500.00
	all other	whole/trophy	$25.00
Non-sport fish	carp/sucker/gar/etc.	whole/trophy	$10.00
Tropical fish	All	per fish	$25.00 or DEC value
Bait fish	All	whole/product	$10.00
Amphibians	All whole/product	per item	$50.00 or DEC value
Reptiles	All whole/product	per item	$50.00 or DEC value
Insects	All whole/products	per item	$50.00 or DEC value
Mollusks	All whole/products	per item	$25.00 or DEC value
Corals	All whole/products	per item	$50.00 or DEC value

Category	Species	Comments	Value
Deciduous trees	All	> 10 yrs.	$1,000.00
		< 10 yrs.	$200.00
Coniferous trees	All	>10 yrs.	$1,000.00
		<10 yrs.	$200.00
Bushes	All	adult	$750.00
		young	$150.00
Cacti	All	per plant	$100.00
Sedges/grasses	All	per sq. foot	$50.00
Orchid family	All	$100.00	
Other plants	All	$10.00	
Archeological Resources	All	per item	$100.00

WILDLIFE/PROPERTY FORFEITURE ORDER
WESTERN DISTRICT OF TEXAS

Unless otherwise specifically ordered by a United States Court, any fish, wildlife, plants, or property which has been seized under the authority of the Migratory Bird Treaty Act, 16 USC 703-712; the National Wildlife Refuge Systems Administrative Act, 16 USC 668dd-668ee; the Eagle Protection Act, 16 USC 668-668e; the Endangered Species Act, 16 USC 1531-1542; the Migratory Waterfowl Hunting Stamp Act, 16 USC 718-718i; the Airborne Hunting Act, 16 USC 742j-1; the Marine Mammal Protection Act, 16 USC 1361-1407; the Tariff Classification Act, 19 USC 1202; the Lacey Act, 18 USC 42; the Lacey Act Amendments, 16 USC 3371-3378; the American Antiquities Act, 16 USC 433; the African Elephant Conservation Act, 16 USC 4201-4245; the Archeological Resources Protection Act, 16 USC 470aa et seq.; Wild Bird Conservation Act, 16 USC 4901-4916; and Rhinoceros and Tiger Conservation Act of 1998, 16 USC 5301 *et seq.*;where final disposition of the case has been made by either payment of a forfeiture of collateral or a judgement by the Court on behalf of the government and where so authorized by statute, such wildlife or property shall be forfeited to the U.S. government and disposed of by the U.S. Fish & Wildlife Service in the manner prescribed by Title 50, Code of Federal Regulations, Part 12.

EXHIBIT D

VETERAN'S ADMINISTRATION PROPERTY

38 U.S.C.§218 AND 38 C.F.R.§1.218

38 C.F.R.§1.218 (b)

1. Improper disposal of rubbish on property.	$200.00
2. Spitting on property.	$25.00
3. Throwing of articles from a building or the unauthorized climbing upon any part of a building.	$50.00
4. Willful destruction, damage, or removal of Government property without authorization.	$500.00
5. Defacement, destruction, mutilation or injury to, or removal, or disturbance of, grave marker headstone.	$500.00
6. Failure to comply with signs of a directive and restrictive nature posted for safety purposes.	$50.00
7. Tampering with, removal, marring or destruction of posted sign.	$150.00
8. Entry into area posted as closed to the public or others (trespass).	$50.00
9. Unauthorized demonstration or service in a national cemetery or on other Veterans Administration property.	$250.00
10. Creating a disturbance during a burial ceremony.	$250.00
11. Disorderly conduct which creates loud, boisterous, and unusual noise, or which obstructs the normal use of entrances, exits, foyers, offices, corridors, elevators, and stairways or which tends to impede or prevent the normal operation of a service or operation of the facility.	$250.00
12. Failure to depart premises by unauthorized persons.	$50.00
13. Unauthorized loitering, sleeping or assembly on property.	$50.00
14. Gambling-participating in games of chance for monetary gain or personal property; the operation of gambling devices, a pool or lottery; or the taking or giving of bets.	$200.00

15. Operation of a vehicle under the influence of alcoholic beverages or non-prescribed narcotic drugs, hallucinogens, marijuana, barbiturates or amphetamines.	$500.00
16. Entering premises under the influence of alcoholic beverages or narcotic drugs, hallucinogens, marijuana, barbiturates or amphetamines.	$200.00
17. Unauthorized used on property of alcoholic beverages, or narcotic drugs, hallucinogens, marijuana, barbiturates or amphetamines.	$300.00
18. Unauthorized introduction on VA controlled property of alcoholic beverages or narcotic drugs, hallucinogens, marijuana, barbiturates or amphetamines, or the unauthorized giving of same to a patient or beneficiary.	$500.00
19. Unauthorized solicitation of alms and contributions on premises.	$50.00
20. Commercial soliciting or vending, or the collection of private debts on property.	$50.00
21. Distribution of pamphlets, handbills, and flyers.	$25.00
22. Display of placards or posting of material on property.	$25.00
23. Unauthorized photography on premises.	$50.00
24. Failure to comply with traffic directions of VA police.	$25.00
25. Parking in spaces posted as reserved for physically disabled persons.	$50.00
26. Parking in no-parking areas, lanes, or crosswalks so posted or marked by yellow borders or yellow stripes.	$25.00
27. Parking in emergency vehicle spaces, areas, and lanes bordered in red or posted as **EMERGENCY VEHICLES ONLY** or **FIRE LANE**, or parking within fifteen(15) feet of a fire hydrant.	$50.00
28. Parking within an intersection or blocking a posted vehicle entrance or posted exit lanes.	$25.00
29. Parking in spaces posted as reserved or in excess of a posted time limit.	$15.00
30. Failing to come to a complete stop at a **STOP** sign.	$25.00
31. Failing to yield to a pedestrian in a marked and posted crosswalk.	$25.00

32. Driving in the wrong direction on a posted one-way street.	$25.00
33. Operation of a vehicle in a reckless or unsafe manner, too fast for conditions, drag racing, overriding curbs, or leaving the roadway.	$100.00
34. Exceeding posted speed limits:	
By up to 10 mph,	$25.00
By up to 20 mph,	$50.00
By over 20 mph,	$100.00
35. Creating excessive noise in a hospital or cemetery zone by muffler cut out, excessive use of a horn, or other means.	$50.00
36. Failure to yield right of way to other vehicles.	$50.00
37. Possession of firearms, carried either openly or concealed, whether loaded or unloaded (except by Federal or State law enforcement officers on official business).	$500.00
38. Introduction or possession of explosives, or explosive devices which fire a projectile, ammunition, or combustibles.	$500.00
39. Possession of knives which exceed a blade length of three(3) inches; switchblade knives; any of the variety of hatchets, clubs, and hand-held weapons; or brass knuckles.	$300.00
40. The unauthorized possession of any of the variety of incapacitating liquid or gas-emitting weapons.	$200.00
41. Unauthorized possession, manufacture, or use of keys or barrier card-type keys to rooms or areas on the property.	$200.00
42. The surreptitious opening, or attempted opening, of locks or card-operated barrier mechanisms on property.	$500.00
43. Soliciting for, or the act of, prostitution.	$250.00
44. Any unlawful sexual activity.	$250.00
45. Jogging, bicycling, sledding or any recreational physical activity conducted on cemetery grounds.	$50.00

When no amount is shown for collateral of forfeiture, a mandatory appearance (*) is required. In as in any contested case, the penalty to be assessed will be determined by the Magistrate or Judge of the United States District Court and may include a term of imprisonment of not more than six months.

EXHIBIT E

Collateral Forfeiture Schedule for
Water Resources Development Projects Administered by
Chief of Engineers of the U.S. Army Corps of Engineers in the Western District of Texas
Title 36, Part 327, Code of Federal Regulations

GENERAL INSTRUCTIONS

1) Those offenses designated "*" in the collateral forfeiture schedule require a mandatory appearance.

2) All offenses arising from an accident causing personal injury or death require a mandatory appearance.

3) Any other offense with a dollar amount listed may be paid by a collateral forfeiture.

4) All felony cases must be submitted to the U.S. Attorney's Office.

SECTION		OFFENSE	$FINE
327.1	(d)	Discrimination against any person	*
327.2	(b)	Parking in violation of posted restrictions	$35.00
		Parking to obstruct, impede or endanger	$50.00
	(c)	Operation/parking vehicle off roadway	$50.00
		Vehicle beyond fence, barricade, etc.	$75.00
	(d)	Operation of vehicle contrary to posted restrictions	$50.00
	(e)	Operation of vehicle in careless, negligent or reckless manner	$100.00
	(f)	Operation of vehicle for purposes other than to enter or leave	$50.00
	(g)	Operation of motorized vehicle without effective exhaust muffler	$75.00
327.3	(b)	Placement/operation of vessel for fee	$100.00
	(3)	Operation of vessel in prohibited area	$100.00
		Operation of vessel contrary to posted regulations	$100.00
		Failure to display required vessel registration	$50.00

	(4)	Operation of vessel in careless, negligent, or reckless manner	$100.00
	(5)	Operation of vessel without required safety equipment	$75.00
	(6)	Use of vessel for habitation, residence or overnight occupancy not incidental to recreational boating	$200.00
	(7)	Use of water ski or similar device in careless, negligent or reckless manner	$100.00
	(8)	Unauthorized attachment or anchoring of vessel	$50.00
		Failure to remove vessel not in use	$100.00
		Placement of mooring facility where prohibited	$100.00
	(a)	Use of vessel not constructed or maintained in compliance with safety standards	$100.00
	(j)	Operation of vessel without proper and effective muffler	$100.00
327.4	(b)	Aircraft operation at non-designated location	*
	(c)	Operation of aircraft in a careless, negligent or reckless manner	*
	(e)	Air delivery or retrieval onto or from project lands or water	$100.00
	(f)2	Seaplane operation contrary to established prohibitions or restrictions	$100.00
	(f)3	Seaplane operation contrary to marine rules of the road	$75.00
	(f)4	Improper mooring of seaplane	$100.00
	(f)5	Unauthorized commercial seaplane operation	$200.00
	(f)6	Seaplane operation between sunset and sunshine	$150.00
327.5	(a)	Swimming, wading, snorkeling or scuba diving where prohibited	$75.00
	(b)	Failure to display diving flag	$50.00
	(c)	Diving, jumping or swinging from prohibited structure	$75.00

327.6		Picnicking or day-use where prohibited	$50.00
327.7	(a)	Camping in non-designated area	$75.00
	(b)	Camping longer than 14 days	$75.00
	(c)	Unauthorized reservation of campsite	$75.00
	(d)	Digging ground or constructing unauthorized structure	$50.00
	(e)	Occupying campsite posted “reserved”	$75.00
327.8	(a)	Hunting where or when prohibited	$100.00
	(b)	Trapping where or when prohibited	$100.00
	(c)	Fishing where prohibited	$75.00
	(d)	Failure to observe established restrictions	$75.00
327.9	(a)	Improper disposal of waste	$75.00
	(b)	Bringing garbage, trash, etc., onto project	$100.00
	(c)	Spilling or other discharge onto project lands or waters	$100.00
	(d)	Failure to keep site free of trash	$50.00
	(e)	Discharge of waste from vessel or water craft	$100.00
327.10	(a)	Improper storage of fuel	$75.00
	(b)	Fire not in designated facility	$75.00
		Fire left unattended	$75.00
		Producing toxic fumes	$75.00
		Open burning where/when prohibited	$100.00
	(c)	Improper disposal of lighted smoking materials	$50.00
327.11	(a)	Pet not on leash or not restrained	$75.00
		Pet allowed to impede or restrict public use	$100.00
		Pet allowed to create noise disturbance	$75.00
		Animal in prohibited facility or location	$75.00
		Abandoning animal on project	$100.00
	(b)	Failure to clean up animal waste	$50.00

(c)	Brining livestock into recreation area	$75.00
(d)	Unauthorized livestock on project	$100.00
(g)	Wild or exotic pet or animal brought on to project	$100.00
327.12 (a)	Failure to observe posted restrictions	$75.00
(b)	Failure to observe quiet hours	$100
(c)	Act or conduct interfering with or impeding public use	$75.00
(d)	Sound producing equipment	$75.00
(f)	Smoking where prohibited	$35.00
327.13 (a)	Possession of loaded firearm, ammunition, or other weapon	$100.00
(b)	Possession of explosives or explosive devices Possession of fireworks or pyrotechnics	* $75.00
327.14 (a)	Destruction, injury, defacement or removal or public property	$100.00
(b)	Cutting, gathering or removal of trees or wood	$75.00
(c)	Gathering dead wood where prohibited	$50.00
327.15 (a)	Abandonment of personal property	$100.00
327.17	Unauthorized advertisement Violation of terms and conditions of permit	$75.00 $150.00
327.18 (a)	Unauthorized commercial activity	$100.00
(b)	Failure to comply with commercial lease, license or agreement	$100.00
327.19 (a)	Failure to comply with terms or conditions of permit	$100.00
(e)	Failure to comply with conditions of Shoreline Use Permit	$100.00
327.20	Unauthorized structure	$100.00

327.21	Unauthorized special event	$100.00
327.22 (a)	Unauthorized occupation of project	$100.00
2.	Unauthorized agricultural use	$100.00
327.23 (b)	Failure to pay use fee	$75.00
3.	Failure to pay day-use fee/display receipt, permit or pass	$50.00
4.	Fraudulent use of Golden Age/Golden Access Passport	$100.00
327.24 (a)	Interference with Federal Employee	*
(b)	Failure to comply with lawful order	$150.00
	Failure to provide correct identification information	$100.00

EXHIBIT F
GSA PROPERTY
41 U.S.C. SEC. 318

41 C.F.R. 101 - 20.300

302	Failure to record presence as required by GSA or postal personnel or failure to sign a register and/or display identification documents when requested by a guard, watchman or other authorized individuals	$25.00
303	The improper disposal of rubbish on property; the spitting on property; the creation of any hazard on property to persons or things; the throwing of articles of any kind from a building; the climbing of any part of the building	$25.00
	Willfully destroying, damaging or removing any property	$50.00
304	Failure to comply with official signs (except parking and traffic) And failure to comply with the direction of authorized individuals	$25.00
	Failure to comply with directions of law enforcement	$25.00
305	The disorderly conduct or other conduct on property which creates loud or unusual noise, or which obstructs the usual use of entrances, foyers, corridors, offices, elevators, stairs and parking lots, or which otherwise tends to impede or disrupt the public employees in the performance of their duties, or which otherwise impedes or prevents the general public from obtaining the administrative services provided on property	$35.00
306	Gambling - participating in games for money or other personal property; the operation of gambling devices, the conduct of a lottery or pool; or the selling or purchases of numbers tickets	$40.00
307	Unauthorized possession or unauthorized use of alcoholic beverages or narcotic drugs	$50.00
	Entertaining on property by a person under the influence of alcoholic beverages or narcotic drugs	$25.00
	Use on property of hallucinogens, marijuana, non-prescribed narcotic drugs, amphetamine or barbiturate	Mandatory Appearance
308	Unauthorized solicitations of alms and contributions on premises	$25.00
	Commercial solicitations	$25.00

EXHIBIT G
Bureau of Land Management
6 USC 433

16/433	American Antiquities	$100.00
16/460 1-6a	Non-payment of Camping Fees	$25.00
16/670j(a)(2)	Violation of Habitat Management Plan Regulations	$100.00
18/42	Importation of Injurious Species	$500.00
18/1361	Vandalism	$100.00
18/1852	Timber Removed or Transported	$100.00
18/1853	Trees Cut or Injured	$100.00
18/1856	Fires Left Unattended	$75.00
18/1857	Fences Destroyed - Livestock Entering	$100.00
18/1858	Survey Marks Destroyed or Removed	$100.00
43/1061	Unlawful Inclosure	$150.00
43/1063	Obstruction of Transit Over Public Lands	$100.00
43 C.F.R 4140.1 (b)(1)	Allowing Livestock on Public Land Without Permit or Lease	$100.00
(2)	Disturbing or Installing Range Improvements	$100.00
(3)	Cutting, Burning, Spraying, Destroying, or Removing Vegetation	$100.00
(4)	Damaging or removing U.S. Property	$100.00
(5)	Molesting Livestock	$50.00
(6)	Littering	$50.00
(7)	Interfering with Lawful Uses or Users	$100.00

	(8)	False Statements	$100.00
4760.2	(a)	Removes Wild Horse or Burro from Public Lands	$100.00
	(b)	Converts Wild Horse or Burro to Private Use	$100.00
	(c)	Cause Death or Harassment of Wild Horse or Burro	$100.00
	(d)	Processing Wild Horse or Burro into Commercial Products	$100.00
	(e)	Sells Wild Horse or Burro	$100.00
	(f)	Uses Wild Horse or Burro for Commercial Exploitation	$100.00
	(g)	Inhumane Treatment of Wild Horse or Burro	$100.00
	(h)	Use of Wild Horse or Burro for Bucking Stock	$100.00
	(i)	Failure to Product Wild Horse or Burro for Inspection	$100.00
	(j)	Failure to Notify of Death of Wild Horse	$100.00
	(k)	Removal or Alteration of Official Mark	$100.00
	(l)	Abandons Wild Horse or Burro	$100.00
	(m)	Fails to Attempt to Capture Escaped Wild Horse or Burro	$100.00
	(n)	Accepts Wild Horse or Burro for Slaughter or Destruction	$100.00
	(o)	Failure to Retain Wild Horse or Burro Certification	$100.00
8223.1	(a)	Occupancy of Research Natural Area	$50.00
	(b)	Use Contrary to Purpose of Research Natural Area	$50.00
	(c)	Non-Destruction Use Only	$50.00
8341.1	(b)	ORV Operation Off Designated Areas And Trails	$50.00
	(c)	ORV Operation in Closed Area	$50.00

(f)	1) Reckless/ Negligent Operation	$250.00
	2) Excess of Established Limits Minimum bail of $15.00, plus $1.00 per mile over posted speed limit	
	3) Under the Influence of Drugs or Alcohol	Mandatory Appearance
	4) Causing Environmental Damage	$100.00
	5) During Night Hours Without Headlights and Taillights	$50.00
8341.1 (g)	Failure of ORV to Yield Right-of-Way	$25.00
8341.1 (a)	Brakes Required	$50.00
(b)	Muffler Required	$50.00
(c)	Spark Arrester Required Where Posted	$50.00
(d)	Headlight and Taillight Standards for Nighttime Operation	$50.00
8351.1-1 (a)	Operation of Motorized Vehicle on National Scenic Trail	$50.00
8351.2-1 (a)	Special Rules - Wild and Scenic Rivers Act	$50.00
8352.1 (a)	Occupancy of Outstanding Natural Area	$100.00
(b)	Use That Unnecessarily Detracts	$100.00
8352.4 (a)	Primitive Area - Travel by Non-mechanized Means Only	$50.00
(b)	Construction in Primitive Areas	$100.00
(c)	Conducting Non-Recreational Activities	$50.00
8364.1 (d)	Violation of Closure Order	$50.00
8365.1-1 (b)(1)	Littering, Non-Flammable Material	$100.00
(2)	Littering, Flammable Material	$100.00
(3)	Unauthorized Draining of Sewage	$100.00

	(4) Waste Disposal From Private Property		$100.00
	(5) Pollution of Water Supplies		$100.00
	(6) Improper Use of Refuse/Disposal Facility		$25.00
8365.1-2 (a)	Camping Longer Than Permitted		$50.00
(b)	Unattended Personal Property, 10 Days		$25.00
8365.1-3 (a)	Reckless, Careless, Negligent Vehicle Operation		$100.00
(b)	Reckless Endangerment		$250.00
8365.1-4	Creating a Risk or Public Disturbance		$50.00
8365.1-4	(a)	Unreasonable Noise	$50.00
	(b)	Creating a Hazard or Nuisance	$50.00
	(c)	Refusing to Disperse	$100.00
	(d)	Resisting Arrest, Citation; Interfering with Officer	Mandatory Appearance
	(e)	Assault or Battery on BLM Employee	Mandatory Appearance
	(f)	False Emergency or Crime Report	$100.00
8365.1-5	(a)(1)	Deface, Remove, Destroy Personal Property, Or Structures, Resources	$100.00
	(a)(2)	Deface, Remove, Destroy Plants, Rocks Minerals, Caves	$100.00
	(a)(3)	Use of Motorized Devices or Explosives For Collecting	$100.00
8365.1-6		Supplementary Rules	$50.00
8365.2-1	(a)	Cleaning Fish, Game, Clothing, etc., at any Water Faucet in Recreation Site	$50.00
	(b)	Improper Deposit of Human Waste in Recreation Site	$50.00

	(c)	Animals Not On Leash or Physically Restricted In Recreation Site	$50.00
8365.2-2	(a)	Excessive Noise from Audio Device in Recreation Site	$50.00
	(b)	Use of a Public Address System in Recreation Site	$50.00
	(c)	Erecting an Antenna Other than on a Vehicle in a Recreation Site	$50.00
8365.2-3	(a)	Failure to Pay Camp Fee	$25.00
	(b)	Erecting or Placing Camping Equipment in a Undesignated Area in Recreation Site	$50.00
	©)	Unattended Personal Property, 24 Hours (Day Use Area); 72 hrs. in Other Areas Of a Recreation Site	$25.00
	(d)	Build a Fire Except in Stove, Grill, etc.	$25.00
	(e)	Entering or Loitering in Closed Campgrounds During Night Periods	$25.00
	(f)	Enter or Use a Site Closed to Public Use	$25.00
	(g)	Campsite Occupied by More People Than Permitted	$25.00
	(h)	Move Any Campground Provided Equipment	$25.00
8365.2-4	Operating Motor Vehicle Except on Roads or Places Provided in Recreation Sites		$50.00
8365.2-5	(a)	Use or Discharge of Fireworks	$50.00
	(b)	Use or Discharge of Firearms	$100.00
	©)	Bringing an Animal to a Swimming Area In a Recreation Site	$25.00

8372.1-1	Special Recreation Permits Required		
	(a)	Commercial Use	$250.00
	(b)	Competitive Use	$50.00
	(c)	Off-Road Vehicle Events	$50.00
	(d)	Special Area Use	$50.00
9212.1	(a)	Igniting Fire Other Than Campfire	$100.00
	(b)	Fire Tracer or Incendiary	$50.00
	(c)	Burn Vegetation Except in Campfires	$100.00
	(d)	Abandoning Campfire	$75.00
	(e)	Campfire Without Proper Clearance	$25.00
	(f)	Interfere With Firefighters	*
	(g)	Enter Fire Closed Area	$50.00
	(h)	Violate Fire Prevention Orders	$25.00
9268.3(c)(1)	(i)	Natural Feature Destruction in Recreation Site	$100.00
	(ii)	Facility Destruction in Recreation Site	*
9268.3(c)(2)	(i)	Facility Destruction	*
	(ii)	Harvest or Remove Vegetation, Minerals, Antiquities	$100.00
	(iii)	Appropriate or Deface Natural Features, Antiquities Public or Private Property	$100.00
	(iv)	Dig or Remove Tree or Shrub	$100.00
	(v)	Commercial Gathering of Resources	$100.00
	(vi)	Operating Vehicle to Chase or Frighten Livestock Or Wildlife	$100.00
	(vii)	Use of Motorized Devices or Explosives For Collecting	$50.00

9268.3	Violation of Closure Order	$50.00

* MANDATORY APPEARANCE

Exhibit H
Forfeiture of Collateral Schedule
United States Postal Service
Western District of Texas
(Revised May, 2009)

39 C.F.R Violations

Section Number			Collateral
§ 232.1	(b)	Unauthorized entry on to property	$225.00
	(c)	Improper disposal of rubbish on property	$225.00
		Throwing articles of any kind from a building	$225.00
		Climbing upon the roof or any part of the building, without authorization	$100.00
		Willfully destroying, damaging, or removing any property	$225.00
§ 232.1	(d)	Failure to comply with official signs of a prohibitory or directory nature	$175.00
		Failure to comply with the directions of security force personnel or other authorized individuals	$225.00

(e)	Disorderly conduct, or conduct which creates loud and unusual noise, or which impedes ingress to or egress from post offices, or otherwise obstructs the usual use of entrances, foyers, corridors, offices, elevators, stairways, and parking lots, or which otherwise tends to impede or disturb the public employees in the performance of their duties, or which otherwise impedes or disturbs the general public in transacting business or obtaining the services provided on property, is prohibited	$200.00
(f)	Gambling. Participating in games for money or other personal property, the operation of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of number tickets	$225.00
(g)	Entering property or operating a motor vehicle on property, a person under the influence of an alcoholic beverage or controlled substance as defined in 21 U.S.C. §802	$225.00
	Sale or use on property of a controlled substance as defined in 21 U.S.C. §802	$225.00
	Sale or use on property of an alcoholic beverage	$100.00
	Unauthorized introduction of alcoholic beverages on Postal Service controlled property	$500.00
(h)	Soliciting alms and contributions, on premises, or collecting private debts in or on property	$75.00
	Unauthorized commercial soliciting or vending, or displaying or distributing commercial advertising	$75.00

(i)	Unauthorized photography on premises for non-news purposes, or for news purposes where prohibited by official signs or by directions of security force personnel or by other authorized personnel, or by a federal court order or rule	$70.00
(j)	Introducing dogs and other animals (seeing dogs exempt) on Postal Service controlled property	$70.00
(k)	Failure to comply with traffic signals and directions of guards	$90.00
	Parking in spaces posted as reserved, or restricted, without authority to do so	$75.00
	Parking in no-parking areas, lanes, or crosswalks, so posted or marked by yellow borders or yellow stripes	$75.00
	Parking in spaces, areas, or lanes bordered in red or posted as FIRE LANE, or parking within 15 feet of a fire hydrant	$75.00
	Parking in or blocking entrance, driveway, walk or loading platform	$75.00
	Parking continuously in excess of 18 hours	$75.00
	Failure to come to a complete stop at a stop sign	$75.00
	Failure to yield to a pedestrian in a marked and posted crosswalk	$75.00
	Driving in the wrong direction on a posted one-way street	$120.00

	Operation of a vehicle in a reckless or unsafe manner, drag racing, overriding curbs, or leaving the roadway	$120.00
	Driving without a valid state driver's license on Postal property	$120.00
	Exceeding posted speed limits:	
	- 1 to 10 miles per hour in excess	$90.00
	- 11 to 15 miles per hour in excess	$100.00
	- 16 to 21 miles per hour in excess	$110.00
	- over 21 miles per hour in excess	$120.00
	Failure to yield right of way to other vehicles	$75.00
(l)	Carrying firearms, either openly or concealed, whether loaded or unloaded (except for law enforcement officers on official business)	$225.00
	Introduction or possession of:	
	Ammunition (except for law enforcement officers on official business)	$75.00
	Explosives, explosive devices which fire a projectile or combustibles	$225.00
	Carrying a knife which exceeds a blade length of 3 inches or a switchblade knife	$100.00
	Unauthorized possession of any incapacitating liquid or gas-emitting weapon	$100.00

§ 232.1	(m)	Unlawful discrimination	$75.00
§ 232.1	(n)	Disorderly conduct which creates a loud or unusual noise which interferes with a Board of Governor's meeting	$75.00

Title 18 Violations

§ 1693	Carriage of mail generally	$100.00
§ 1701	Obstruction of mails generally	$275.00
§ 1713	Issuance of money orders without payment	$500.00
§ 1719	Franking privilege	$300.00
§ 1726	Postage collected unlawfully	$100.00
§ 1729	Post Office conducted without authority	$500.00
§ 1730	Uniforms of carriers	$100.00
§ 1731	Vehicles falsely labeled as carriers	$500.00

Exhibit I
Forfeiture of Collateral Schedule
National Security Agency (NSA)
Western District of Texas
(Revised September, 2010)

32 Code of Federal Regulations (CFR) Violations

Section Number		Collateral
	Access to Property and Compliance	
§ 228.2	Failure to comply with official signs on protected property	$170.00
§ 228.2	Failure to comply with lawful directions of NSA Police Officer	$170.00
§ 228.3	Entering/Attempting to enter protected property without proper authorization	$200.00
§ 228.3	Failure to display government or other identifying credentials to NSA Police Officer while on protected property	$150.00
	Control of Vehicles/Parking	
§ 228.4	Failure to comply with official signs, signals, or the directions of an NSA Police Officer while driving on protected property	$170.00
§ 228.4	Failure to operate a motor vehicle in a safe and careful manner while on protected property	$170.00
§ 228.5	Parking on protected property contrary to posted signs or applicable state or federal laws and regulations	$50.00
§ 228.5	Parking on protected property in any manner that	

	blocks/impedes the flow of traffic or otherwise creates a hazard	$50.00
§ 228.5	Parking on protected property without proper authorization	$50.00
§ 228.5	Parking on protected property in reserved area without requested permit	$50.00

Photography/Photographic Equipment

§ 228.8	Unauthorized possession of photographic, recording or transmitting equipment on protected property	$100.00
§ 228.11	Unauthorized photography or videotaping while on protected property	$200.00

Alcohol

§ 228.10	Entering or being on protected property while under the influence of an alcoholic beverage	$200.00
§ 228.10	Unauthorized use of alcoholic beverages on protected property	$100.00

Physical Protection of Facilities

§ 228.12	Willful destruction of protected property or buildings	$500.00
§ 228.12	Willful damage to protected property or buildings	$250.00
§ 228.12	Willful destruction of personal property while on protected property	$500.00
§ 228.12	Willful damage to personal property while on protected property	$250.00
§ 228.12	Creating a hazard to property, persons, or things on	

	protected property	$250.00
§ 228.12	Improper disposal of unauthorized or hazardous materials on protected property	$250.00
§ 228.12	Improper disposal of trash or rubbish on protected property	$50.00
§ 228.12	Throwing articles at buildings or persons on protected property	$500.00

Disturbances on Protected Property

§ 228.13	Impeding or threatening the security of protected property, or any buildings or persons thereon	$500.00
§ 228.13	Disrupting the performance of official duties by agency employees	$250.00
§ 228.13	Interfering with ingress or egress from protected property	$250.00
§ 228.13	Engaging in disorderly conduct while on protected property	$250.00
§ 228.13	Failure to obey an order to depart the premises	$250.00
§ 228.13	Obstructing the usual use of entrances, foyers, lobbies, corridors, offices, elevators, stairways, or parking lots on protected property	$250.00
§ 228.13	Unwarranted loitering on protected property	$200.00
§ 228.13	Creating a loud or unusual noise on protected property	$200.00
§ 228.15	Bringing unauthorized animals on protected property	$160.00

Solicitation, Vending, Debt Collection, and Distribution

of Unauthorized Materials

§ 228.16	Unauthorized commercial or political soliciting on protected property	$100.00
§ 228.16	Unauthorized vending on protected property	$100.00
§ 228.16	Unauthorized displaying or distributing of commercial advertising on protected property	$100.00
§ 228.16	Unauthorized private debt collection or other solicitation on protected property	$100.00
§ 228.17	Unauthorized distributing, posting, or affixing written materials on protected property	$100.00

Texas Code Violations

Alcohol/Drugs/Interference with K-9:

PC - 49.031	Possession of Alcohol in Motor Vehicle	$190.00
HSC - 481.125	Possession of Drug Paraphernalia	$190.00
PC - 38.151	Interference with Police Service Animal	$250.00

Traffic Warning Signs/Barricades:

TC - 472.021	Tampering with Warning Devices	$160.00
TC - 472.022	Fail to Obey Warning Sign	$150.00

Registration of Vehicles:

TC - 502.402	Operation of Unregistered Motor Vehicle	$160.00
TC - 502.404	Operation of Vehicle without Plate or Registration	$160.00
TC - 502.407	Operation of Vehicle with Expired Plate	$160.00
TC - 502.408	Operation of Vehicle with Wrong License Plate	$160.00

Vehicle Insurance:

TC - 601.051	Failure to Maintain Financial Responsibility	$270.00

Driver's License Regulations:

TC - 521.025	Failure to Display Driver's License	$150.00
TC - 521.021	Driver's License Required	$160.00
TC - 521.453	Fictitious License or Certificate	$170.00
TC - 521.457	Driving While License Invalid	$170.00

Traffic Signs, Signals, Markings:

TC - 544.010	Failure to Obey Stop/Yield Sign	$170.00
TC - 545.153	Failure to Yield Right of Way at Stop Sign/ Yield Sign	$170.00
TC - 544.004	Failure to Obey Traffic Control Device	$170.00

Operation and Movement of Vehicles:

TC - 545.156	Failure to Yield Right of Way to Emergency Vehicles	$170.00
TC - 545.351	Maximum Speed Requirement (Driving Too Fast For Conditions)	$220.00

TC - 545.412	Child Passenger Safety Seat Violation	$215.00
TC - 545.413	Safety Belt Use	$140.00
TC - 545.401	Reckless Driving	$270.00

Vehicle Inspection:

TC - 548.602	Failure to Display Inspection Certificate	$150.00

Pedestrians:

TC - 552.003	Pedestrian Right-of-Way at Crosswalk	$150.00

(TC = Transportation Code; PC = Penal Code; ABC = Alcoholic Beverage Code; HSC = Health and Safety Code)

SECTION III - ATTORNEYS

RULE AT-1. ADMISSION OF ATTORNEYS

(a) Eligibility for Admission.

(1) ***In General.*** An attorney may be admitted to the bar of the U.S. District Court for the Western District of Texas if the attorney is licensed to practice by the highest court of a state, is in good standing in that bar; and has good personal and professional character. An applicant who is not licensed to practice by the highest court of any state may apply for admission, however, if admitted, such an attorney must obtain a license from the highest court of any state within one year after being admitted to the bar of this Court.

(2) ***Bankruptcy Court.*** An attorney seeking to practice before the Bankruptcy Court for the Western District of Texas must make application to the U.S. District Court for the Western District of Texas as this rule requires.

(b) Application for Admission.

(1) ***Contents.*** An application for admission must be made on the form prescribed by the court. It must be supported by a certificate of good standing (or equivalent documentation) from the highest state court and the United States district court, if licensed, where the applicant practices. All certificates of good standing must be dated no earlier than 60 days before the date the application is filed. The application must also be supported by two letters of recommendation in the form prescribed by the court. For an applicant residing in this district, the letters must be from attorneys admitted to practice and in good standing in the bar of this court. For an applicant practicing in another federal judicial district, the letters must be from attorneys admitted to practice and in good standing in the bar of that court. The letters must be written and dated no earlier than 6 months before the date the application is filed.

(2) ***Seminar Requirement.*** Within one year before the application is filed, the applicant must complete a live, video or on-line continuing legal education program on federal court practice approved by the court, and must certify that attendance on a form prescribed by the court. This requirement does not apply to a nonresident applicant who is admitted to practice and in good standing in the bar of another U.S. district court. In the event that the applicant was previously admitted to this Court and previously fulfilled the CLE requirement, this requirement is waived.

(3) ***Filing.*** An applicant residing in this district must file the application with the clerk in the division where he or she resides. An applicant residing outside this district may file the application in any division of the district.

(4) ***Time for Completing Application.*** An applicant must complete all requirements for admission (including any requested supplemental or explanatory information) within one year after filing an application. If the applicant fails to do so, the application expires. In that event, an applicant who seeks admission again must file a new application.

(c) Divisional Committee on Admissions. In each division of this court there is

constituted a committee on admissions, which reviews applications for admission to the bar of this court and makes appropriate recommendations to the court.

(1) ***Composition.*** Each committee on admissions has five or more members, including a chair. To the extent possible, the committee should include civil, criminal, and bankruptcy practitioners. Those eligible for service on the committee are attorneys licensed to practice in this district and in good standing, and maintaining a law office in the division served. The members and chair are appointed by the judges resident in, or responsible for, the division.

(2) ***Terms.*** Membership terms should be staggered so that approximately one third of the members' terms expire each year. The term is 3 years, unless a shorter period is required to achieve staggered terms. The terms of members and the chair may be renewed one or more times.

(3) ***Quorum***. A quorum of a committee consists of three members, participating either in person or by electronic means.

(d) Action on Applications.

(1) ***Clerk's Duties***. The clerk will inspect applications for completeness, and may request the applicant to provide supplemental or explanatory information. The clerk will forward completed applications to the committee chair.

(2) ***Examination by the Committee.*** The committee will meet with reasonable frequency to examine applications referred to it. The committee may request the applicant to provide supplemental or explanatory information, and may request that the applicant appear before it. If the committee determines that an applicant meets all requirements for admission, it will report that recommendation to the judge or judges of the division. If the committee does not recommend an applicant for admission, the chair of the Divisional Committee will promptly inform the applicant.

(3) ***Review by the Court.*** An applicant who is not recommended for admission may request that the court review the application. A request for review must be made in writing within 30 days of receipt of the committee's notification, addressed to the judge or judges of the division, with a copy to the committee chair. Upon receipt of a request for court review, the chair will send the committee's file on the applicant to the court.

(e) Procedure for Admission.

(1) ***In General.*** After approval by the committee, and upon motion of a member of the bar of this court made in open court, an attorney may be admitted to practice. To complete admission, the attorney must pay the prescribed admission fee, and must take in open court the following oath or affirmation:

"I do solemnly [swear or affirm] that I will discharge the duties of attorney and counselor of this court faithfully, that I will demean myself uprightly under the law and the highest ethics of our profession, and that I will support and defend the Constitution of the United States."

(2) ***Special Procedure for Non-Resident Attorney.*** A non-resident attorney who has completed all other requirements for admission may, with the approval of a judge of the division where the application was filed, have the oath or affirmation of admission administered by a judge in another federal judicial district. When the attorney files the oath or affirmation with the clerk and pays the prescribed admission fee, the attorney will be admitted to practice in this district.

(f) Appearance Pro Hac Vice.

(1) ***In General.*** An attorney who is licensed by the highest court of a state or another federal district court, but who is not admitted to practice before this court, may represent a party in this court pro hac vice only by permission of the judge presiding. Unless excused by the judge presiding, an attorney is ordinarily required to apply for admission to the bar of this court.

(2) ***Procedure.*** An attorney seeking admission pro hac vice must make application on a form prescribed by the court, and must pay the prescribed fee to the clerk. An attorney admitted pro hac vice must read and comply with the Local Court Rules for the Western District of Texas. By appearing in any case, an attorney becomes subject to the rules of this court.

(3) ***Bankruptcy Court.*** Admission to practice pro hac vice before the district's bankruptcy court rests in the sole discretion of the bankruptcy judge to whom the motion is addressed. Such admission is limited to the particular case or matter for which it is approved; it is not a general admission to practice before the bankruptcy court or the district court.

(g) Special Procedures for an Attorney Employed by a Governmental Entity. An application for admission by an attorney employed by the U.S. Department of Justice, the Attorney General of Texas, the Federal Public Defender for the district, or other governmental entity must be made on the form prescribed by the court, and supported with the required certificate of good standing. In lieu of submitting two letters of recommendation, an attorney covered by this subdivision need only submit a letter of recommendation from his or her supervising attorney. In addition, such an attorney is exempt while so employed from payment of any fee for admission, pro hac vice appearance, or membership renewal.

(h) Renewal of Membership. A member of the bar of this court must renew the membership every 3 years after admission by paying the prescribed renewal fee to the clerk. If the renewal fee is not timely paid, the attorney will be removed from the rolls of the court. An attorney so removed who wishes to practice in this court must reapply for admission.

RULE AT-2. LOCAL COUNSEL

A judge presiding has discretion to require, upon notice, that an attorney who resides outside the district designate as local counsel an attorney who is licensed in this court and maintains a law office in this district. Local counsel must have authority to act as attorney of record for all purposes, and must be prepared to present and argue the party's position at any hearing or status conference called.

RULE AT-3. WITHDRAWAL OF ATTORNEY

An attorney seeking to withdraw from a case must file a motion specifying the reasons for withdrawal and providing the name and office address of the successor attorney. If the successor attorney is not known, the motion must set forth the client's name, address, and telephone number, and must bear either the client's signature or a detailed explanation why the client's signature could not be obtained after due diligence.

RULE AT-4. STANDARDS FOR PRETRIAL CONDUCT

(a) Obligation to Cooperate. Before noticing or scheduling a deposition, hearing, or other pretrial event, a lawyer should consult and work with opposing counsel to accommodate the needs and reasonable requests of all witnesses and participating lawyers. In scheduling a pretrial event, lawyers should strive to agree upon a mutually convenient time and place, seeking to minimize travel expense and to allow adequate time for preparation. If a lawyer needs to reschedule a deposition or other pretrial event, the lawyer should give prompt notice to all other counsel, explaining the conflict or other compelling reason for rescheduling.

(b) Requests for Extensions of Time. The court expects a lawyer to grant other lawyers' requests for reasonable extensions of time to respond to discovery, pretrial motions, and other pretrial matters. Opposing such requests wastes resources, unless the client's legitimate interests will be adversely affected.

(c) Written Submissions. Briefs and memoranda should not refer to or rely on facts that are not properly of record. A lawyer may, however, present historical, economic, or sociological data if the applicable rules of evidence support the data's admissibility. Neither written submissions nor oral presentations should disparage the integrity, intelligence, morals, ethics, or personal behavior of an adversary unless such matters are directly relevant under the controlling substantive law.

(d) Communication with Adversaries. A lawyer's role is to zealously advance the legitimate interests of the client, while maintaining appropriate standards of civility and decorum. In dealing with others, a lawyer should not reflect any ill feelings that the client may have toward the adversary. A lawyer should treat all other lawyers, all parties, and all witnesses courteously, not only in court, but also in other written and oral communication. A lawyer should refrain from acting upon or manifesting bias or prejudice toward any person involved in the litigation.

(e) Discovery. A lawyer should conduct discovery to elicit relevant facts and evidence, and not for an improper purpose, such as to harass, intimidate, or unduly burden another party or a witness. When a discovery dispute arises, opposing lawyers should attempt to resolve it by working cooperatively together. A lawyer should refrain from filing motions to compel or for sanctions unless all reasonable efforts to resolve the dispute with opposing counsel have been exhausted.

(f) Motion Practice. Before filing a non-dispositive motion, a lawyer should make a reasonable effort to resolve the issue without involving the court. A lawyer who has no valid objection to an opponent's proposed motion should promptly make this position known to opposing counsel. If, after opposing a motion, a lawyer determines that the opposition was mistaken, then the lawyer should promptly so advise opposing counsel and the court.

(g) Settlement and Alternative Dispute Resolution.

(1) A lawyer should educate the client early in the legal process about various methods of resolving disputes without trial, including mediation and neutral case evaluation. A lawyer should advise the client of the benefits of settlement, including savings to the client, greater control over the process and the result, and a more expeditious resolution of the dispute. At the earliest practicable time, a lawyer should provide the client with a realistic assessment of the potential outcome of the case so that the client may effectively assess various approaches

to resolving the dispute. As new information is obtained during the pretrial phase, the lawyer should revise the assessment as necessary. When enough is known about the case to make settlement negotiations meaningful, a lawyer should explore settlement with the client and with opposing counsel.

(2) A lawyer must promptly inform the court of any settlement, whether partial or entire, with any party, or the discontinuance of any issue.

(h) **Stipulations; Expediting Trial**. In civil cases, a lawyer should stipulate in advance with opposing counsel to all non-controverted facts; give opposing counsel, on reasonable request, an opportunity to inspect, in advance, all non-impeaching evidence as the law permits; and, in general, take reasonable steps to avoid delays and to expedite the trial.

RULE AT-5. STANDARDS FOR CONDUCT BEFORE THE JUDGE AND JURY

The dignity, decorum and courtesy that traditionally characterize the courts of civilized nations are not empty formalities. They are essential to a courtroom atmosphere in which justice can be achieved. Accordingly, this court requires the following:

(a) A lawyer must be punctual in making all court appearances and fulfilling all professional commitments. In case of tardiness or absence from a court appearance, a lawyer should promptly notify the court and opposing counsel.

(b) An attorney must be attired in a proper and dignified manner, and should abstain from any apparel or ornament calculated to attract attention. A lawyer should refrain from assuming an undignified posture.

(c) A lawyer must display a courteous, dignified and respectful attitude toward the judge presiding, not for the sake of the judge's person, but to show respect for and confidence in the judicial office. A lawyer must rise when addressing, or being addressed by, the judge.

(d) A lawyer must never be unfair or abusive or inconsiderate to adverse witnesses or opposing litigants, or ask any question not intended to legitimately impeach but only to insult or degrade the witness.

(e) A lawyer must avoid disparaging personal remarks or acrimony toward opposing counsel.

(f) A lawyer must advise the client, witnesses, and spectators of the behavior and decorum required in the courtroom, and take all reasonable steps to prevent disorder or disruption of court proceedings.

(g) A lawyer must disclose to the judge and opposing counsel any information of which the lawyer is aware that a juror or a prospective juror has or may have any interest, direct or indirect, in the outcome of the case, or is acquainted or connected in any manner with any lawyer in the case or any partner or associate or employee of the lawyer, or with any litigant, or with any person who has appeared or is expected to appear as a witness, unless the judge and opposing counsel have previously been made aware of that fact by voir dire examination or otherwise.

(h) During the trial of a case a lawyer connected with the case must not communicate with or cause another to communicate with any member of the jury, and a lawyer who is not connected with the case must not communicate with or cause another to communicate with a juror concerning the case.

(i) A lawyer should avoid, as much as possible, approaching the bench. A lawyer should anticipate questions that may arise during the trial, and take them up with the court and opposing counsel in a pretrial hearing. If, however, it becomes necessary for an attorney to confer with the court at the bench, leave of court should be requested.

(j) A lawyer must question witnesses and deliver jury arguments from the lectern, which may be moved to face the jury. If it becomes necessary to question or argue from another location, leave of court should be requested.

(k) A lawyer must hand all papers intended for the court to see to the courtroom deputy clerk, who will pass them up to the judge. Hand to the clerk, rather than the court reporter, any exhibits to be marked which have not previously been identified; and give the clerk, as soon as convenient before the trial, a list of witnesses showing the probable order in which they will be called.

(l) Photographing, broadcasting or televising any judicial proceeding or any person directly or indirectly involved in a proceeding, whether court is in session or not, in or from any part of a United States Courthouse, is prohibited, except with the permission of the judge presiding.

(m) Audio recorders, audio- or video-recording cell phones, or other means of recording the proceedings must not be brought into a courtroom, except with the permission of the judge presiding. This rule does not apply to such recorders or other devices used by, and under the direction and control of, a judicial officer or the official court reporter.

(n) Cell phones, pagers, e-mail devices, and music players must be turned off while inside a courtroom.

(o) The following are prohibited in a courtroom:

(1) using tobacco in any form;
(2) consuming or possessing beverages or edibles (except as permitted by the judge presiding);
(3) chewing gum while court is in session;
(4) unnecessary talking or other unnecessary noises while court is in session.

RULE AT-6. PUBLICITY AND TRIAL MANAGEMENT

(a) In General. A lawyer should try a case in court and not in the news media. A lawyer must not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that the statement has a substantial likelihood of materially prejudicing an adjudicative proceeding.

(b) Criminal Investigation. With respect to a grand jury or other pending investigation of a criminal matter, a lawyer participating in the investigation must refrain from making any extrajudicial statement, for dissemination by any means of public communication, that goes beyond the public record or that is not necessary to inform the public that the investigation is underway, to describe the general scope of the investigation, to warn the public of any dangers, to obtain assistance in the apprehension of a suspect, or to otherwise aid in the investigation.

(c) Criminal Prosecution. From time of arrest, issuance of an arrest warrant, or filing of a complaint, information, or indictment in any criminal matter until the commencement of trial or disposition without trial, a lawyer associated with the prosecution or defense must not release or authorize the release of any extrajudicial statement, for dissemination by any means of public communication, related to that matter and concerning:

(1) the prior criminal record (including arrests and criminal charges), or the character or reputation of the accused, except that the lawyer may make a factual statement of the accused's name, age, residence, occupation, and family status, and if the accused has not been apprehended, a lawyer associated with the prosecution may release any information necessary to aid in his apprehension or to warn the public of dangers he may present;

(2) the existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;

(3) the performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;

(4) the identity, testimony, or credibility of prospective witnesses, except that the lawyer may announce the identity of the victim if the announcement is not otherwise prohibited by law;

(5) the possibility of a plea of guilty to the offense charged or a lesser offense; or

(6) any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

(d) Criminal Trial. During the trial of any criminal matter, including jury selection, a lawyer associated with the prosecution or defense must not give or authorize any extrajudicial statement or interview, relating to the trial or the parties or issues in the trial, for dissemination by any means of public communication, except that the lawyer may quote from or refer without comment to public records filed in the case.

(e) Sentencing Phase. After guilt is found in a criminal case and before sentence is

imposed, a lawyer associated with the prosecution or defense must not make or authorize any extrajudicial statement for dissemination by any means of public communication if there is a reasonable likelihood that the statement will affect the sentence.

(f) **Permitted Statements in Criminal Matters**. This rule does not preclude the lawyer, in the proper discharge of his or her official or professional duty, from:

(1) announcing the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit, and use of weapons), the identity of the investigating and arresting officer or agency, and the length of the investigation;

(2) making an announcement, at the time of seizure of any physical evidence other than a confession, admission or statement, limited to a description of the evidence seized;

(3) disclosing the nature, substance, or text of the charge, including a brief description of the offense charged;

(4) quoting or referring without comment to public records of the court in the case;

(5) announcing the scheduling or result of any stage in the judicial process;

(6) requesting assistance in obtaining evidence; or

(7) announcing without elaboration that the accused denies the charges made against him.

(g) **Special Orders**. In a widely publicized or sensational case, the court on motion of either party or its own motion, may issue a special order governing extrajudicial statements by participants likely to interfere with the rights of the accused to a fair trial by an impartial jury, the courtroom seating and conduct of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matters the court may deem appropriate. The order might address some or all of the following subjects, among others:

(1) a proscription of extrajudicial statements by participants in the trial, including lawyers, parties, witnesses, jurors, and court officials, which have a substantial likelihood of divulging prejudicial matter not of public record in the case;

(2) specific directives regarding the clearing of courthouse entrances and hallways and the management of the jury and witnesses during the course of the trial to avoid their mingling with or being in proximity of reporters, photographers, parties, lawyers, and others, both in entering and leaving the courtroom and courthouse, and during recesses in the trial;

(3) a specific directive that the jurors refrain from reading, listening to, or watching news reports concerning the case, and that they similarly refrain from discussing the case with anyone during the trial and from communicating with others in any manner during their deliberations;

(4) sequestration of the jury on motion of either party or on the court's own, without disclosing any movant's identity;

(5) a directive that the names and addresses of jurors or prospective jurors not be publicly released except as required by statute, and that no photograph be taken or sketch made of any juror within the environs of the court;

(6) insulation of witnesses from news interviews during the trial period;

(7) specific directives regarding the seating of spectators and representatives of the news media.

RULE AT-7. DISCIPLINE OF ATTORNEYS

(a) Standards of Professional Conduct. Members of the bar of this court and any attorney permitted to practice before this court must comply with the standards of professional conduct set out in the Texas Disciplinary Rules of Professional Conduct, Texas Government Code, Title 2, Subtitle G, App. A, art. X, sec. 9 (Vernon) which are hereby adopted as the standards of professional conduct of this court. This specification is not exhaustive of the standards of professional conduct. For matters not covered by the Texas rules, the American Bar Association's Model Rules of Professional Conduct should be consulted.

(b) District Disciplinary Committee. There is constituted a District Disciplinary Committee, which assists the district court and the bankruptcy court in investigating complaints about the qualification, conduct, and performance of members of their bar.

(1) ***Composition.*** The committee has 15 members. Those eligible for service on the committee are attorneys licensed to practice in this district and in good standing, and residing within the district. The committee should include civil, criminal, and bankruptcy practitioners. Five members must be residents of the Austin and Waco Divisions, five members must be residents of the San Antonio and Del Rio Divisions, and five members must be residents of the El Paso, Midland-Odessa and Pecos Divisions. The members are appointed by the active judges resident in, or responsible for, those divisions. The chair and vice-chair are designated by the chief judge of the district.

(2) ***Terms.*** Membership terms should be staggered so that one third of the members' terms expire each year. The term is 3 years, unless a shorter period is required to achieve staggered terms. The terms of members and the chair may be renewed one or more times.

(c) Grounds for Referral to the District Disciplinary Committee. An attorney may be referred by any Magistrate Judge, Bankruptcy Judge or District Judge to the District Disciplinary Committee for appropriate review, investigation, and recommendation if there is reason to believe that the attorney:

(1) has been convicted of a felony offense or a crime involving dishonesty or false statement in any state or federal court;

(2) had his or her license to practice law in any jurisdiction suspended, revoked, or otherwise limited by any appropriate disciplinary authority;

(3) resigned his or her license to practice law in any state or any federal court;

(4) has engaged in conduct that violates the Texas Disciplinary Rules of Professional Conduct;

(5) fails to comply with any rule or order issued by a judge of this court;

(6) presents an impediment to the orderly administration of justice or the integrity of the court; or

(7) represents a client in such a manner as to raise a serious question concerning the quality of the attorney's professional performance.

(d) Discipline Imposed by a Judge Presiding. Notwithstanding any other provision of these rules, any judge, including a bankruptcy judge or a magistrate judge, has inherent authority to discipline an attorney who appears before him or her. However, any judge contemplating disbarring an attorney or preventing an attorney from practicing district-wide will refer the attorney to the District Disciplinary Committee. If a judge believes emergency circumstances exist that require the immediate suspension of an attorney, that judge may request that all active district judges immediately consider the matter. Upon a majority vote of the active district judges, an attorney may immediately be suspended from practicing in the district pending a report and recommendation from the District Disciplinary Committee. If a bankruptcy judge believes emergency circumstances exist that requires the immediate suspension of an attorney, that bankruptcy judge may request that all active district and bankruptcy judges immediately consider the matter. Upon a majority vote of the active district and bankruptcy judges, an attorney may immediately be suspended from practicing in the district pending a report and recommendation from the District Disciplinary Committee.

(e) Self-Reporting by Attorneys. A member of the bar of this court must promptly report in writing to the clerk, with full details and copies of pertinent documents, if any of the following occur:

(1) the attorney is convicted of a felony or a crime involving dishonesty or false statement;

(2) the attorney loses or relinquishes, temporarily or permanently, the right to practice in any court of record (other than voluntarily relinquishment, not under any disciplinary order or threat of discipline); or

(3) the attorney is disciplined, publicly or privately, by any bar, court, court agency, or court committee.

(f) Procedure upon a Referral.

(1) ***Notice***. Promptly upon receipt of a referral, the chair of the District Disciplinary Committee must inform the subject attorney in writing of the nature of the referral and the attorney's obligations under this rule.

(2) ***Answer.*** Within 14 days after receiving notice of a referral under this rule, the attorney must respond in writing to the committee chair. The respondent attorney must admit or deny each claim asserted, and state concisely any defense to a claim.

(3) ***Screening.*** The chair will assign the referral along with the respondent's response to a screening subcommittee. The subcommittee consists of one or more members of the full committee designated by the chair who reside in the same region as the referred attorney (e.g., Austin/Waco; San Antonio/Del Rio; West Texas). At least one member of the screening subcommittee must be an attorney who practices in the same area as the referred

attorney (e.g., civil, criminal or bankruptcy). The subcommittee will conduct such preliminary inquiry it deems appropriate and may request the respondent to meet with it informally to provide an explanation. After this screening, if the subcommittee determines no further investigation is required and no discipline should be imposed, it will so inform the committee chair. The chair will then inform the chief judge and the respondent of the recommendation.

(4) ***Assignment to a Panel.*** If the screening subcommittee determines that the matter may warrant disciplinary action, it will inform the committee chair. The chair will then designate a panel and assign the matter to it. The panel must include three or more members of the full committee who reside in the same region as the respondent (e.g., Austin/Waco; San Antonio/Del Rio; West Texas). At least one member of the panel must be an attorney who practices in the same area as the referred attorney (e.g. civil, criminal or bankruptcy). Members of the initial screening subcommittee may serve as members of the panel. The chair will notify the respondent in writing of this assignment and what matters will be investigated.

(5) ***Investigation***. No earlier than 10 days after notice to the respondent of the assignment, the panel will conduct such investigation it deems appropriate including questioning witnesses and holding a hearing with the respondent present. Full cooperation with any committee investigation is an obligation of any member of the bar of this court.

(6) ***Panel Report and Recommendation.*** After investigation the panel will render a report and recommendation as to whether the respondent committed any violation and what disciplinary action, if any, should be imposed. Absent good cause shown by the chair of the District Disciplinary Committee, the court expects that a report and recommendation will be completed within 6 months after the referral. The chair will send the complete report and recommendation to the chief judge and a summary of the report and recommendation to the respondent.

(7) ***Objections to Report and Recommendation.*** Within 14 days after receipt of the summary report and recommendation, the respondent may submit objections to it, seek revisions, and suggest alternatives to the recommendation. The panel, after considering the response, may modify, amend, revoke, or adhere to its original recommendation and will so inform the committee chair. The chair will then send a copy of the final report and recommendation to the chief judge and a summary final report and recommendation to the respondent.

(g) **Determination by a District Judge**. Within 7 days after receipt of the summary final report and recommendation, the respondent may contest any recommendation by written submission to the chief judge. Whether contested or not, the chief judge will assign the matter to a district judge for determination. The judge may conduct a hearing, and may appoint any member of the court's bar to assist in the hearing. The judge's decision as to whether disciplinary action is warranted, and what sanction to impose, is a final ruling of the court.

(h) **Confidentiality.** All papers pertaining to a matter referred to the committee must be kept confidential, except as otherwise provided above, unless the respondent requests in writing that the papers be opened to the public.

(Rev: 12/17/09)

(i) Referral to Other Disciplinary Authority. The chief judge may forward a copy of the committee's records and any court action regarding an attorney to the appropriate disciplinary authority of any bar or court that authorizes the attorney to practice law.

RULE AT-8. QUALIFIED LAW STUDENTS AND UNLICENSED LAW SCHOOL GRADUATES

(a) A qualified law student or a qualified unlicensed law school graduate who has been certified under Texas Government Code § 81.102 and the Texas Supreme Court's "Rules and Regulation Governing the Participation of Qualified Law Students and Qualified Unlicensed Law School Graduates in the Trial of Cases in Texas" may be allowed to participate in hearings in this court, with the permission of the judge presiding, under the following terms:

(1) The student or unlicensed graduate must provide the Clerk's Office a copy (front and back) of his or her State Bar of Texas identification card. In so doing, the student or unlicensed graduate certifies that he or she has read and is familiar with the Western District of Texas Local Rules and will abide by them.

(2) The Clerk's Office must retain copies of the identification card on file.

(3) The supervising attorney named on the identification card and accompanying the student or unlicensed graduate in court must be a member in good standing of the bar of this court.

(b) If the student or unlicensed law graduate is appearing with an attorney employed by a governmental entity, the requirement for errors and omissions insurance is waived.

(c) The scope of participation of a student or unlicensed graduate in any hearing rests within the discretion of the judge presiding.

RULE AT-9. CHANGE OF ADDRESS

An attorney who changes his or her office address, telephone number, facsimile number, or e-mail address must, within 30 days after the change, file with the clerk a notice of the change, along with any new information.

SECTION IV - APPENDICES

APPENDIX A
INFORMATION REQUIRED - MOTION FOR CLASS ACTION CERTIFICATION

A motion to certify a class must include, but is not limited to, the following:

(1) A brief statement of the case.

(2) A statement defining the class plaintiff seeks to have certified including its geographical and temporal scope.

(3) A description of plaintiff's particular grievance and why that claim qualifies plaintiff as a member of the class as defined.

(4) Whether the plaintiff contends that the action may be maintained under Rule 23(b)(1), Rule 23(b)(2), or Rule 23(b)(3) and why.

(5) A statement respecting the four prerequisites of Federal Rule of Civil Procedure 23(a). The statement shall set forth:

a. The anticipated number of class members and how this number was determined.

b. The common questions of law and fact involved.

c. The reasons why plaintiff's claim is typical of those of the other class members.

d. The reason why representation by the named plaintiff is adequate to protect the interests of the class. This part of the statement shall specifically answer the following questions:

(i) Is the claim of the named plaintiff presently or potentially in conflict with that of any members of the class?

(ii) Will the claims of the class require subclasses presently or in the future?

(iii) What is the prior experience of counsel for the plaintiff that would indicate capability to handle the lawsuit?

(iv) Is counsel presently representing or has he at any time represented, a class in any other class action, and if so, when and how many instances?

(v) How many cases is plaintiff's counsel now handling in which class action allegations are made?

(6) A statement describing any other pending actions in any court against the defendants alleging the same or similar causes of action.

(7) A statement that the attorney for the named plaintiff has discussed and thoroughly explained to the plaintiff the nature of a class action and potential advantages and disadvantages to the named plaintiff by proceeding in a class action rather than individually.

(8) A statement of the proposed notices to the members of the class and how and when the notices will be given, including a statement regarding security deposit for the cost of notices.

(9) A description of the extent of any settlement negotiations that have taken place and the likelihood of settlement with the named plaintiff on an individual basis. If such settlement is likely, include a statement specifying:

a. Whether or not counsel have any knowledge of any person who has relied on the fact that this suit was initially filed as a class action.

b. The manner in which counsel will protect the class in the event of settlement with the named plaintiff on an individual basis.

(10) A statement of any other matters that the plaintiff deems necessary and proper to the expedition of a decision on the motion and the speedy resolution of the case on the merits.

APPENDIX B

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
_____ DIVISION

_____	§	
Plaintiff,	§	
	§	
	§	**NO.**
	§	
_____	§	
Defendant.	§	

SCHEDULING ORDER

Pursuant to Rule 16, Federal Rules of Civil Procedure, the Court issues the following Scheduling Order:

1. A report on alternative dispute resolution in compliance with Rule CV-88 shall be filed by _____.

2. The parties asserting claims for relief shall submit a written offer of settlement to opposing parties by _____, and each opposing party shall respond, in writing, by _____.

3. The parties shall file all motions to amend or supplement pleadings or to join additional parties by _____.

4. All parties asserting claims for relief shall file their designation of testifying experts and shall serve on all parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) by _____ . Parties resisting claims for relief shall file their designation of testifying experts and shall serve on all parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) by _____ . All designations of rebuttal experts shall be filed within 14 days of receipt of the report of the opposing expert.

5. An objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, not later than ____ days of receipt of the written report of the expert's proposed testimony, or not later than ____ days of the expert's deposition, if a deposition is taken, whichever is later.

6. The parties shall complete all discovery on or before _____. Counsel may by agreement continue discovery beyond the deadline, but there will be no intervention by the Court

except in extraordinary circumstances, and no trial setting will be vacated because of information obtained in post-deadline discovery.

7. All dispositive motions as defined in Rule CV-7(c) shall be filed no later than _____.

8. This case is set for trial [docket call, or jury selection] on _____ at _.m. The parties should consult Rule CV-16 regarding matters to be filed in advance of trial.

SIGNED this _____ day of _____.

_____

UNITED STATES DISTRICT JUDGE

APPENDIX "B-1"

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
_____ DIVISION

_____,	**§**	
Plaintiff,	**§**	
	§	
vs.	**§**	**NO. _____**
	§	
_____,	**§**	
Defendant.	**§**	

NOTICE OF RIGHT TO CONSENT
TO TRIAL BY MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636(c)(1), all full-time United States Magistrate Judges are authorized and empowered to try any civil case, jury or nonjury, with the consent of all parties to the lawsuit. Because of the crowded condition of the criminal docket in this District and the difficulty in reaching civil cases for trial, you may wish to consent to the trial of your case by a United States Magistrate Judge. Your decision should be communicated to the United States District Clerk's Office. Consent forms are available in the Clerk's office. Your consent to trial by a Magistrate Judge must be voluntary, and you are free to withhold consent without suffering any adverse consequences. If all parties do consent to trial of this case by a Magistrate Judge, the Court will enter an order referring the case to a Magistrate Judge for trial and for entry of judgment.

_____
UNITED STATES DISTRICT JUDGE

_____
Date

APPENDIX C

LOCAL RULES FOR THE ASSIGNMENT OF DUTIES TO UNITED STATES MAGISTRATE JUDGES

RULE 1. AUTHORITY OF UNITED STATES MAGISTRATE JUDGES

(a) Duties Under 28 U.S.C. §636(a).

Each United States Magistrate Judge of this Court is authorized to perform the duties prescribed by 28 U.S.C. §636(a), and may:

(1) Exercise all the powers and duties conferred or imposed upon United States Commissioners by law and the Federal Rules of Criminal Procedure.

(2) Administer oaths and affirmations, impose conditions of release under 18 U.S.C. §3146, and take acknowledgments, affidavits and depositions; and

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

(b) Disposition of Misdemeanor Cases —18 U.S.C. §3401.

A magistrate judge may:

(1) Try persons accused of, and sentence persons convicted of, misdemeanors committed within this district in accordance with 18 U.S.C. §3401;

(2) Direct the probation service of the court to conduct a presentence investigation in any misdemeanor case; and

(3) Conduct a jury trial in any misdemeanor case where the defendant so requests and is entitled to trial by jury under the Constitution and laws of the United States.

(c) Determination of Non-Dispositive Pretrial Matters~28 U.S.C. §636(b)(1)(A).

A magistrate judge may hear and determine any procedural or discovery motion or other pretrial matter in a civil or criminal case, other than the motions which are specified in subsection 1(d), infra, of these rules.

(d) Recommendations Regarding Case-Dispositive Motions—28 U.S.C. §636(b)(l)(B).

(1) A magistrate judge may submit to a judge of the court a report containing proposed findings of fact and recommendations for disposition by the judge of the following pretrial motions in civil and criminal cases:

A. Motions for injunctive relief, including temporary restraining orders and preliminary and permanent injunctions;

B. Motions for judgment on the pleadings;

C. Motions for summary judgment;

D. Motions to dismiss or permit the maintenance of a class action;

E. Motions to dismiss for failure to state a claim upon which relief may be granted;

F. Motions to involuntarily dismiss an action;

G. Motions for review of default judgments;

H. Motions to dismiss or quash an indictment or information made by a defendant; and

I. Motions to suppress evidence in a criminal case.

(2) A magistrate judge may determine any preliminary matters and conduct any necessary evidentiary hearing or other proceeding arising in the exercise of the authority conferred by this subsection.

(e) Prisoner Cases under 28 U.S.C. §§2254 and 2255.

A magistrate judge may perform any or all of the duties imposed upon a judge by the rules governing proceedings in the United States District Courts under §2254 and §2255 of Title 28, United States Code. In so doing, a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and shall submit to a judge a report containing proposed findings of fact and recommendations for disposition of the petition by the judge. Any order disposing of the petition may be made only by a judge.

(f) Prisoner Cases under 42 U.S.C. §1983 and 28 U.S.C. §2241.

A magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and shall submit to a judge a report containing proposed findings of fact and recommendations for the disposition of petitions filed by prisoners pursuant to 42 U.S.C. §1983 and 28 U.S.C. §2241.

(g) Special Master References.

A magistrate judge may be designated by a judge to serve as a special master in appropriate civil cases in accordance with 28 U.S.C. §636(b)(2) and Rule 53 of the Federal Rules of Civil Procedure. Upon the consent of the parties, a magistrate judge may be designated by a judge to serve as a special master in any civil case, notwithstanding the limitations of Rule 53(b) of the Federal Rules of Civil Procedure.

(h) Review of Administrative Agency Proceedings.

In a suit for judicial review of a final decision of an administrative agency, a magistrate judge may be designated by a judge to review the record of administrative proceedings and submit to the district judge a report and recommendation concerning (a) any defects in the agency proceedings which constitute a violation of statute or regulation or a violation of due process, (b) whether the matter should be remanded to the agency for additional factual determinations, and (c) whether the record contains substantial evidence in support of the agency decision.

(i) Conduct of Trials and Disposition of Civil Cases Upon Consent of the Parties-- 28 U.S.C. §636(c).

Upon the consent of the parties, a full-time magistrate judge may conduct any or all proceedings in any civil case which is filed in this court, including the conduct of a jury or non-jury trial, and may order the entry of a final judgment, in accordance with 28 U.S.C. §636(c). In the course of conducting such proceedings upon consent of the parties, a magistrate judge may hear and determine any and all pretrial and post-trial motions which are filed by the parties, including case-dispositive motions.

(j) Other Duties.

A magistrate judge is also authorized to:

(1) Exercise general supervision of civil and criminal calendars, conduct calendar and status calls, and determine motions to expedite or postpone the trial of cases for the judges;

(2) Conduct pretrial conferences, settlement conferences, omnibus hearings, and related pretrial proceedings in civil and criminal cases;

(3) Conduct arraignments in criminal cases not triable by the magistrate judge and take not guilty pleas in such cases;

(4) Receive grand jury returns in accordance with Rule 6(f) of the Federal Rules of Criminal Procedure;

(5) Accept waivers of indictment, pursuant to Rule 7(b) of the Federal Rules of Criminal Procedure;

(6) Accept petit jury verdicts in the absence of a judge;

(7) Conduct necessary proceedings leading to the potential revocation of misdemeanor probation and revocation of felony or misdemeanor supervised release;

(8) Issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties, witnesses or evidence needed for court proceedings;

(9) Order the exoneration or forfeiture of bonds;

(10) Perform the functions specified in 18 U.S.C. §4107, 4108, 4109, regarding proceedings for verification of consent by offenders to transfer to or from the United States and the appointment of counsel therein;

(11) Preside over a naturalization ceremony and administer the oath required by 8 U.S.C. §1448(a);

(12) Supervise proceedings on requests for letters rogatory in civil and criminal cases if designated by a district judge under 28 U.S.C. § 1782(a);

(13) Consider and rule upon applications for administrative inspection warrants and orders permitting entry upon a taxpayer's premises to effect levies in satisfaction of unpaid tax deficits;

(14) Issue orders authorizing the installation and use of pen registers, traps and traces, and issue orders directing a communications common carrier, including a telephone company, to provide assistance to a named federal investigative agency in accomplishing the installation of traps, traces and pen registers; and

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

RULE 2. ASSIGNMENT OF MATTERS TO MAGISTRATE JUDGES

(a) General.

The method of assignment of duties to a magistrate judge and for the allocation of duties among the several magistrate judges of the court shall be made in accordance with orders of the court or by special designation of a judge.

(b) Misdemeanor Cases.

All misdemeanor cases shall be assigned, upon the filing of an information, complaint, or

violation notice, or the return of an indictment, to a magistrate judge, who shall proceed in accordance with the provisions of 18 U.S.C. §3401 and Rule 58, Federal Rules of Criminal Procedure.

RULE 3. PROCEDURE BEFORE THE MAGISTRATE JUDGE

(a) In General.

In performing duties for the court, a magistrate judge shall conform to all applicable provisions of federal statutes and rules, to the local rules of this court, and to the requirements specified in any order of reference from a judge.

(b) Special Provisions for the Disposition of Civil Cases by a Magistrate Judge on Consent of the Parties-- 28 U.S.C. §636(c).

(1) Notice.

The clerk of court shall notify the parties in all civil cases that they may consent to have a magistrate judge conduct any or all proceedings in the case and order the entry of a final judgment. Such notice shall be handed or mailed to the plaintiff or his/her representative at the time an action is filed and to other parties as attachments to copies of the complaint and summons, when served. Additional notices may be furnished to the parties at later stages of the proceedings, and may be included with pretrial notices and instructions.

(2) Execution of Consent.

The parties may sign separate consent forms; however, consent forms signed by all the parties or their representatives will also be accepted. The consent forms should be sent to the clerk of court. Unless all parties have consented to the reference, the decision of each party as indicated on the consent forms shall not be made known to any judge or magistrate judge. No magistrate judge, judge, or other court official may attempt to persuade or induce any party to consent to the reference of any matter to a magistrate judge. This rule, however, shall not preclude a judge or magistrate judge from informing the parties that they have the option of referring a case to a magistrate judge.

(3) Reference.

After the consent form has been executed and filed, the clerk shall transmit it to the judge to whom the case has been assigned for approval and referral of the case to a magistrate judge. Once the case has been assigned to a magistrate judge, the magistrate judge shall have the authority to conduct any and all proceedings to which the parties have consented and to direct the clerk of court to enter a final judgment in the same manner as if a judge had presided.

RULE 4. REVIEW AND APPEAL

(a) Appeal of Non-Dispositive Matters--28 U.S.C. §636(b) (l)(A).

Any party may appeal from a magistrate judge's order determining a motion or matter under subsection l (c) of these rules, supra, within 14 days after issuance of the magistrate judge's order, unless a different time is prescribed by the magistrate judge or a judge. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, a written statement of appeal which shall specifically designate the order, or part thereof, appealed from and the basis for any objection thereto. A judge of the court shall consider the appeal and shall set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law. The judge may also reconsider sua sponte any matter determined by a magistrate judge under this rule.

(b) Review of Case-Dispositive Motions and Prisoner Litigation--28 U.S.C. § 636(b)(l)(B).

Any party may object to a magistrate judge's proposed findings, recommendations or report under subsections 1 (d), (e), (f) and (h) of these rules, supra, within 14 days after being served with a copy thereof. The clerk of court shall notify the parties of this right when serving copies of the report. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. A judge shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only in his/her discretion or where required by law, and may consider the record developed before the magistrate judge, making his/her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.

(c) Special Master Reports-28 U.S.C. §636(b)(2).

Any party may seek review of, or action on, a special master report filed by a magistrate judge in accordance with the provisions of Rule 53(e) of the Federal Rules of Civil Procedure.

(d) Appeal from Judgments in Misdemeanor Cases-18 U.S.C. §3402.

A defendant may appeal a judgment of conviction by a magistrate judge in a misdemeanor case by filing a notice of appeal to the District Court within 14 days after entry of the judgment, and by serving a copy of the notice upon the United States Attorney. The scope of appeal shall be the same as on an appeal from a judgment of the district court of the court of appeals.

(e) Appeal from Judgments in Civil Cases Disposed of on Consent of the Parties-28 U.S.C. § 636(c).

(1) Appeal to the Court of Appeals.

Upon the entry of judgment in any civil case disposed of by a magistrate judge on consent of the parties under authority of28 U.S.C. §636(c) and subsection l(i) of these rules, supra, an aggrieved party shall appeal directly to the United States Court of Appeals for this circuit in the same manner as an appeal from any other judgment of this court.

(f) Appeals from Other Orders of a Magistrate Judge.

Appeals from any other decisions and orders of a magistrate judge not provided for in this rule should be taken as provided by a governing statute, rule, or decisional law.

ADDENDUM

General Order of July 17, 1981

ON THIS DATE came on to be considered those causes in which Plaintiff, pursuant to 42U.S.C. § 405(g) and 5 U.S.C. §§ 701 et seq., seeks review of a decision by the Secretary of the Department of Health and Human Services upon an application for benefits under Title 42, Chapter 7, Subchapter II, United States Code, and

In accordance with the authority vested in the United States Magistrate Judge pursuant to the Amended Order for the Adoption of Rules for the exercise of Powers and Performance of Duties by United States Magistrate Judges, adopted in the Western District of Texas on April 17, 1980.

IT IS HEREBY ORDERED that all matters in which Plaintiff, pursuant to 42 U.S.C. § 405(g) and 5 U.S.C. §§ 701 et seq., seeks review of a decision by the Secretary of the Department of Health and Human Services upon an application for benefits under Title 42, Chapter 7, Subchapter I~ United States Code, be referred by the Clerk to the United States Magistrate Judges sitting in the San Antonio Division in accordance with a random assignment procedure approved by the judges residing in the San Antonio Division.

IT IS FURTHER ORDERED that the United States Magistrate Judge is authorized to issue all orders necessary to his/her review, and that, upon completion of his/her review, he/she shall prepare a recommendation to the Court concerning the adjudication of these causes.

APPENDIX E

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

APPLICATION FOR ADMISSION

Instructions: Type or print your answers. Answer all questions fully. If the question does not apply to you, answer "NA". An incomplete response will delay processing of your application. Where the space provided is insufficient, answer on additional sheets, with reference to the question.

1. (a) Full Name _____
(Last) (First) (Middle)

   (b) If you have ever been known by any other name, state the name and the reason for using it:

   _____

   (c) Your name as you wish it to appear on the register:

   _____

2. (a) Date of birth: _____

   (b) Place of birth: _____

   (c) If not native born, give date and place of naturalization:

   _____

3. Business Name: _____

4. Business Address: _____

   _____ Zip Code _____ County _____

5. (a) Business Telephone: ( ) _____

   (b) Business Fax: ( ) _____

   (c) Business e-mail: _____

6. State Bar I.D. Number: _____
(Specify state if other than Texas)

7. Residence Address: _____

_____ Zip Code _____ County _____

8. Residence Telephone: (____) _____

9. Social Security Number:[1] _____

10. List states, federal possessions and territories in which you have been admitted to practice law by the highest court. Indicate the year admitted, status and areas of certified specialization.

State	Year Admitted	Current Standing	Specialization

11. List federal courts to which you have been admitted. Indicate the year admitted and current status.

Court	Year Admitted	Current Standing

12. List your law school, the date of graduation, and the degree received. If you did not graduate from a law school, please describe your law study in detail.

_____

_____

13. Indicate any grievances or involuntary removals filed against you as a lawyer. Describe the circumstances in detail.

[1] Attorneys are requested to provide their Social Security Number in order to assist the court in maintaining the integrity of its records.

_____

_____

14. Describe in detail charges, arrests, or convictions for criminal offenses(s). Omit minor traffic offenses.

_____

_____

ANSWER THE FOLLOWING QUESTIONS "YES" OR "NO" IN THE BLANK PROVIDED; IF "YES", EXPLAIN FULLY ON A SEPARATE SHEET.

15.

(a) Have you ever been denied admission to the bar of any State (including the District of Columbia) or any federal court?

_____

(b) Have you ever been disbarred, suspended from practice, reprimanded, censured or otherwise disciplined or disqualified as an attorney?

_____

(c) Has any adverse action, formal or informal, been taken against you or your license to practice law by any grievance committee, court, or other disciplinary body or committee?

_____

16. Have you ever held a bonded position in connection with which anyone has sought to recover on your bond, or made a claim for any alleged default?

_____

17. In connection with questions 17(a) through (c), the detailed explanation of any affirmative answers shall include dates, exact name and address of the court, if any, the case number, and disposition.

(a) Have you ever been charged with any violation of any law, other than minor traffic violations?

_____

(b) Have you ever been charged with fraud, formally or otherwise, in any civil, criminal, bankruptcy, or administrative case or proceeding?

_____

(c) Have you ever been denied a discharge in bankruptcy, or had your discharge in bankruptcy revoked?

_____

18. Are there any unsatisfied judgments against you, whether barred by limitation or not?

_____

(If so, give names and addresses of creditors, amounts, dates and nature of judgments, courts, and reasons for non-payment.)

I swear that the information provided in the foregoing application including attachments, if any, is true and correct. I acknowledge that by accepting admission to this court I am subjecting myself to the discipline of this court. I further certify that I have read and am familiar with the Federal Rules of Civil Procedure and Local Rules of this court and alternative dispute resolution procedures of the Western District of Texas and will advise clients in any actions pending in this court regarding alternative dispute resolution procedures. I further certify, if requested, I am willing to appear before this court or any Committee appointed to test the qualifications of applicants for admission to practice before this court.

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

_____ _____

Date Signature

APPENDIX H

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
_____ DIVISION

_____,	§	
	§	
Plaintiff,	§	
v.	§	CIVIL ACTION NO. _____
	§	
_____,	§	
	§	
Defendant.	§	

CONFIDENTIALITY AND PROTECTIVE ORDER

Before the court is the joint motion of the parties for the entry of a confidentiality and protective order ("Protective Order"). After careful consideration, it is hereby ORDERED as follows:

1. Classified Information

"Classified Information" means any information of any type, kind, or character that is designated as "Confidential", "For Counsel Only", or "Attorneys Eyes Only" by any of the supplying or receiving persons, whether it be a document, information contained in a document, information revealed during a deposition, information revealed in an interrogatory answer, or otherwise.

2. Qualified Persons

"Qualified Persons" means:

a. For Counsel or Attorneys Only information:

i. retained counsel for the parties in this litigation and their respective staff;

ii. actual or potential independent experts or consultants (and their administrative or clerical staff) engaged in connection with this litigation (which shall not include the current employees, officers, members, or agents of parties or affiliates of parties) who, prior to any disclosure of Classified Information to such person, have signed a document agreeing to

be bound by the terms of this Protective Order (such signed document to be maintained by the attorney retaining such person) and have been designated in writing by notice to all counsel;

iii. this court and its staff and any other tribunal or dispute resolution officer duly appointed or assigned in connection with this litigation.

b. For Confidential information:

i. the persons identified in subparagraph 2(a);

ii. the party, if a natural person;

iii. if the party is an entity, such officers or employees of the party who are actively involved in the prosecution or defense of this case who, prior to any disclosure of Confidential information to such person, have been designated in writing by notice to all counsel and have signed a document agreeing to be bound by the terms of this Protective Order (such signed document to be maintained by the attorney designating such person);

iv. litigation vendors, court reporters, and other litigation support personnel;

v. any person who was an author, addressee, or intended or authorized recipient of the Confidential information and who agrees to keep the information confidential, provided that such persons may see and use the Confidential information but not retain a copy.

c. Such other person as this court may designate after notice and an opportunity to be heard.

3. Designation Criteria

a. *Nonclassified Information.* Classified Information shall not include information that either:

i. is in the public domain at the time of disclosure, as evidenced by a written document;

ii. becomes part of the public domain through no fault of the recipient, as evidenced by a written document;

iii. the receiving party can show by written document was in its rightful and lawful possession at the time of disclosure; or

iv. lawfully comes into the recipient's possession subsequent to the time of disclosure from another source without restriction as to disclosure, provided such third party has the right to make the disclosure to the receiving party.

b. *Classified Information*. A party shall designate as Classified Information only such information that the party in good faith believes in fact is confidential. Information that is generally available to the public, such as public filings, catalogues, advertising materials, and the like, shall not be designated as Classified.

Information and documents that may be designated as Classified Information include, but are not limited to, trade secrets, confidential or proprietary financial information, operational data, business plans, and competitive analyses, personnel files, personal information that is protected by law, and other sensitive information that, if not restricted as set forth in this order, may subject the producing or disclosing person to competitive or financial injury or potential legal liability to third parties.

Correspondence and other communications between the parties or with nonparties may be designated as Classified Information if the communication was made with the understanding or reasonable expectation that the information would not become generally available to the public.

c. *For Counsel or Attorneys Only*. The designation "For Counsel Only" or "Attorneys Eyes Only" shall be reserved for information that is believed to be unknown to the opposing party or parties, or any of the employees of a corporate party. For purposes of this order, so-designated information includes, but is not limited to, product formula information, design information, non-public financial information, pricing information, customer identification data, and certain study methodologies.

d. *Ultrasensitive Information.* At this point, the parties do not anticipate the need for higher levels of confidentiality as to ultrasensitive documents or information. However, in the event that a court orders that ultrasensitive documents or information be produced, the parties will negotiate and ask the court to enter an ultrasensitive information protocol in advance of production to further protect such information.

4. Use of Classified Information

All Classified Information provided by any party or nonparty in the course of this litigation shall be used solely for the purpose of preparation, trial, and appeal of this litigation and for no other purpose, and shall not be disclosed except in accordance with the terms hereof.

5. Marking of Documents

Documents provided in this litigation may be designated by the producing person or by any party as Classified Information by marking each page of the documents so designated with a stamp indicating that the information is "Confidential", "For Counsel Only", or "Attorneys Eyes Only". In lieu of marking the original of a document, if the original is not provided, the designating party may mark the copies that are provided. Originals shall be preserved for inspection.

6. Disclosure at Depositions

Information disclosed at (a) the deposition of a party or one of its present or former officers, directors, employees, agents, consultants, representatives, or independent experts retained by counsel for the purpose of this litigation, or (b) the deposition of a nonparty may be designated by any party as Classified Information by indicating on the record at the deposition that the testimony is "Confidential" or "For Counsel Only" and is subject to the provisions of this Order.

Any party also may designate information disclosed at a deposition as Classified Information by notifying all parties in writing not later than 30 days of receipt of the transcript of the specific pages and lines of the transcript that should be treated as Classified Information thereafter. Each party shall attach a copy of each such written notice to the face of the transcript and each copy thereof in that party's possession, custody, or control. All deposition transcripts shall be treated as For Counsel Only for a period of 30 days after initial receipt of the transcript.

To the extent possible, the court reporter shall segregate into separate transcripts information designated as Classified Information with blank, consecutively numbered pages

being provided in a nondesignated main transcript. The separate transcript containing Classified Information shall have page numbers that correspond to the blank pages in the main transcript.

Counsel for a party or a nonparty witness shall have the right to exclude from depositions any person who is not authorized to receive Classified Information pursuant to this Protective Order, but such right of exclusion shall be applicable only during periods of examination or testimony during which Classified Information is being used or discussed.

7. Disclosure to Qualified Persons

a. *To Whom.* Classified Information shall not be disclosed or made available by the receiving party to persons other than Qualified Persons except as necessary to comply with applicable law or the valid order of a court of competent jurisdiction; ***provided, however***, that in the event of a disclosure compelled by law or court order, the receiving party will so notify the producing party as promptly as practicable (if at all possible, prior to making such disclosure) and shall seek a protective order or confidential treatment of such information. Information designated as For Counsel Only shall be restricted in circulation to Qualified Persons described in subparagraph 2(a).

b. *Retention of Copies During this Litigation.* Copies of For Counsel Only information shall be maintained only in the offices of outside counsel for the receiving party and, to the extent supplied to experts described in subparagraph 2(a)(ii), in the offices of those experts. Any documents produced in this litigation, regardless of classification, that are provided to Qualified Persons shall be maintained only at the office of such Qualified Person and only necessary working copies of any such documents shall be made. Copies of documents and exhibits containing Classified Information may be prepared by independent copy services, printers, or illustrators for the purpose of this litigation.

c. Each party's outside counsel shall maintain a log of all copies of For Counsel Only documents that are delivered to Qualified Persons.

8. Unintentional Disclosures

Documents unintentionally produced without designation as Classified Information later may be designated and shall be treated as Classified Information from the date written notice of the designation is provided to the receiving party.

If a receiving party learns of any unauthorized disclosure of Confidential information or For Counsel Only information, the party shall immediately upon learning of such disclosure inform the producing party of all pertinent facts relating to such disclosure and shall make all reasonable efforts to prevent disclosure by each unauthorized person who received such information.

9. Documents Produced for Inspection Prior to Designation

In the event documents are produced for inspection prior to designation, the documents shall be treated as For Counsel Only during inspection. At the time of copying for the receiving parties, Classified Information shall be marked prominently "Confidential", "For Counsel Only", or "Attorneys Eyes Only" by the producing party.

10. Consent to Disclosure and Use in Examination

Nothing in this order shall prevent disclosure beyond the terms of this order if each party designating the information as Classified Information consents to such disclosure or if the court, after notice to all affected parties and nonparties, orders such disclosure. Nor shall anything in this order prevent any counsel of record from utilizing Classified Information in the examination or cross-examination of any person who is indicated on the document as being an author, source, or recipient of the Classified Information, irrespective of which party produced such information.

11. Challenging the Designation

a. *Classified Information.* A party shall not be obligated to challenge the propriety of a designation of Classified Information at the time such designation is made, and a failure to do so shall not preclude a subsequent challenge to the designation. In the event that any party to this litigation disagrees at any stage of these proceedings with the designation of any information

as Classified Information, the parties shall first try to resolve the dispute in good faith on an informal basis, such as by production of redacted copies. If the dispute cannot be resolved, the objecting party may invoke this Protective Order by objecting in writing to the party who designated the document or information as Classified Information. The designating party shall then have 14 days to move the court for an order preserving the designated status of the disputed information. The disputed information shall remain Classified Information unless and until the court orders otherwise. Failure to move for an order shall constitute a termination of the status of such item as Classified Information.

b. *Qualified Persons.* In the event that any party in good faith disagrees with the designation of a person as a Qualified Person or the disclosure of particular Classified Information to such person, the parties shall first try to resolve the dispute in good faith on an informal basis. If the dispute cannot be resolved, the objecting party shall have 14 days from the date of the designation or, in the event particular Classified Information is requested subsequent to the designation of the Qualified Person, 14 days from service of the request to move the court for an order denying the disposed person (a) status as a Qualified Person, or (b) access to particular Classified Information. The objecting person shall have the burden of demonstrating that disclosure to the disputed person would expose the objecting party to the risk of serious harm. Upon the timely filing of such a motion, no disclosure of Classified Information shall be made to the disputed person unless and until the court enters an order preserving the designation.

12. Manner of Use in Proceedings

In the event a party wishes to use any Classified Information in affidavits, declarations, briefs, memoranda of law, or other papers filed in this litigation, the party shall do one of the following: (1) with the consent of the producing party, file only a redacted copy of the information; (2) where appropriate (e.g., in connection with discovery and evidentiary motions) provide the information solely for *in camera* review; or (3) file such information under seal with the court consistent with the sealing requirements of the court.

13. Filing Under Seal

The clerk of this court is directed to maintain under seal all documents, transcripts of deposition testimony, answers to interrogatories, admissions, and other papers filed under seal in this litigation that have been designated, in whole or in part, as Classified Information by any party to this litigation consistent with the sealing requirements of the court.

14. Return of Documents

Not later than 120 days after conclusion of this litigation and any appeal related to it, any Classified Information, all reproductions of such information, and any notes, summaries, or descriptions of such information in the possession of any of the persons specified in paragraph 2 (except subparagraph 2(a)(iii)) shall be returned to the producing party or destroyed, except as this court may otherwise order or to the extent such information has been used as evidence at any trial or hearing. Notwithstanding this obligation to return or destroy information, counsel may retain attorney work product, including document indices, so long as that work product does not duplicate verbatim substantial portions of the text of any Classified Information.

15. Ongoing Obligations

Insofar as the provisions of this Protective Order, or any other protective orders entered in this litigation, restrict the communication and use of the information protected by it, such provisions shall continue to be binding after the conclusion of this litigation, except that (a) there shall be no restriction on documents that are used as exhibits in open court unless such exhibits were filed under seal, and (b) a party may seek the written permission of the producing party or order of the court with respect to dissolution or modification of this, or any other, protective order.

16. Advice to Clients

This order shall not bar any attorney in the course of rendering advice to such attorney's client with respect to this litigation from conveying to any party client the attorney's evaluation in a general way of Classified Information produced or exchanged under the terms of this order; provided, however, that in rendering such advice and otherwise communicating with the client,

the attorney shall not disclose the specific contents of any Classified Information produced by another party if such disclosure would be contrary to the terms of this Protective Order.

17. Duty to Ensure Compliance

Any party designating any person as a Qualified Person shall have the duty to reasonably ensure that such person observes the terms of this Protective Order and shall be responsible upon breach of such duty for the failure of such person to observe the terms of this Protective Order.

18. Waiver

Pursuant to Federal Rule of Evidence 502, neither the attorney-client privilege nor work product protection is waived by disclosure connected with this litigation.

19. Modification and Exceptions

The parties may, by stipulation, provide for exceptions to this order and any party may seek an order of this court modifying this Protective Order.

It is SO ORDERED this _____ day of _____, 20___.

_____
United States District Judge

APPENDIX "I"

GUIDELINES FOR NON-STENOGRAPHIC DEPOSITION

Depositions recorded by non-stenographic means, including videotape, are authorized without the prior necessity of a motion and court order if taken under the following guidelines:

1. The beginning of the videotape shall contain an announcement or other indication of the style of the case, the cause number, the name of the court where the case is pending, the physical location of the deposition, and an introduction of the witness, the attorneys, any parties or party representative who may be present, the court reporter, the video technician, and any other persons present at the deposition.

2. The witness will be sworn on camera.

3. The camera shall remain on the witness in standard fashion throughout the deposition. Close-ups and other similar techniques are forbidden unless agreed to by the parties or ordered by the court.

4. The arrangement of the interrogation should be such that, in responding to the interrogating attorney, the witness will look as directly into the camera as possible.

5. No smoking shall be allowed during the videotape, and there should be no unnecessary noise or movement.

6. The party issuing the notice of the videotape deposition shall be responsible for the original of the videotape, and other parties shall have the option to obtain copies at their cost.

7. A time-date generator or other suitable indexing method must be used throughout the course of recording the deposition.

8. An announcement of the time on the videotape shall be made each time the videotape is begun and is stopped.

9. The time of conclusion of the videotape must be announced on the videotape.

APPENDIX "J"

NOTICE REGARDING COMPLAINTS OF JUDICIAL MISCONDUCT OR DISABILITY

To improve the administration of justice in the federal courts, Congress passed the Judicial Conduct and Disability Act of 1980, codified at 28 U.S.C. § 372(c). The law authorizes complaints against United States circuit, district, bankruptcy, and magistrate judges who have "engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts" or who are "unable to discharge all the duties of office by reason of mental or physical disability." The conduct to which the law is addressed does not include making wrong judicial decisions, for the law provides that a complaint may be dismissed if it is "directly related to the merits of a decision or procedural ruling." The Judicial Council of the Fifth Circuit has adopted Rules Governing Complaints of Judicial Misconduct or Disability. These rules apply to judges of the U. S. Court of Appeals for the Fifth Circuit and to the district, bankruptcy, and magistrate judges of federal courts within the Fifth Circuit. The circuit includes the states of Texas, Louisiana, and Mississippi.

These rules may be obtained from, and written complaints filed at, the following office:

Clerk
U. S. Court of Appeals, Fifth Circuit
600 Camp Street, Room 102
New Orleans, Louisiana 70130

APPENDIX "K"

PLAN FOR PROMPT DISPOSITION OF CRIMINAL CASES PURSUANT TO THE SPEEDY TRIAL ACT OF 1974-- 18 U.S.C. §3165(e)(3)

SECTION II

STATEMENT OF TIME LIMITS ADOPTED BY THE COURT AND PROCEDURES FOR IMPLEMENTING THEM

Pursuant to the requirements of Rule 50(b) of the Federal Rules of Criminal Procedure, the Speedy Trial Act of 1974 (18 U.S.C. Chapter 208), the Speedy Trial Act Amendments Act of 1979 (Pub. L. No. 96-43, 93 Stat. 327), and the Federal Juvenile Delinquency Act (18 U.S.C. §§5036, 5037), the Judges of the United States District Court for the Western District of Texas have adopted the following time limits and procedures to minimize undue delay and to further the prompt disposition of criminal cases and certain juvenile proceedings:

A. Applicability.

1. Offenses. The time limits set forth herein are applicable to all criminal offenses triable in this Court,[1] including cases triable by United States Magistrates, except for petty offenses as defined in 18 U.S.C. §1(3). Except as specifically provided, they are not applicable to proceedings under the Federal Juvenile Delinquency Act. [§3172]

2. Persons. The time limits are applicable to persons accused who have not been indicted or informed against as well as those who have, and the word "defendant" includes such persons unless the context indicates otherwise.

B. Priorities In Scheduling Criminal Cases.

Preference shall be given to criminal proceedings as far as practicable as required by Rule 50(a) of the Federal Rules of Criminal Procedure. The trial of defendants in custody solely because they are awaiting trial and of high-risk defendants as defined in Section E should be given preference over other criminal cases. [§3164(a)]

[1] 18 U.S.C. §3172 defines offenses as "any Federal criminal offense which is in violation of any Act of Congress..."

C. Time Within Which An Indictment Or Information Must Be Filed.

(1) Time Limits. If an individual is arrested or served with a summons and the complaint charges an offense to be prosecuted in this district, any indictment or information subsequently filed in connection with such charge shall be filed within 30 days of arrest or service. [§3161(b)]

(2) Grand Jury Not In Session. If the defendant is charged with a felony to be prosecuted in this district, and no grand jury in the district has been in session during the 30-day period prescribed in subsection (1), such period shall be extended an additional 30 days. [§3161(b)]

(3) Measurement Of Time Periods. If a person has not been arrested or served with a summons on a Federal charge, an arrest will be deemed to have been made at such time as the person (i) is held in custody solely for the purpose of responding to a Federal charge; (ii) is delivered to the custody of a Federal official in connection with a Federal charge; or (iii) appears before a judicial officer in connection with a Federal charge.

(4) Related Procedures.

(a) At the time of the earliest appearance before a judicial officer of a person who has been arrested for an offense not charged in an indictment or information, the judicial officer shall establish for the record the date on which the arrest took place.

(b) In the absence of a showing to the contrary, a summons shall be considered to have been served on the date of service shown on the return thereof.

D. Time Within Which Trial Must Commence.

(1) Time Limits. The trial of a defendant shall commence not later than 70 days after the last to occur of the following dates:

(a) The date on which an indictment or information is filed in this district;

(b) The date on which a sealed indictment or information is unsealed; or

(c) The date of the defendant's first appearance before a judicial officer of this district. [3161(c)(1)]

(2) Retrial: Trial After Reinstatement of an Indictment or Information. The retrial of a defendant shall commence within 70 days from the date the order occasioning the retrial becomes final, as shall the trial of a defendant upon an indictment or information dismissed by a trial court and reinstated following an appeal. If the retrial or trial follows an appeal or collateral attack, the court may extend the period if unavailability of witnesses or other factors resulting from passage of time make trial within 70 days impractical. The extended period shall not exceed 180 days. [§§3161(d)(2),(e)]

(3) Withdrawal of Plea. If a defendant enters a plea of guilty or nolo contendere to any or all charges in an indictment or information and is subsequently permitted to withdraw it, the time limit shall be determined for all counts as if the indictment or information were filed on the day the order permitting withdrawal of the plea became final. [§3161(i)]

(4) Superseding Charges. If, after an indictment or information has been filed, a complaint, indictment, or information is filed which charges the defendant with the same offense or with an offense required to be joined with that offense, the time limit applicable to the subsequent charge will be determined as follows:

(a) If the original indictment or information was dismissed on motion of the defendant before the filing of the subsequent charge, the time limit shall be determined without regard to the existence of the original charge. [§3161(d)(1)]

(b) If the original indictment or information is pending at the time the subsequent charge is filed, the trial shall commence within the time limit for commencement of trial on the original indictment or information. [§3161(h)(6)]

(c) If the original indictment or information was dismissed on motion of the United States Attorney before the filing of the subsequent charge, the trial shall commence within the time limit for commencement of trial on the original indictment or information, but the period during which the defendant was not under charges shall be excluded from the computations. Such period is the period between the dismissal of the original indictment or information and the date the time would have commenced to run on the subsequent charge had there been no previous charge.[2] [§3161(h)(6)]

[2]Under the rule of this paragraph, if an indictment was 2 dismissed on motion of the prosecutor on May 1, with 20 days remaining within which trial must be commenced, and the defendant was arrested on a new complaint on June 1, the time remaining for trial would be 20 days from June 1: the time limit would be based on the original indictment, but the period from the dismissal to the new arrest would not count. Although the 30-day arrest-to-indictment time limit would apply to the new arrest as a formal matter, the short deadline for trial would necessitate earlier grand jury action.

If the subsequent charge is contained in a complaint, the formal time limit within which an indictment or information must be obtained on the charge shall be determined without regard to the existence of the original indictment or information, but earlier action may in fact be required if the time limit for commencement of trial is to be satisfied.

(5) Measurement of Time Periods. For the purposes of this section:

(a) If a defendant signs a written consent to be tried before a magistrate and no indictment or information charging the offense has been filed, the time limit shall run from the date of such consent.

(b) In the event of a transfer to this district under Rule 20 of the Federal Rules of Criminal Procedure, the indictment or information shall be deemed filed in this district when the papers in the proceeding or certified copies thereof are received by the clerk.

(c) A trial in a jury case shall be deemed to commence at the beginning of voir dire.

(d) A trial in a nonjury case shall be deemed to commence on the day the case is called, provided that some step in the trial procedure immediately follows.

(6) Related Procedures.

(a) At the time of the defendant's earliest appearance before a judicial officer of this district, the officer will take appropriate steps to assure that the defendant is represented by counsel and shall appoint counsel where appropriate under the Criminal Justice Act and Rule 44 of the Federal Rules of Criminal Procedure.

(b) The court shall have sole responsibility for setting cases for trial after consultation with counsel. At the time of arraignment or as soon thereafter as is practicable, each case will be set for trial on a day certain or listed for trial on a weekly or other short-term calendar. [§3161(a)]

(c) Individual calendars shall be managed so that it will be reasonably anticipated that every criminal case set for trial will be reached during the week of original setting. A conflict in schedules of Assistant United States Attorneys or defense counsel will be ground for a continuance or delayed setting only if approved by the court and called to the court's attention at the earliest practicable time.

(d) In the event that a complaint, indictment, or information is filed against a defendant charged in a pending indictment or information or in an indictment or information dismissed on motion of the United States Attorney, the trial on the new charge shall commence within the time limit for commencement of trial on the original indictment or information unless the court finds that the new charge is not for the same offense charged in the original indictment or information or an offense required to be joined therewith.

(e) At the time of the filing of a complaint, indictment, or information described in paragraph (d), the United States Attorney shall give written notice to the court of that circumstance and of his position with respect to the computation of the time limits.

(f) All pretrial hearings shall be conducted as soon after the arraignment as possible, consistent with the priorities of other matters on the court's criminal docket.

E. Defendants in Custody and High-Risk Defendants.[3]

(1) Time Limits. Notwithstanding any longer time periods that may be permitted under sections C and D, the following time limits will also be applicable to defendants in custody and high-risk defendants as herein defined:

(a) The trial of a defendant held in custody solely for the purpose of trial on a Federal charge shall commence within 90 days following the beginning of continuous custody.

(b) The trial of a high-risk defendant shall commence within 90 days of the designation as high-risk. [§3164(b)]

(2) Definition of "High-Risk Defendant." A high-risk defendant is one reasonably designated by the United States Attorney as posing a danger to himself or any other person or to the community.

(3) Measurement of Time Periods. For the purposes of this section:

(a) A defendant is deemed to be in detention awaiting trial when he is arrested on a Federal charge or otherwise held for the purpose of responding to a Federal charge. Detention is deemed to be solely because the defendant is awaiting trial unless the person exercising custodial authority has an independent basis (not including a detainer) for continuing to hold the defendant.

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[3]If a defendant's presence has been obtained through the filing of a detainer with state authorities, the Interstate Agreement on Detainers, 18 U.S.C., Appendix, may require that trial commence before the deadline established by the Speedy Trial Act. See U.S. v. Mauro, 436 U.S. 340), 356-57 n.24 (1978)

(b) If a case is transferred pursuant to Rule 20 of the Federal Rules of Criminal Procedure and the defendant subsequently rejects disposition under Rule 20 or the court declines to accept the plea, a new period of continuous detention awaiting trial will begin at that time.

(c) A trial shall be deemed to commence as provided in section D(5)(c) and D(5)(d).

(4) Related Procedures.

(a) If a defendant is being held in custody solely for the purpose of awaiting trial, the United States Attorney shall advise the court at the earliest practicable time of the date of the beginning of such custody.

(b) The United States Attorney shall advise the court at the earliest practicable time (usually at the hearing with respect to bail) if the defendant is considered by him to be high risk.

(c) If the court finds that the filing of a "high-risk" designation as a public record may result in prejudice to the defendant, it may order the designation sealed for such period as is necessary to protect the defendant's right to a fair trial, but not beyond the time that the court's judgment in the case become final. During the time the designation is under seal, it shall be made known to the defendant and his counsel but shall not be made known to other persons without the permission of the court.

F. Exclusion of Time From Computations.

(1) Applicability. In computing any time limit under section C (Interval I), D (Interval II), or E (Custody/High-Risk), the periods of delay set forth in 18 U.S.C. §3161(h) shall be excluded. Such periods of delay shall not be excluded in computing the minimum period for commencement of trial under section G.

(2) Records of Excludable Time. The clerk of the court shall enter on the docket, in the form prescribed by the Administrative Office of the United States Courts, information with respect to excludable periods of time for each criminal defendant.

(3) Stipulations.

(a) The attorney for the government and the attorney for the defendant may at any time enter into stipulations with respect to the accuracy of the docket entries recording excludable time.

(b) To the extent that the amount of time stipulated by the parties does not exceed the amount recorded on the docket for any excludable period of delay, the stipulation shall be conclusive as between the parties unless it has no basis in fact or law. It shall similarly be conclusive as to a codefendant for the limited purpose of determining, under 18 U.S.C. §3161(h)(7), whether time has run against the defendant entering into the stipulation.

(c) To the extent that the amount of time stipulated exceeds the amount recorded on the docket, the stipulation shall have no effect unless approved by the court.

(4) Pre-Indictment Procedures.

(a) In the event that the United States Attorney anticipates that an indictment or information will not be filed within the time limit set forth in section C (Interval I), he may file a written motion with the court for a determination of excludable time. In the event that the United States Attorney seeks a continuance under 18 U.S.C. §3161(h)(8), he shall file a written motion with the court requesting such a continuance.

(b) The motion of the United States Attorney shall state (i) the period of time proposed for exclusion, and (ii) the basis of the proposed exclusion. If the motion is for a continuance under 18 U.S.C. §3161(h)(8), it shall also state whether or not the defendant is being held in custody on the basis of the complaint. In appropriate circumstances, the motion may include a request that some or all of the supporting material be considered ex parte and in camera.

(c) The court may grant a continuance under 18 U.S.C. §3161(h)(8) for either a specific period of time or a period to be determined by reference to an event (such as recovery from illness) not within the control of the government. If the continuance is to a date not certain, the court shall require one or both parties to inform the court promptly when and if the circumstances that justify the continuance no longer exist. In addition, the court shall require one or both parties to file periodic reports bearing on the continued existence of such circumstances. The court shall determine the frequency of such reports in the light of the facts of the particular case.

(5) Post-Indictment Procedures.

(a) At each appearance of counsel before the court, counsel shall examine the clerk's records of excludable time for completeness and accuracy and shall bring to the court's immediate attention any claim that the clerk's record is in any way incorrect.

(b) In the event that the court continues a trial beyond the time limit set forth in section D or E, the court shall determine whether the limit may be recomputed by excluding time pursuant to 18 U.S.C. §3161(h).

(c) If it is determined that a continuance is justified, the court shall set forth its findings in the record, either orally or in writing. If the continuance is granted under 18 U.S.C. §3161(h)(8), the court shall also set forth its reasons for finding that the ends of justice served by granting the continuance outweigh the best interest of the public and the defendant in a speedy trial. If the continuance is to a date not certain, the court shall require one or both parties to inform the court promptly when and if the circumstances that justify the continuance no longer exist. In addition, the court shall require one or both parties to file periodic reports bearing on the continued existence of such circumstances. The court shall determine the frequency of such reports in the light of the facts of the particular case.

G. Minimum Period for Defense Preparation.

Unless the defendant consents in writing to the contrary, the trial shall not commence earlier than 30 days from (i) the date on which the indictment or information is filed or (ii), if later, from the date on which counsel first enters an appearance, or (iii) the date on which the defendant expressly waives counsel and elects to proceed pro se. In circumstances in which the 70-day time limit for commencing trial on a charge in an indictment or information is determined by reference to an earlier indictment or information pursuant to section D(4), the 30-day minimum period shall also be determined by reference to the earlier indictment or information. When prosecution is resumed on an original indictment or information following a mistrial, appeal, or withdrawal of a guilty plea, a new 30-day minimum period will not begin to run. The court will in all cases schedule trials so as to permit defense counsel adequate preparation time in the light of all the circumstances. [§3161(c)(2)].

H. Time Within Which Defendant Should be Sentenced.

(1) Time Limit. A defendant shall ordinarily be sentenced within (45) days of the date of his conviction or plea of guilty or nolo contendere.

(2) Related Procedures. If the defendant and his counsel consent thereto, a presentence investigation may be commenced prior to a plea of guilty or nolo contendere or a conviction.

I. Juvenile Proceedings.

(1) Time Within Which Trial Must Commence. An alleged delinquent who is in detention pending trial shall be brought to trial within 30 days of the date on which such detention was begun, as provided in 18 U.S.C. §5036.

(2) Time of Dispositional Hearing. If a juvenile is adjudicated delinquent, a separate dispositional hearing shall be held no later than 20 court days after trial, unless the court has ordered further study of the juvenile in accordance with 18 U.S.C. § 5037(c).

J. Sanctions.

(1) Dismissal or Release from Custody. Failure to comply with the requirements of Title I of the Speedy Trial Act may entitle the defendant to dismissal of the charges against him or to release from pretrial custody. Nothing in this plan shall be construed to require that a case be dismissed or a defendant released from custody in circumstances in which such action would not be required by 18 U.S.C. §§ 3162 and 3164.[4]

[4]Dismissal may also be required in some cases under the Interstate Agreement on Detainers, 18 U.S.C., Appendix.

(2) **High-Risk Defendant.** A high-risk defendant whose trial has not commenced within the time limit set forth in 18 U.S.C. § 3164(b) shall, if the failure to commence trial was through no fault of the attorney for the government, have his release conditions automatically reviewed. A high-risk defendant who is found by the court to have intentionally delayed the trial of his case shall be subject to an order of the court modifying his nonfinancial conditions of release under Chapter 207 of Title 18, U.S.C., to ensure that he shall appear at trial as required. [§3164(c)]

(3) **Discipline of Attorneys.** In a case in which counsel (a) knowingly allows the case to be set for trial without disclosing the fact that a necessary witness would be unavailable for trial, (b) files a motion solely for the purpose of delay which he knows is frivolous and without merit, (c) makes a statement for the purpose of obtaining a continuance which he knows to be false and which is material to the granting of the continuance, or (d) otherwise willfully fails to proceed to trial without justification consistent with 18 U.S.C. §3161, the court may punish such counsel as provided in 18 U.S.C. §§ 3162(b) and (c).

(4) **Alleged Juvenile Delinquents.** An alleged delinquent in custody whose trial has not commenced within the time limit set forth in 18 U.S.C. § 5036 shall be entitled to dismissal of his case pursuant to that section unless the Attorney General shows that the delay was consented to or caused by the juvenile or his counsel, or would be in the interest of justice in the particular case.

K. Persons Serving Terms of Imprisonment.

If the United States Attorney knows that a person charged with an offense is serving a term of imprisonment in any penal institution, he shall promptly seek to obtain the presence of the prisoner for trial, or cause a detainer to be filed, in accordance with the provisions of 18 U.S.C. §3161(j).

L. Effective Dates.

(1) The amendments to the Speedy Trial Act made by Public Law 96-43 became effective August 2, 1979. To the extent that this revision of the district's plan does more than merely reflect the amendments, the revised plan shall take effect upon approval of the reviewing panel designated in accordance with 18 U.S.C. §3165(c). However, the dismissal sanction and the sanctions against attorneys authorized by 18 U.S.C. § 3162 and reflected in sanctions J(1) and (2) of this plan shall apply only to defendants whose cases are commenced by arrest or summons on or after July, 1980, and to indictments and information filed on or after that date.

(2) If a defendant was arrested or served with a summons before July 1, 1979, the time within which an information or indictment must be filed shall be determined under the plan that was in effect at the time of such arrest or service.

(3) If a defendant was arraigned before August 2, 1979, the time within which the trial must commence shall be determined under the plan that was in effect at the time of such arraignment.

(4) If a defendant was in custody on August 2, 1979, solely because he was awaiting trial, the 90-day period under section E shall be computed from that date.

APPENDIX "L"

Local Court Rules of the United States Bankruptcy Court for the Western District of Texas

(Available by contacting the U. S. Bankruptcy Court)

www.txwb.uscourts.gov

APPENDIX "M"

ADOPTION OF THE TEXAS LAWYER'S CREED

On November 7, 1989, the Texas Supreme Court and the Texas Court of Criminal Appeals adopted the Texas Lawyer's Creed to encourage honorable conduct among Texas lawyers and to discourage abusive litigation tactics. A copy of the Creed is attached. The four Chief Judges of the federal districts in Texas signed the attached proclamation on November 9, 1994, commending the Creed to lawyers practicing in Texas federal courts. In light of the wide acceptance of the Texas Lawyer's Creed, United States District Judges of the Western District of Texas hereby adopt the Creed and commend it for observance to all lawyers practicing in this District. It should be understood that the Creed is aspirational and that any failure to follow it cannot be the basis for any sanction or other remedy.

DATED this 30th day of January, 1995.

HARRY LEE HUDSPETH, Chief Judge
Western District of Texas

PROCLAMATION
OF
THE UNITED STATES DISTRICT COURT
FOR THE EASTERN, NORTHERN, SOUTHERN AND WESTERN
DISTRICTS OF TEXAS

WHEREAS, on November 7, 1989, the Supreme Court of Texas and the Texas Court of Criminal Appeals adopted "The Texas Lawyer's Creed--A Mandate for Professionalism"; and

WHEREAS, the purpose of the Creed is to eliminate abusive litigation tactics which are a disservice to our citizens, harmful to clients, and demeaning to our profession; and

WHEREAS, the Texas Lawyer's Creed has aspirational standards and encourages attorneys to adhere to the highest principles of professionalism in their dealings with the legal system, clients, judges and other lawyers; and

WHEREAS, many lawyers and courts across the state have embraced the Texas Lawyer's Creed and adopted its tenets for conducting themselves with integrity, civility and courtesy; and

WHEREAS, most attorneys practicing in the Texas federal courts are Texas attorneys subject to the recommendations of the Texas Lawyer's Creed;

THEREFORE, Be It Resolved that United States District Courts for the Eastern, Northern, Southern, and Western Districts of Texas commend to attorneys practicing in these Districts a thorough study of The Texas Lawyer's Creed; and

Be It Further Resolved, as stated in the Creed, that all attorneys of the Eastern, Northern, Southern, and Western Districts rededicate themselves to practice law so that they can enhance public confidence in the legal profession, faithfully serve their clients, and fulfill their responsibility to the legal system.

APPROVED this 9th day of November, 1994.

Richard A. Schell

RICHARD A. SCHELL, Chief Judge
United States District Court for the
Eastern District of Texas

Barefoot Sanders

BAREFOOT SANDERS, Chief Judge
United States District Court for the
Northern District of Texas

Norman Black

NORMAN W. BLACK, Chief Judge
United States District Court for the
Southern District of Texas

Harry Lee Hudspeth

HARRY LEE HUDPSETH, Chief Judge
United States District Court for the
Western District of Texas

ASPIRATIONAL GOALS: THE TEXAS LAWYER'S CREED – A MANDATE FOR PROFESSIONALISM ADOPTED BY THE SUPREME COURT OF TEXAS AND THE COURT OF CRIMINAL APPEALS NOVEMBER 7, 1989

I am a lawyer; I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that Professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this Creed for no other reason than it is right.

I. OUR LEGAL SYSTEM

A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism.

1. I am passionately proud of my profession. Therefore, "My word is my bond."
2. I am responsible to assure that all persons have access to competent representation regardless of wealth or position in life.
3. I commit myself to an adequate and effective pro bono program.
4. I am obligated to educate my clients, the public, and other lawyers regarding the spirit and letter of this Creed.
5. I will always be conscious of my duty to the judicial system.

II. LAWYER TO CLIENT

A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate means to protect and advance the client's legitimate rights, claims, and objectives. A lawyer shall not be deterred by any real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest.

1. I will advise my client of the contents of this Creed when undertaking representation.
2. I will endeavor to achieve my client's lawful objectives in legal transactions and in litigation as quickly and economically as possible.
3. I will be loyal and committed to my client's lawful objectives, but I will not permit that loyalty and commitment to interfere with my duty to provide objective and independent advice.
4. I will advise my client that civility and courtesy are expected and are not a sign of weakness.
5. I will advise my client of proper and expected behavior.
6. I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demand that I abuse anyone or indulge in any offensive conduct.
7. I will advise my client that we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party.
8. I will advise my client that we will not pursue tactics which are intended primarily for delay.
9. I will advise my client that we will not pursue any course of action which is without merit.
10. I will advise my client that I reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objectives. A client has no right to instruct me to refuse reasonable requests made by other counsel.
11. I will advise my client regarding the availability of mediation, arbitration, and other alternative methods of resolving and settling disputes.

III. LAWYER TO LAWYER

A lawyer owes to opposing counsel, in the conduct of legal transactions and the pursuit of litigation, courtesy, candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel. A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct.

1. I will be courteous, civil, and prompt in oral and written communications.
2. I will not quarrel over matters of form or style, but I will concentrate on matters of substance.
3. I will identify for other counsel or parties all changes I have made in documents submitted for review.

4. I will attempt to prepare documents which correctly reflect the agreement of the parties. I will not include provisions which have not been agreed upon or omit provisions which are necessary to reflect the agreement of the parties.

5. I will notify opposing counsel, and, if appropriate, the Court or other persons, as soon as practicable, when hearings, depositions, meetings, conferences or closings are cancelled.

6. I will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of my client will not be adversely affected.

7. I will not serve motions or pleadings in any manner that unfairly limits another party's opportunity to respond.

8. I will attempt to resolve by agreement my objections to matters contained in pleadings and discovery requests and responses.

9. I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior. I will neither encourage nor knowingly permit my client or anyone under my control to do anything which would be unethical or improper if done by me.

10. I will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations of impropriety. I will avoid disparaging personal remarks or acrimony towards opposing counsel, parties and witnesses. I will not be influenced by any ill feeling between clients. I will abstain from any allusion to personal peculiarities or idiosyncrasies of opposing counsel.

11. I will not take advantage, by causing any default or dismissal to be rendered, when I know the identity of an opposing counsel, without first inquiring about that counsel's intention to proceed.

12. I will promptly submit orders to the Court. I will deliver copies to opposing counsel before or contemporaneously with submission to the court. I will promptly approve the form of orders which accurately reflect the substance of the rulings of the Court.

13. I will not attempt to gain an unfair advantage by sending the Court or its staff correspondence or copies of correspondence.

14. I will not arbitrarily schedule a deposition, Court appearance, or hearing until a good faith effort has been made to schedule it by agreement.

15. I will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party.

16. I will refrain from excessive and abusive discovery.

17. I will comply with all reasonable discovery requests. I will not resist discovery requests which are not objectionable. I will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. I will encourage witnesses to respond to all deposition questions which are reasonably understandable. I will neither encourage nor permit my witness to quibble about words where their meaning is reasonably clear.

18. I will not seek Court intervention to obtain discovery which is clearly improper and not discoverable.

19. I will not seek sanctions or disqualification unless it is necessary for protection of my client's lawful objectives or is fully justified by the circumstances.

IV. LAWYER AND JUDGE

Lawyers and judges owe each other respect, diligence, candor, punctuality, and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession.

1. I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol.

2. I will conduct myself in court in a professional manner and demonstrate my respect for the Court and the law.

3. I will treat counsel, opposing parties, the Court, and members of the Court staff with courtesy and civility.

4. I will be punctual.

5. I will not engage in any conduct which offends the dignity and decorum of proceedings.

6. I will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities to gain an advantage.

7. I will respect the rulings of the Court.

8. I will give the issues in controversy deliberate, impartial and studied analysis and consideration.

9. I will be considerate of the time constraints and pressures imposed upon the Court, Court staff and counsel in efforts to administer justice and resolve disputes.

121 F.R.D. 284
57 USLW 2058, 2 Tex.Bankr.Ct.Rep. 518
(Cite as: 121 F.R.D. 284)

United States District Court,
N.D. Texas,
Dallas Division.

DONDI PROPERTIES CORPORATION and the Federal Savings and Loan Insurance Corporation as Receiver for Vernon Savings and Loan Association, FSA,
Plaintiffs,
v.
COMMERCE SAVINGS AND LOAN ASSOCIATION, et al., Defendants.
Jean Rinard KNIGHT, Plaintiff,
v.
PROTECTIVE LIFE INSURANCE COMPANY, Defendant.

Civ. A. Nos. CA3-87-1725-H, CA3-87-2692-D.

July 14, 1988.

At request of one its members, the United States District Court for the Northern District of Texas convened en banc for purpose of establishing standards of litigation conduct to be observed in civil actions in district. The District Court held that standards of litigation conduct would be adopted.

Ordered accordingly.

West Headnotes

[1] **Federal Civil Procedure** **25**
170Ak25 Most Cited Cases

Standards of litigation conduct to be observed in civil actions litigated in Northern District of Texas would be adopted. 28 U.S.C.A. § 2072.

[2] **Federal Civil Procedure** **1636.1**
170Ak1636.1 Most Cited Cases
(Formerly 170Ak1636)

Plaintiffs' failure to comply with magistrate's previous discovery orders did not require dismissal of civil action presenting complex legal and factual theories involving hundreds of thousands of documents, absent showing of intentional or willful conduct on part of plaintiffs or their counsel. Fed.Rules Civ.Proc.Rule 37(b), 28 U.S.C.A.

[3] **Federal Civil Procedure** **2795**
170Ak2795 Most Cited Cases
(Formerly 45k24)

Attorney's failure to identify himself or his client to prospective witness prior to making inquiries about transaction pertinent to client's civil action did not require sanctions. U.S.Dist.Ct.Rules N.D.Tex., Rule 5.1(a).

[4] **Federal Civil Procedure** **1105.1**
170Ak1105.1 Most Cited Cases
(Formerly 170Ak1105)

Filing reply brief without district court's permission did not require that brief be stricken, where court had not yet considered underlying substantive motions. U.S.Dist.Ct.Rules N.D.Tex., Rules 5.1, 5.1(a, c-f).

***284** Don T. O'Bannon of Arter, Hadden & Witts, Dallas, Tex., and Jerome A. Hochberg and Douglas M. Mangel of Arter & ***285** Hadden, Washington, D.C., for Dondi Properties Corp., et al.

Ernest E. Figari, Alan S. Loewinsohn, and James A. Jones of Figari & Davenport, Dallas, Tex., for Gerald Stool, et al.

Gordon M. Shapiro, Michael L. Knapek, and Patricia J. Kendall of Jackson & Walker, Dallas, Tex., for Commerce Sav. Assn.

Paul E. Coggins and Weston C. Loegering of Davis, Meadows, Owens, Collier & Zachry, Dallas, Tex., for W. Deryl Comer.

Randall L. Freedman, Dallas, Tex., for Jack Franks.

Christopher M. Weil and Amy Brook Ganci of Weil & Renneker, P.C., Dallas, Tex., for R.H. Westmoreland.

Mark T. Davenport of Figari & Davenport, Dallas, Tex., for Jean Rinard Knight.

David M. Kendall of Thompson & Knight, Austin, Tex., for Protective Life Ins. Co.

Before PORTER, Chief Judge, SANDERS, Acting

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Chief Judge, and WOODWARD, MAHON, BELEW, ROBINSON, BUCHMEYER, FISH, MALONEY, FITZWATER, and CUMMINGS, District Judges.

PER CURIAM:

We sit en banc to adopt standards of litigation conduct for attorneys appearing in civil actions in the Northern District of Texas.

I.

Dondi Properties is a suit for recovery based upon civil RICO, common law and statutory fraud, the Texas Fraudulent Transfer Act, federal regulations prohibiting affiliate transactions, civil conspiracy, negligent misrepresentation, and usury, arising in connection with activities related to the failed Vernon Savings and Loan Association. *Knight* is an action for violations of the Texas Insurance Code and Texas Deceptive Trade Practices-- Consumer Protection Act, and for breach of duty of good faith and breach of contract, arising from defendant's refusal to pay plaintiff the proceeds of a life insurance policy.

In *Dondi Properties,* the following motions have been referred to the magistrate pursuant to 28 U.S.C. § 636(b) and N.D.Tex.Misc.Order No. 6, Rule 2(c): the Stool defendants' [FN1] third motion for sanctions or, in the alternative, to compel (and supplement to the motion); the third motion for sanctions of defendant, Commerce Savings Association (and supplement to the motion); defendant, W. Deryl Comer's, first motion for sanctions or, in the alternative, motion to compel (and supplement to the motion); the Stool defendants' motion for sanctions against plaintiffs' attorney; defendant, Jack Franks', first motion for sanctions or, in the alternative, motion to compel; defendant, R.H. Westmoreland's, motion for sanctions and, in the alternative, to compel; and various submissions containing additional authorities in support of the motions and briefs already filed. Plaintiffs have responded to the motions, and the Stool defendants have filed a motion for leave to file reply to plaintiffs' response.

FN1. The Stool defendants are Gerald Stool, Donald F. Goldman, AMF Partnership, Ltd., Park Cosmopolitan Associates, Duck Hook Associates, Turnpike Waldrop Joint Venture, Alamo Associates, and Seven Flags Partnership.

The sanction motions complain of plaintiffs' failure to answer interrogatories, failure to comply with prior orders of the court pertaining to discovery, misrepresenting facts to the court, and improperly withholding documents. The magistrate had previously entered orders on March 29, 1988 and April 28, 1988 and defendants contend plaintiffs' conduct with respect to prior orders of the magistrate warrants dismissing their action or awarding other relief to movants.

In *Knight,* there is pending before a judge of this court plaintiff's motion to strike a reply brief that defendant filed without leave of court. On April 8, 1988, defendant filed four motions, including motions for separate trials and to join another ***286** party. [FN2] On April 27, 1988, plaintiff filed her response to the motions. Thereafter, without leave of court, defendant, on May 26, 1988, filed a reply to plaintiff's response. On June 3, 1988, plaintiff filed a motion to strike the reply, to which motion defendant has filed a response.

FN2. The other motions are motions to compel and for protective order.

Plaintiff contends the reply brief should be stricken because defendant did not, as required by Local Rule 5.1(f), obtain leave to file a reply, because defendant failed to seek permission immediately upon receipt of plaintiff's response, and, alternatively, because defendant's reply was filed in excess of 20 days after plaintiff filed her response. In the event the court does not strike the reply, plaintiff requests leave to file an additional response.

At the request of a member of the court, we convened the en banc court [FN3] for the purpose of establishing standards of litigation conduct to be observed in civil actions litigated in the Northern District of Texas. In section II of the opinion we establish such standards. In section III the magistrate decides the *Dondi Properties* motions, and in section IV a judge of the court decides the *Knight* motion, in accordance with the standards we adopt. [FN4]

FN3. We concede the unusual nature of this procedure. We note, however, that the U.S. District Court for the Central District of California recently sat en banc to decide the

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constitutionality of the sentencing guidelines promulgated pursuant to the Sentencing Reform Act of 1984. See United States v. Ortega Lopez, 684 F.Supp. 1506 (C.D.Cal.1988) (en banc).

FN4. While we adopt en banc the standards for civil litigation conduct, the decisions regarding the particular motions are those of the magistrate and district judge, respectively, before whom the motions are pending.

II.

[1] The judicial branch of the United States government is charged with responsibility for deciding cases and controversies and for administering justice. We attempt to carry out our responsibilities in the most prompt and efficient manner, recognizing that justice delayed, and justice obtained at excessive cost, is often justice denied. [FN5]

FN5. We do so in the spirit of Fed.R.Civ.P. 1, which provides that the federal rules "shall be construed to secure the just, speedy, and inexpensive determination of every action."

We address today a problem that, though of relatively recent origin, is so pernicious that it threatens to delay the administration of justice and to place litigation beyond the financial reach of litigants. With alarming frequency, we find that valuable judicial and attorney time is consumed in resolving unnecessary contention and sharp practices between lawyers. Judges and magistrates of this court are required to devote substantial attention to refereeing abusive litigation tactics that range from benign incivility to outright obstruction. Our system of justice can ill-afford to devote scarce resources to supervising matters that do not advance the resolution of the merits of a case; nor can justice long remain available to deserving litigants if the costs of litigation are fueled unnecessarily to the point of being prohibitive.

As judges and former practitioners from varied backgrounds and levels of experience, we judicially know that litigation is conducted today in a manner far different from years past. Whether the increased size of the bar has decreased collegiality, or the legal profession has become only a business, or experienced lawyers have ceased to teach new lawyers the standards to be observed, or because of other factors not readily categorized, we observe patterns of behavior that forebode ill for our system of justice. [FN6] We now adopt standards designed to end such conduct.

FN6. Nor are we alone in our observations. In December 1984 the Texas Bar Foundation conducted a "Conference on Professionalism." The conference summary, issued in March 1985, recounts similar observations from leading judges, lawyers, and legal educators concerning the subject of lawyer professionalism.

A.

We begin by recognizing our power to adopt standards for attorney conduct in ***287** civil actions and by determining, as a matter of prudence, that we, rather than the circuit court, should adopt such standards in the first instance.

By means of the Rules Enabling Act of 1934, now codified as 28 U.S.C. § 2072, Congress has authorized the Supreme Court to adopt rules of civil procedure. The Court has promulgated rules that empower district courts to manage all aspects of a civil action, including pretrial scheduling and planning (Rule 16) and discovery (Rule 26(f)). We are authorized to protect attorneys and litigants from practices that may increase their expenses and burdens (Rules 26(b)(1) and 26(c)) or may cause them annoyance, embarrassment, or oppression (Rule 26(c)), and to impose sanctions upon parties or attorneys who violate the rules and orders of the court (Rules 16(f) and 37). We likewise have the power by statute to tax costs, expenses, and attorney's fees to attorneys who unreasonably and vexatiously multiply the proceedings in any case. 28 U.S.C. § 1927. We are also granted the authority to punish, as contempt of court, the misbehavior of court officers. 18 U.S.C. § 401. In addition to the authority granted us by statute or by rule, we possess the inherent power to regulate the administration of justice. See Batson v. Neal Spelce Associates, Inc., 805 F.2d 546, 550 (5th Cir.1986) (federal courts possess inherent power to assess attorney's fees and litigation costs when losing party has acted in bad faith, vexatiously, wantonly, or for oppressive reasons); Thomas v. Capital Security Services, Inc., 836 F.2d 866, 875

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(5th Cir.1988) (en banc) (district court has inherent power to award attorney's fees when losing party has acted in bad faith in actions that led to the lawsuit or to the conduct of the litigation).

We conclude also that, as a matter of prudence, this court should adopt standards of conduct without awaiting action of the circuit court. We find support for this approach in *Thomas,* where, in the Rule 11 context, the Fifth Circuit noted the singular perspective of the district court in deciding the fact intensive inquiry whether to impose or deny sanctions. The court noted that trial judges are "in the best position to review the factual circumstances and render an informed judgment as [they are] intimately involved with the case, the litigants, and the attorneys on a daily basis." 836 F.2d at 873. We think the circuit court's rationale for eschewing "second-hand review of the facts" in Rule 11 cases may be applied to our adopting standards of litigation conduct: " 'the district court will have a better grasp of what is acceptable trial-level practice among litigating members of the bar than will appellate judges.' ". Id. at 873 (quoting Eastway Construction Corp. v. City of New York, 637 F.Supp. 558, 566 (E.D.N.Y.1986)).

B.

We next set out the standards to which we expect litigation counsel to adhere.

The Dallas Bar Association recently adopted "Guidelines of Professional Courtesy" and a "Lawyer's Creed" [FN7] that are both sensible and pertinent to the problems we address here. From them we adopt the following as standards of practice [FN8] to be observed by attorneys appearing in civil actions in this district:

FN7. We set out in an appendix pertinent portions of the guidelines and the creed in the form adopted by the Dallas Bar Association.

FN8. We also commend to counsel the American College of Trial Lawyers' Code of Trial Conduct (rev. 1987). Those portions of the Code that are applicable to our decision today are set out in the appendix.

(A) In fulfilling his or her primary duty to the client, a lawyer must be ever conscious of the broader duty to the judicial system that serves both attorney and client.
(B) A lawyer owes, to the judiciary, candor, diligence and utmost respect.
(C) A lawyer owes, to opposing counsel, a duty of courtesy and cooperation, the observance of which is necessary for the efficient administration of our system of justice and the respect of the public it serves.
(D) A lawyer unquestionably owes, to the administration of justice, the fundamental ***288** duties of personal dignity and professional integrity.
(E) Lawyers should treat each other, the opposing party, the court, and members of the court staff with courtesy and civility and conduct themselves in a professional manner at all times.
(F) A client has no right to demand that counsel abuse the opposite party or indulge in offensive conduct. A lawyer shall always treat adverse witnesses and suitors with fairness and due consideration.
(G) In adversary proceedings, clients are litigants and though ill feeling may exist between clients, such ill feeling should not influence a lawyer's conduct, attitude, or demeanor towards opposing lawyers.
(H) A lawyer should not use any form of discovery, or the scheduling of discovery, as a means of harassing opposing counsel or counsel's client.
(I) Lawyers will be punctual in communications with others and in honoring scheduled appearances, and will recognize that neglect and tardiness are demeaning to the lawyer and to the judicial system.
(J) If a fellow member of the Bar makes a just request for cooperation, or seeks scheduling accommodation, a lawyer will not arbitrarily or unreasonably withhold consent.
(K) Effective advocacy does not require antagonistic or obnoxious behavior and members of the Bar will adhere to the higher standard of conduct which judges, lawyers, clients, and the public may rightfully expect.

Attorneys who abide faithfully by the standards we adopt should have little difficulty conducting themselves as members of a learned profession whose unswerving duty is to the public they serve and to the system of justice in which they practice. [FN9] Those litigators who persist in viewing themselves solely as combatants, or who perceive that they are retained to win at all costs without regard to fundamental principles of justice, will find that their conduct does not square with the practices we expect of them. Malfeasant counsel can expect instead that their conduct will prompt an appropriate response from the court, including the

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range of sanctions the Fifth Circuit suggests in the Rule 11 context: "a warm friendly discussion on the record, a hard-nosed reprimand in open court, compulsory legal education, monetary sanctions, or other measures appropriate to the circumstances." Thomas, 836 F.2d at 878. [FN10]

FN9. We note that these standards are consistent with both the American Bar Association and State Bar of Texas Codes of Professional Responsibility. *See, e.g.,* ethical considerations EC 7-10, EC 7-36, EC 7- 37, and EC 7-38 set out in the appendix.

FN10. We draw the parallel to Fed.R.Civ.P. 11 with the *caveat* that we are not adopting Rule 11 jurisprudence in the context presented here.

We do not, by adopting these standards, invite satellite litigation of the kind we now see in the context of Fed.R.Civ.P. 11 motions. To do so would defeat the fundamental premise which motivates our action. We do intend, however, to take the steps necessary to ensure that justice is not removed from the reach of litigants either because improper litigation tactics interpose unnecessary delay or because such actions increase the cost of litigation beyond the litigant's financial grasp. [FN11]

FN11. We note, by way of example, the Dallas Bar Association guideline that eliminates the necessity for motions, briefs, hearings, orders, and other formalities when "opposing counsel makes a reasonable request which does not prejudice the rights of the client." This salutary standard recognizes that every contested motion, however simple, costs litigants and the court time and money. Yet our court has experienced an increasing number of instances in which attorneys refuse to agree to an extension of time in which to answer or to respond to a dispositive motion, or even to consent to the filing of an amended pleading, notwithstanding that the extension of time or the amended pleading would delay neither the disposition of a pending matter nor the trial of the case.

Similarly, we do not imply by prescribing these standards that counsel are excused from conducting themselves in any manner otherwise required by law or by court rule. We think the standards we now adopt are a ***289** necessary corollary to existing law, and are appropriately established to signal our strong disapproval of practices that have no place in our system of justice and to emphasize that a lawyer's conduct, both with respect to the court and to other lawyers, should at all times be characterized by honesty and fair play.

III.

The *Dondi Properties* motions referred to the magistrate for determination raise issues concerning plaintiffs' compliance with prior discovery orders of the court and the conduct of one of plaintiffs' attorneys in contacting a possible witness.

A.
Discovery Issues

[2] Although in excess of 20 pleadings and letters from counsel have been presented to the court involving various defendants' motions for sanctions, the common denominator of all is whether or not plaintiffs have complied with the previous discovery orders of the magistrate.

The case at hand presents complex legal and factual theories involving hundreds of thousands of documents. The logistical problems presented in discovery are compounded by several factors, among them being that (a) none of the Receiver (FSLIC)'s employees were employed by either Vernon Savings and Loan Association, FSA, or its predecessor; (b) prior to the Receiver's receipt of documents they were not kept in a complete and orderly manner; (c) that plaintiffs have had three sets of attorneys of record in this case; and (d) plaintiffs and their counsel, past and present, have not taken adequate measures to assure compliance with the court's prior orders.

In seeking dismissal of plaintiffs' case, the moving defendants have categorized plaintiffs' conduct and that of their counsel as being in "bad faith" and "in defiance" of the court's prior orders. Such characterization of a party opponent's conduct should be sparingly employed by counsel and should be reserved for only those instances in which there is a sound basis in fact demonstrating a party's deliberate and intentional disregard of an order of the court or of obligations imposed under applicable Federal Rules of Civil Procedure. Such allegations, when inappropriately made, add much heat but little light to the court's task of deciding discovery disputes.

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Although there are conceded instances of neglect on the part of plaintiffs and their counsel and instances of lack of communication or miscommunication among counsel for the parties in the present discovery disputes, there is no showing of intentional or willful conduct on the part of plaintiffs or their counsel which warrants dismissal under Rule 37(b), Federal Rules of Civil Procedure. However, the disputes which exist amply demonstrate an inadequate utilization of Local Rule 5.1(a). [FN12]

FN12. In part Local Rule 5.1(a) reads as follows: "Before filing a motion, counsel for a moving party shall confer with the counsel of all parties affected by the requested relief to determine whether or not the contemplated motion will be opposed."

Local Rule 5.1(a) implicitly recognizes that in general the rules dealing with discovery in federal cases are to be self-executing. The purpose of the conference requirement is to promote a frank exchange between counsel to resolve issues by agreement or to at least narrow and focus the matters in controversy before judicial resolution is sought. Regrettably over the years, in many instances the conference requirement seems to have evolved into a *pro forma* matter. With increased frequency I observe instances in which discovery disputes are resolved by the affected parties after a hearing has been set-- sometimes within minutes before the hearing is to commence. If disputes can be resolved after motions have been filed, it follows that in all but the most extraordinary circumstances, they could have been resolved in the course of Rule 5.1(a) conferences.

A conference requires the participation of counsel for all affected parties. An attorney's refusal to return a call requesting a Rule 5.1(a) conference will not be ***290** tolerated. Of course, the conference requirement may be satisfied by a written communication as well. The manner in which the conference is held and the length of the conference will be dictated by the complexity of the issues and the sound judgment of attorneys in their capacities as advocates as well as officers of the court, with the objective of maximizing the resolution of disputes without court intervention. Properly utilized Rule 5.1(a) promotes judicial economy while at the same time reducing litigants' expenses incurred for attorneys' time in briefing issues and in preparing and presenting pleadings. [FN13]

FN13. When Rule 5.1(a) conferences result in agreements, counsel may wish to memorialize such agreements in writing.

Because the present controversies may well be resolved, or appreciably narrowed, following further communications among counsel and because the court is not presented with circumstances which warrant dismissal under Rule 37, the movant defendants' motions will be denied at this time.

B.
Motion for Sanctions

[3] In their motion filed on May 18, 1988, defendants, Goldman, Stool, AMF Partnership Ltd., et al. (the Stool defendants) seek an order sanctioning the conduct of David Hammond, an attorney practicing with the firm which is counsel of record for plaintiffs.

The undisputed facts are that on or about May 9, 1988, plaintiffs' attorney had a telephone conversation with Carl Edwards in which the attorney made inquiries about transactions pertinent to the present case, but the attorney did not identify himself as an attorney representing the plaintiffs.

As stated in the opinion issued in Ceramco, Inc. v. Lee Pharmaceuticals, 510 F.2d 268, 271 (2d Cir.1975): "the courts have not only the supervisory power but also the duty and responsibility to disqualify counsel for unethical conduct *prejudicial to his adversaries*." (Emphasis added). However, in the present case movants do not seek to disqualify plaintiffs' counsel nor have they shown any prejudice resulting from the communication. Except in those instances in which an attorney's conduct prejudicially affects the interests of a party opponent or impairs the administration of justice, adjudication of alleged ethical violations is more appropriately left to grievance committees constituted for such purpose. Deferring to such bodies permits proper resolution of attorneys' conduct while at the same time relieving courts of deciding matters which are unrelated or at most peripheral to the cases before them. As reflected in the pleadings pertinent to this motion, there are both legal issues and factual conflicts which must be resolved in deciding whether ethical standards were violated. Indeed, following the filing of the motion movants have sought to depose the attorney whose conduct is at issue, which has in turn precipitated a motion for protective order filed by the plaintiffs.

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Insuring that members of the legal profession comply with ethical standards should be a matter of concern to all attorneys, and alleged breaches should be brought to the attention of the grievance committee by an attorney without charge to a client, which is appropriate only when resolution by a court is warranted. *Ceramco, Inc., supra*. By the same token, absent a motion to disqualify, which if granted would adversely affect his client's interests, an attorney whose conduct is called into question must himself bear the cost of defending his actions before a grievance committee.

For the foregoing reasons movants' motion for sanctions will be denied, but without prejudice to their counsel's right to present the allegations of misconduct to the grievance committee. The refusal to grant sanctions should not be understood as condoning an attorney's failure to identify himself and his client to a prospective witness. Had the attorney done so in the present case, the present issue may not ***291** have arisen. An attorney is held to a higher standard of conduct than non-lawyers, and unlike non-lawyers, if rebuffed by a prospective witness, the attorney may use available discovery procedures to obtain the information sought.

It is, therefore, ordered that the defendants' motions relating to discovery are denied, but without prejudice to their right to file subsequent motions, if disputes remain after their counsel and plaintiffs' counsel have engaged in a Rule 5.1(a) conference consistent with this order.

It is further ordered that the Stool defendants' motion for sanctions against plaintiffs' attorney is denied, but without prejudice to presentation of the issues raised to the appropriate grievance committee.

It is further ordered that neither the Stool defendants' counsel nor the plaintiffs' attorneys will charge their clients for any time or expenses incurred relating in any manner to the Stool defendants' motion for sanctions against plaintiffs' attorney.

IV.

[4] In *Knight*, plaintiff moves to strike a reply brief that defendant filed without the court's permission. In the alternative, plaintiff seeks leave to file a response to the reply brief.

A.

It is undisputed that defendant did not obtain court permission to reply to plaintiff's response to defendant's motions for separate trials and to join a party. Defendant explains in its response to the motion to strike that "because of the flurry of activity in this case, it failed to secure permission from the Presiding Judge to file the reply." Although defendant clearly violated a Local Rule of this court, the court concludes that the error did not warrant plaintiff's filing a motion to strike.

The en banc court has adopted standards of civil litigation conduct that apply to attorneys who practice before this court. One standard requires that attorneys cooperate with one another in order to promote "the efficient administration of our system of justice." This and the other standards adopted by the court attempt to satisfy the goals of reducing litigation costs and expediting the resolution of civil actions. The attorneys in *Knight* did not cooperate in connection with the filing of the reply brief, and there resulted a dispute that has presumably increased counsel's fees to their clients, has unquestionably required of the court an unnecessary expenditure of time, and has not materially advanced the resolution of the merits of this case.

In Local Rule 5.1 we have established the briefing and decisional regimens for contested motions. Rules 5.1(a), (c), and (d) prescribe the movant's obligations. Rule 5.1(e) dictates the deadline for filing a response and provides when contested motions shall be deemed ready for disposition. A movant may not, as of right, file a reply to a response; instead, Rule 5.1(f) requires the movant to obtain permission to do so immediately upon receipt of a response. In the present case, defendant's counsel failed to cooperate with plaintiff's counsel because he did not ask him to agree [FN14] to the filing of a reply. Plaintiff's counsel failed to cooperate when he filed the motion to strike the reply. [FN15]

FN14. The court is not to be understood as holding that the parties can, by agreement, bind the presiding judge to grant permission to file a reply. Where the parties have so agreed, however, the court will usually grant such permission.

FN15. Plaintiff's motion to strike contains a certificate of conference that states that defendant and plaintiff could not agree regarding the motion to strike. Defendant disputes in its response that plaintiff and defendant had such a conference, but states that had there been one, defendant would

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have opposed the motion to strike.

While our court has decided that the determination whether to permit a reply is discretionary with each judge, the principle is well-established that the party with the burden on a particular matter will normally be permitted to open and close the briefing. *See, e.g.*, Sup.Ct.R. 35(3); Fed.R.App.P. 28(c). It should thus be rare that a party ***292** who opposes a motion will object to the movant's filing a reply.

In the present case, the parties have presumably incurred the expense of preparing, and the court has expended time considering, pleadings that go *not* to a question that will advance the merits of this case but instead to a collateral determination whether the court should consider a particular pleading. In isolation, such expenditures may appear inconsequential. Considered in the proper context of numerous civil actions and frequent disputes, it is apparent that cooperation between opposing counsel is essential to the efficient operation of our justice system.

B.

Turning to the merits of the motion to strike, the court concludes that the reply brief should not be stricken and that plaintiff should not be permitted to file a further response. Although defendant did not immediately seek permission to file a reply, the court has yet to consider the underlying substantive motions; it thus will not interfere with the court's decisional process to consider the reply. The court declines to permit plaintiff to file a further response because the burden on the motions is upon the defendant, who should thus be given the opportunity to open and close the argument.

SO ORDERED.

APPENDIX

Excerpts from the **Dallas Bar Association Guidelines of Professional Courtesy**

PREAMBLE

A lawyer's primary duty is to the client. But in striving to fulfill that duty, a lawyer must be ever conscious of the broader duty to the judicial system that serves both attorney and client.

A lawyer owes, to the judiciary, candor, diligence and utmost respect.

A lawyer owes, to opposing counsel, a duty of courtesy and cooperation, the observance of which is necessary for the efficient administration of our system of justice and the respect of the public it serves.

A lawyer unquestionably owes, to the administration of justice, the fundamental duties of personal dignity and professional integrity.

In furtherance of these fundamental concepts, the following Guidelines of Professional Courtesy are hereby adopted.

COURTESY, CIVILITY AND PROFESSIONALISM

1. General Statement

(a) Lawyers should treat each other, the opposing party, the court and members of the court staff with courtesy and civility and conduct themselves in a professional manner at all times.

(b) The client has no right to demand that counsel abuse the opposite party or indulge in offensive conduct. A lawyer shall always treat adverse witnesses and suitors with fairness and due consideration.

(c) In adversary proceedings, clients are litigants and though ill feeling may exist between clients, such ill feeling should not influence a lawyer's conduct, attitude, or demeanor towards opposing lawyers.

2. Discussion

(a) A lawyer should not engage in discourtesies or offensive conduct with opposing counsel, whether at hearings, depositions or at any other time when involved in the representation of clients. In all contacts with the court and court personnel, counsel should treat the court and its staff with courtesy and respect and without regard to whether counsel agrees or disagrees with rulings of the court in any specific case. Further, counsel should not denigrate the court or opposing counsel in private conversations with their own client. We should all remember that the disrespect we bring upon our fellow members of the Bar and the judiciary reflects ***293** on us and our profession as well.

(b) Lawyers should be punctual in fulfilling all professional commitments and in communicating with the court and fellow lawyers.

DEPOSITIONS, HEARINGS, AND DISCOVERY MATTERS

1. General Statement

(a) Lawyers should make reasonable efforts to conduct all discovery by agreement.

(b) A lawyer should not use any form of discovery, or the scheduling of discovery, as a means of

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harassing opposing counsel or his client.
(c) Requests for production should not be excessive or designed solely to place a burden on the opposing party, for such conduct in discovery only increases the cost, duration, and unpleasantness of any case.

2. Scheduling Lawyers should, when practical, consult with opposing counsel before scheduling hearings and depositions in a good faith attempt to avoid scheduling conflicts.

3. Discussion
(a) General Guidelines
(1) When scheduling hearings and depositions, lawyers should communicate with the opposing counsel in an attempt to schedule them at a mutually agreeable time. This practice will avoid unnecessary delays, expense to clients, and stress to lawyers and their secretaries in the management of the calendars and practice.
(2) If a request is made to clear time for a hearing or deposition, the lawyer to whom the request is made should confirm that the time is available or advise of a conflict within a reasonable time (preferably the same business day, but in any event before the end of the following business day).
(3) Conflicts should be indicated only when they actually exist and the requested time is not available. The courtesy requested by this guideline should not be used for the purpose of obtaining delay or any unfair advantage.
(b) Exceptions to General Guidelines
(1) A lawyer who has attempted to comply with this rule is justified in setting a hearing or deposition without agreement from opposing counsel if opposing counsel fails or refuses promptly to accept or reject a time offered for hearing or deposition.
(2) If opposing counsel raises an unreasonable number of calendar conflicts, a lawyer is justified in setting a hearing or deposition without agreement from opposing counsel.
(3) If opposing counsel has consistently failed to comply with this guideline, a lawyer is justified in setting a hearing or deposition without agreement from opposing counsel.
(4) When an action involves so many lawyers that compliance with this guideline appears to be impractical, a lawyer should still make a good faith attempt to comply with this guideline.
(5) In cases involving extraordinary remedies where time associated with scheduling agreements could cause damage or harm to a client's case, then a lawyer is justified in setting a hearing or deposition without agreement from opposing counsel.

***294** 4. Minimum Notice for Depositions and Hearings
(a) Depositions and hearings should not be set with less than one week notice except by agreement of counsel or when a genuine need or emergency exists.
(b) If opposing counsel makes a reasonable request which does not prejudice the rights of the client, compliance herewith is appropriate without motions, briefs, hearings, orders and other formalities and without attempting to exact unrelated or unreasonable consideration.

5. Cancelling Depositions, Hearings and Other Discovery Matters
(a) General Statement Notice of cancellation of depositions and hearings should be given to thecourt and opposing counsel at the earliest possible time.
(b) Discussion
(1) Calling at or just prior to the time of a scheduled hearing or deposition to advise the court or opposing counsel of the cancellation lacks courtesy and consideration.
(2) Early notice of cancellation of a deposition or a hearing avoids unnecessary travel and expenditure of time by opposing counsel, witnesses, and parties. Also, early notice of cancellation of hearings to the Court allows the time previously reserved to be used for other matters.

* * *

TIME DEADLINES AND EXTENSIONS

1. General Statement Reasonable extensions of time should be granted to opposing counsel where such extension will not have a material, adverse effect on the rights of the client.

2. Discussion
(a) Because we all live in a world of deadlines, additional time is often required to complete a given task.
(b) Traditionally, members of this bar association have readily granted any reasonable request for an extension of time as an accommodation to opposing counsel who, because of a busy trial schedule, personal emergency or heavy work load, needs additional time to prepare a response or comply with a legal requirement.
(c) This tradition should continue; provided, however, that no lawyer should request an extension of time solely for the purpose of delay or to obtain any unfair advantage.

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(d) Counsel should make every effort to honor previously scheduled vacations of opposing counsel which dates have been established in good faith.

* * *

Dallas Bar Association Lawyer's Creed:

1. I revere the Law, the System, and the Profession, and I pledge that in my private and professional life, and in my dealings with fellow members of the Bar, I will uphold the dignity and respect of each in my behavior toward others.

2. In all dealings with fellow members of the Bar, I will be guided by a fundamental sense of integrity and fair play; I know that effective advocacy does not mean hitting below the belt.

3. I will not abuse the System or the Profession by pursuing or opposing discovery through arbitrariness or for the purpose of harassment or undue delay.

4. I will not seek accommodation from a fellow member of the Bar for the rescheduling of any Court setting or discovery ***295** unless a legitimate need exists. I will not misrepresent conflicts, nor will I ask for accommodation for the purpose of tactical advantage or undue delay.

5. In my dealings with the Court and with fellow counsel, as well as others, my word is my bond.

6. I will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party.

7. I recognize that my conduct is not governed solely by the Code of Professional Responsibility, but also by standards of fundamental decency and courtesy.

8. I will strive to be punctual in communications with others and in honoring scheduled appearances, and I recognize that neglect and tardiness are demeaning to me and to the Profession.

9. If a fellow member of the Bar makes a just request for cooperation, or seeks scheduling accommodation, I will not arbitrarily or unreasonably withhold consent.

10. I recognize that effective advocacy does not require antagonistic or obnoxious behavior, and as a member of the Bar, I pledge to adhere to the higher standard of conduct which we, our clients, and the public may rightfully expect.

The **American College of Trial Lawyers' Code of Trial Conduct** (rev. 1987) provides, in pertinent part:

PREAMBLE

Lawyers who engage in trial work have a specific responsibility to strive for prompt, efficient, ethical, fair and just disposition of litigation....

* * *

To his client, a lawyer owes undivided allegiance, the utmost application of his learning, skill and industry, and the employment of all appropriate legal means within the law to protect and enforce legitimate interests. In the discharge of this duty, a lawyer should not be deterred by any real or fancied fear of judicial disfavor, or public unpopularity, nor should he be influenced directly or indirectly by any considerations of self-interest.

To opposing counsel, a lawyer owes the duty of courtesy, candor in the pursuit of the truth, cooperation in all respects not inconsistent with his client's interests and scrupulous observance of all mutual understandings.

To the office of judge, a lawyer owes respect, diligence, candor and punctuality, the maintenance of the dignity and independence of the judiciary, and protection against unjust and improper criticism and attack, and the judge, to render effective such conduct, has reciprocal responsibilities to uphold and protect the dignity and independence of the lawyer who is also an officer of the court.

To the administration of justice, a lawyer owes the maintenance of professional dignity and independence. He should abide by these tenets and conform to the highest principles of professional rectitude irrespective of the desires of his client or others.

This Code expresses only minimum standards and should be construed liberally in favor of its fundamental purpose, consonant with the fiduciary status ***296** of the trial lawyer, and so that it shall govern all situations whether or not specifically mentioned herein.

* * *

12. DISCRETION IN COOPERATING WITH OPPOSING COUNSEL

The lawyer, and not the client, has the sole discretion to determine the accommodations to be granted opposing counsel in all matters not directly affecting the merits of the cause or prejudicing the client's rights, such as extensions of time, continuances, adjournments and admission of facts. In such matters no client has a right to demand that his counsel shall be illiberal or that he do anything

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therein repugnant to his own sense of honor and propriety.

13. RELATIONS WITH OPPOSING COUNSEL

(a) A lawyer should adhere strictly to all express promises to and agreements with opposing counsel, whether oral or in writing, and should adhere in good faith to all agreements implied by the circumstances or by local custom. When he knows the identity of a lawyer representing an opposing party, he should not take advantage of the lawyer by causing any default or dismissal to be entered without first inquiring about the opposing lawyer's intention to proceed.

(b) A lawyer should avoid disparaging personal remarks or acrimony toward opposing counsel, and should remain wholly uninfluenced by any ill feeling between the respective clients. He should abstain from any allusion to personal peculiarities and idiosyncracies of opposing counsel.

* * *

American Bar Association and **State Bar of Texas Codes of Professional Responsibility** ethical considerations:

EC 7-10. The duty of a lawyer to represent his client with zeal does not militate against his concurrent obligation to treat with consideration all persons involved in the legal process and to avoid the infliction of needless harm.

EC 7-36. Judicial hearings ought to be conducted through dignified and orderly procedures designed to protect the rights of all parties. Although a lawyer has the duty to represent his client zealously, he should not engage in any conduct that offends the dignity and decorum of proceedings. While maintaining his independence, a lawyer should be respectful, courteous, and above-board in his relations with a judge or hearing officer before whom he appears. He should avoid undue solicitude for the comfort or convenience of judge or jury and should avoid any other conduct calculated to gain special consideration.

EC 7-37. In adversary proceedings, clients are litigants and though ill feeling may exist between clients, such ill feeling should not influence a lawyer in his conduct, attitude, and demeanor towards opposing lawyers. A lawyer should not make unfair or derogatory personal reference to opposing counsel. Haranguing and offensive tactics by lawyers interfere with the orderly administration of justice and have no proper place in our legal system.

EC 7-38. A lawyer should be courteous to opposing counsel and should accede to reasonable requests regarding court proceedings, settings, continuances, waiver of procedural formalities, and similar matters which do not prejudice the rights of his client. He should follow local customs of courtesy or practice, unless he gives timely notice to opposing counsel of his intention not to do so. A lawyer should be punctual in fulfilling all professional commitments.

EC 7-39. In the final analysis, proper functioning of the adversary system depends upon cooperation between lawyers and tribunals in utilizing procedures which will preserve the impartiality of the tribunal and make their decisional processes prompt and just, without impinging upon the obligation of the lawyer to represent his client zealously within the framework of the law.

END OF DOCUMENT

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