



Copies:

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District Court Rules Civ. Proc., Rule 1.1.  
SCOPE OF RULES

- (a) **Title and Citation.** These Rules shall be known as the Local Rules of Civil Procedure of the District Court of the Virgin Islands. They shall be cited as ‘LRCi.’
- (b) **Scope of Rules.** These Rules apply in all proceedings in civil actions. Rules 72.1 to 72.3 and 73.1 to 73.2 govern proceedings before Magistrate Judges.
- (c) **Effective Date.** These Rules become effective on April 23, 2021.
- (d) **Relationship to Prior Rules. Actions Pending on Effective Date.** These Rules supersede all previous civil rules promulgated by this Court or any Judge of this Court. They govern all applicable proceedings brought in this Court after they take effect. They also apply to all proceedings pending at the time they take effect, except to the extent that in the opinion of the Court the application thereof would not be feasible or would work injustice, in which event the former rules govern.
- (e) **Rule of Construction.** United States Code, Title 1, Sections 1 through 5, shall, as far as applicable, govern the construction of these Rules.
- (f) **Modification.** The application of the Rules in any case or proceeding may be modified by the Court in the interests of justice.

District Court Rules Civ. Proc., Rule 1.2.  
AVAILABILITY OF THE LOCAL RULES

Copies of these Rules, as amended and with any appendices attached hereto, are available online at <http://www.vid.uscourts.gov>, or from the Clerk of Court’s office for a reasonable charge.

District Court Rules Civ. Proc., Rule 1.3  
CAMERAS AND PERSONAL ELECTRONIC DEVICES

The possession or use of cameras or Personal Electronic Devices in the United States Courthouse or anywhere that a judicial officer is holding a court proceeding is governed by General Order of the Court, which is available on the Court’s website and in the office of the Clerk of Court.

District Court Rules Civ. Proc., Rule 3.1.  
CIVIL COVER SHEET

- (a) Every complaint or other document initiating a civil action shall be accompanied by a completed civil cover sheet on a form available at the Court’s website. This requirement is solely for administrative purposes, and information appearing only on the civil cover sheet has no legal effect in the action.

- (b) If the complaint or other document is filed without a completed civil cover sheet, the Clerk of Court shall promptly give notice of the omission to the party filing the document and direct the party to file the missing documentation. Should the outstanding civil cover sheet not be filed within three days, the Court may dismiss the action.
- (c) Persons filing civil cases *pro se* are exempt from the foregoing requirements.

District Court Rules Civ. Proc., Rule 3.2.  
ALTERNATIVE DISPUTE RESOLUTION

Alternative dispute resolution (ADR) refers to a number of processes that can be used to resolve a dispute. Common forms of ADR include mediation, settlement conference, arbitration, early neutral evaluation and summary or mini trial. These processes are alternatives to having a judge or jury decide the dispute in a trial. While the procedures for mediation are set forth herein, the Court may adopt detailed procedures for other forms of ADR in the future.

Procedures for mediation:

- (a) Mediation is a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and non-adversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decision making authority rests with the parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem-solving and exploring settlement alternatives.
- (b) Except as hereinafter provided, the Court may order any contested civil matter or selected issue to be referred to mediation.
- (c) Mediation conferences shall take place on a date, and at a time and location, agreed to by the parties and the mediator, unless otherwise ordered by the Court.
- (d) The following actions shall not be referred to mediation:
  - (1) Criminal actions;
  - (2) Forfeitures of seized property; or
  - (3) Habeas corpus and extraordinary writ.
- (e) A party may move to dispense with mediation if:
  - (1) the issue to be considered has been previously mediated between the same parties;
  - (2) the issue presents a question of law only;
  - (3) the parties agree to an alternative method of dispute resolution; or
  - (4) other good cause is shown.

- (f) Any person of legal age who, in the opinion of the parties, is deemed qualified by training or experience to mediate all or some of the issues in the particular case may act as a mediator.
- (g) If the parties cannot agree upon a mediator, they shall jointly so notify the Court, which shall work with the parties in a manner determined by the Court to identify a mediator.
- (h) The mediator shall be compensated by the parties.
- (i) Mediators have a duty to define and describe the process of mediation and its costs at the first mediation conference. The mediator may meet and consult with the parties or their counsel, individually or collectively, on any issue pertaining to the subject matter of the mediation.
- (j) Mediators have a duty to disclose any fact that would be grounds for disqualification. Mediators have a duty to be impartial and to advise all parties of any circumstances suggesting possible bias, prejudice or lack of impartiality. Persons selected as mediators shall be disqualified for bias, prejudice or partiality, as provided by Title 28 U.S.C. Section 144, and shall disqualify themselves in any action in which they would be required under Title 28 U.S.C. Section 455 to disqualify themselves if they were a judge. Any party may move the Court to enter an order disqualifying a mediator for good cause.
- (k) Mediators acting pursuant to these rules shall have judicial immunity in the same manner and to the same extent as a judge.
- (l) Each party involved in a mediation conference must attend each mediation conference with full authority to settle without further consultation. If a party to mediation is a public entity, that party shall be deemed to appear at a mediation conference by the physical presence of a representative with full authority to negotiate on behalf of the entity and to recommend settlement to the appropriate decision-making body of the entity. Otherwise, unless stipulated by the parties, a party is deemed to appear at a mediation conference if the following persons are physically present:
  - (1) Each party or its representative (other than appearing counsel) having full authority to settle without further consultation; and,
  - (2) Counsel, if any, to each party.

By agreement between all parties and the mediator, any of the above-named individuals may appear by telephone or video-conference.

- (m) If a party, without good cause, fails to appear at a duly noticed mediation conference or fails to participate in the mediation in good faith, the Court may impose sanctions, including an award of mediator and attorney fees and other costs.
- (n) All communications made during a mediation proceeding are presumptively confidential and privileged. Parties, counsel and the mediator shall not disclose any such communications to anyone not participating in the mediation, including the Court, unless all parties consent to waive the privilege or as otherwise ordered by the Court.
- (o) Discovery may continue throughout mediation. Such discovery may be delayed or deferred by order of the Court.

- (p) Mediators may apply to the Court for interim or emergency relief at any time, at the initiation of the mediator after consultation with the parties, or at the parties' request. Mediation shall continue while such a motion is pending absent a contrary order of the Court or a decision of the mediator to adjourn pending disposition of the motion. Time for completing mediation shall be tolled during any periods where mediation is interrupted pending resolution of such a motion.
- (q) If the parties do not reach agreement as to any matter as a result of mediation, or if the mediator determines that no settlement is likely to result from the mediation, the mediator shall report the lack of an agreement to the Court without comment or recommendation. With the consent of the parties, the mediator's report may also identify any pending motions or outstanding legal issues, discovery process, or other action by any party which, if resolved or completed, would facilitate the possibility of a settlement.
- (r) If an agreement is reached, it shall be reduced to writing and signed by the parties and their counsel, if any. The agreement shall be filed when required by law, court order, or with the parties' consent. If the agreement is not filed, a joint stipulation of dismissal shall be filed. By stipulation of the parties, the agreement may be electronically recorded, and any transcript may be filed with the Court.

District Court Rules Civ. Proc., Rule 5.1.  
GENERAL FORMAT OF PAPERS PRESENTED FOR FILING

- (a) All pleadings, motions, and other papers presented for filing shall be double-spaced, except for quoted material. Each page shall be numbered consecutively. All documents shall be prepared in an 8-½ x 11-inch format and shall be plainly typewritten or printed in at least 12-point font, on a white background, or prepared by a clearly legible duplication process. Footnotes shall be in at least 10-point font and may be single-spaced.
- (b) This rule does not apply to:
  - (1) exhibits submitted for filing;
  - (2) documents filed in actions prior to removal from Superior Court; or
  - (3) *pro se* parties.

District Court Rules Civ. Proc., Rule 5.2.  
APPEARANCES; WITHDRAWAL AS COUNSEL

- (a) **Appearances.** The attorney for each party in any cause shall promptly file an appearance, giving the address where all notices and papers may be served upon the attorney. Only members of the Bar of this Court may appear as counsel in civil cases. Only individuals who are parties in civil cases may represent themselves. Other than in the case of an individual proceeding *pro se*, non-attorneys are not permitted to represent a party before this Court.
- (b) **Withdrawal.** No attorney may withdraw an appearance except (1) with leave of Court after notice to the attorney's client, or (2) as part of a formal substitution of new counsel for the withdrawing attorney.

All motions for withdrawal as counsel shall include a verified statement as to contact with or attempts to contact the client concerning such withdrawal and proof of service upon, or an indication of efforts to serve, the client with the moving papers.

**(1) Withdrawal of representation of an individual.** Unless otherwise directed by the Court, when an attorney representing an individual moves to withdraw as counsel for the individual, the Court will set a hearing on a motion to withdraw at which the individual represented must personally appear. Any request to appear by video or teleconference, in lieu of personal appearance, must be made by motion at least three days before the hearing and will be granted only upon a showing of good cause. If no substitute counsel has appeared on the party's behalf prior to the hearing, the party must acknowledge on the record that he or she understands that it is his or her responsibility to perform all duties imposed upon counsel by these Rules and all other applicable federal rules of procedure in the event the party is proceeding *pro se*.

**(2) Withdrawal of representation of an entity.** Withdrawal from representation of an entity defendant shall not be permitted absent substitute counsel making an appearance on the party's behalf or leave of Court. A motion seeking leave of Court to withdraw shall:

- (i) identify a current representative of the entity who has the authority to act for the entity;
- (ii) describe how that representative has been involved in communications relating to the litigation during the history of the litigation;
- (iii) indicate whether the entity continues to do business;
- (iv) state whether the entity has terminated counsel or whether it is counsel's decision to withdraw; and
- (v) provide such other information as may be relevant to assist in the Court's decision to allow counsel to withdraw.

The information required in 5.2(b)(2) may be submitted *in camera* to the extent necessary to protect attorney-client confidences or to avoid prejudicing the client's position in the litigation.

**(3) Factors considered by the Court.** In considering whether to allow an attorney to withdraw and leave an entity without counsel, the Court may consider:

- (i) the conduct of both the client and counsel that led to the motion to withdraw;
- (ii) whether such conduct is in good faith or for other purposes, such as delay;
- (iii) the effect of the withdrawal upon the administration of justice and the other parties to the litigation;
- (iv) whether counsel's ethical obligations preclude continued representation; and
- (v) any other relevant factor.

If the Court allows counsel to withdraw without a substitute, the Court will take appropriate measures to ensure that the entity is aware that the failure to retain substitute counsel within a time certain could result in the striking of its pleadings, the entry of default and/or entry of an adverse judgment against the entity.

District Court Rules Civ. Proc., Rule 5.3.  
COURT SERVICE THROUGH CLERK'S OFFICE BOXES  
[DELETED]

District Court Rules Civ. Proc., Rule 5.4.  
ELECTRONIC FILING

**(a) Scope of Electronic Filing.**

- (1) Except as provided by these Rules or by order of the Court, all cases are assigned to the Electronic Filing System. Unless otherwise provided by these Rules or by order of the Court, all pleadings and other documents required to be filed with the Court by a Filing User in connection with a case assigned to the Electronic Filing System must be electronically filed. All such materials shall be filed in accordance with these Rules and the District Court of the Virgin Islands Electronic Case Files User Manual located on the Court's website: <http://vid.uscourts.gov>.
- (2) Payment must be made when documents that require payment are filed electronically. Payment can be made by check, credit card, debit card, money order or by other methods of payment authorized by the Clerk. If payment is not received by the close of business on the next working day after filing, the Court shall take necessary action which may include striking the document or dismissal of the matter.
- (3) In a case assigned to the Electronic Filing System after it has been opened, parties who are Filing Users, or are represented by Filing Users, must promptly provide the Clerk with electronic copies of all documents previously provided in paper form on which they subsequently rely in electronically filed documents. All documents filed thereafter must be filed by Filing Users electronically except as provided in these Rules or as ordered by the Court.
- (4) In cases removed from the Superior Court of the Virgin Islands, the removing party must electronically file all removal documents required by 28 U.S.C. 1446. Prior to the initial conference required under Fed. R. Civ. P. Rule 16, the plaintiff in the removed case shall electronically file all documents that were filed in the Superior Court that were not filed by the removing party.

**(b) Eligibility, Registration, Passwords.**

- (1) Anyone registering to use the Court's Electronic Filing System shall register to do so using the form prescribed by the Clerk of Court. Once the registration form is completed and verified by the Clerk's Office, the Filing User must obtain a PACER account. Once the PACER account has been established, the Filing User must request permission to electronically file at the District Court of the Virgin Islands via their respective PACER account. The Clerk's Office will then approve the Filing User to file with the Court using the filer's Central Sign-on account.
- (2) If the Court permits, a party to a pending civil action who is eligible to proceed *pro se* may register as a Filing User in the Electronic Filing System solely for purposes of the action on a form prescribed by the Clerk and pursuant to the procedure outlined in LRCi 5.4(b)(1). If the party



retains an attorney who appears on the party's behalf during the action, the attorney must advise the Clerk to terminate the party's registration as a Filing User upon the attorney's appearance.

- (3) A *pro se* Filing User may withdraw from participation in the Electronic Filing System by providing the Clerk's Office with written notice of the withdrawal.
- (4) Registration as a Filing User constitutes consent to electronic service of all documents as provided in these Rules and in accordance with the Federal Rules of Civil Procedure.

**(c) Consequences of Electronic Filing.**

- (1) Electronic transmission of a document to the Electronic Filing System consistent with these Rules, together with the transmission of a Notice of Electronic Filing from the Court, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure and these Rules, and constitutes entry of the document on the docket maintained by the Clerk under Federal Rule of Civil Procedure 79.
- (2) Before filing a scanned document with the Court, a Filing User must verify its legibility.
- (3) When a document has been filed electronically, the official record is the electronic document as stored by the Court, and the filing party is bound by that document. Except in the case of documents first filed in paper form and subsequently submitted electronically, a document filed electronically is deemed filed on the date and at the time stated on the Notice of Electronic Filing from the Court.
- (4) Filing a document electronically does not alter the filing deadline for that document. Unless otherwise ordered by the Court, a filing must be completed before 11:59 p.m. Atlantic Standard Time in order to be considered timely filed that day.

**(d) Entry of Court-Issued Documents.** All orders, decrees, judgments, and proceedings of the Court shall be filed in accordance with these Rules. Such filing shall constitute entry on the docket maintained by the Clerk under Federal Rules of Civil Procedure 58 and 79. All signed orders shall be filed electronically by the Court or Court personnel. Any order or other Court-issued document filed electronically without the original signature of a Judge or Clerk has the same force and effect as if the Judge or Clerk had signed a paper copy of the order.

- (1) Orders may also be issued as "text-only" entries on the docket, without an attached document. Such orders are official and binding.
- (2) The Court may sign, seal and issue a summons electronically, but a summons may not be served electronically unless the recipient of the summons has agreed to accept electronic service.
- (3) A Filing User submitting a document electronically that requires a Judge's or Clerk's signature must promptly email the document in Word or RTF format to the chambers email address for the Judge, or the general email address for the Clerk's Office, respectively.

**(e) Attachments and Exhibits.**

- (1) Filing Users must submit in electronic form all documents referenced as exhibits or attachments for which a hyperlink is not available, unless the Court permits conventional filing.
- (2) Each attachment or exhibit to a motion or response shall be filed as a separate subdocument to the main document that references the attachment or exhibit.
- (3) A Filing User must submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the Court. Excerpted material must be clearly and prominently identified as such. Filing Users who file excerpts of documents as exhibits or attachments under this Rule do so without prejudice to their right to timely file additional excerpts or the complete document.
- (4) Responding parties may timely file additional excerpts or the complete document that they believe are directly germane.
- (5) A Filing User must provide the complete document from which excerpts are made to parties known not to have a copy or upon request.
- (6) The Court may authorize or require parties to file additional excerpts or the complete document.

**(f) Sealed Documents.** Documents ordered to be placed under seal must be filed electronically, unless prohibited by law, as authorized by the Court. A motion to file documents under seal must be filed electronically unless prohibited by law. The order of the Court authorizing the filing of documents under seal must be filed electronically unless prohibited by law. If the sealed documents are filed conventionally, a paper copy of the order must be attached to the documents under seal and delivered to the Clerk.

**(g) Retention Requirements.** Documents (excluding depositions) that are electronically filed and require original signatures other than that of the Filing User must be maintained in paper form by the Filing User until five years after all time periods for appeals expire. On request of the Court, the Filing User must provide original documents for review.

**(h) Signatures.**

- (1) Electronically filed documents must include the Filing User's name, address (including email address), telephone number and the attorney's U.S. Virgin Islands bar registration number, if applicable. If an attorney is admitted *pro hac vice*, the electronically filed document must include this information for both local and *pro hac vice* counsel.
- (2) Documents of non-Filing Users must be signed.
- (3) Documents requiring signatures of more than one party must be electronically filed either by:
  - (i) submitting a scanned document containing all necessary signatures;
  - (ii) representing the consent of the other parties to affixing their signatures on the document; or
  - (iii) in any other manner approved by the Court.

**(i) Service of Documents by Electronic Means.**

- (1)** The “Notice of Electronic Filing” that is automatically generated by the Court’s Electronic Filing System, except as provided below, constitutes service of the filed document on Filing Users. Parties who are not Filing Users must be served with a copy of any pleading or other document filed electronically, together with the Notice of Electronic Filing, by an alternate method in accordance with the Federal Rules of Civil Procedure and these Rules.
- (2)** In the absence of electronic filing, service of any sealed document by an alternate method, in accordance with the Federal Rules of Civil Procedure and these Rules, is required.
- (3)** A non-Filing User must include a certificate of service with all documents that are served that identifies the date and manner of service upon each party.
- (4)** In civil actions that include a non-Filing User, all Filing Users must include a certificate of service with all documents that are served that identifies the date and manner of service upon the non-Filing User. The certificate of service need not include parties served through the Court’s electronic-filing system.

**(j) Notice of Court Orders and Judgments.** Immediately upon the entry of an order or judgment in an action assigned to the Electronic Filing System, the Clerk shall transmit to Filing Users in the case, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Federal Rule of Civil Procedure 77(d). The Clerk must give notice in paper form to a person who has not consented to electronic service in accordance with the Federal Rules of Civil Procedure.

**(k) Technical Failures.** A Filing User whose filing is made untimely as the result of a technical failure and who is unable to make a timely filing by traditional means must seek appropriate relief from the Court.

**(l) Public Access.** Responsibility for redacting the personal identifiers set forth in Federal Rule of Civil Procedure 5.2(a) rests solely with counsel and the parties. The Clerk will not review documents for compliance with this Rule.

**(m) Hyperlinks.**

**(1)** Electronically filed documents may contain the following types of hyperlinks:

- (i)** Hyperlinks to other portions of the same document and/or, where possible, other documents within the CM/ECF system; and
- (ii)** Hyperlinks to a location on the Internet that contains a source document for a citation.

**(2)** Hyperlinks to cited authority do not replace standard citation format. Complete citations must be included in the text of the filed document.

**(3)** Neither a hyperlink to a location on the Internet (other than documents within the CM/ECF system), nor any site to which it refers, is part of the record. Hyperlinks are simply convenient

mechanisms for accessing material cited in a filed document. The citation to such hyperlinks shall be followed by the date the hyperlink was last accessed. If a party wishes to make the content of an Internet site a part of the record, it should use an appropriate method to capture the content and attach the content as an exhibit or attachment to the document being filed. Admissibility of such content is governed by the Federal Rules of Evidence.

District Court Rules Civ. Proc., Rule 6.1.

TIME LIMITS

- (a) **Legal Holidays.** As used in Federal Rules of Civil Procedure 6(a) and 77(c) "legal holiday" includes, in addition to the days set forth in those Rules, any other day on which both divisions of the District Court of the Virgin Islands are closed.
- (b) **Time Periods.** The following time periods for filing motions, responses and replies shall apply:
- (1) Motions filed pursuant to Federal Rule of Civil Procedure 12: any party responding to a motion submitted under this Rule may file a response (and other supporting documents as appropriate) within 21 days of the filing of the motion; any reply shall be filed within 14 days of the filing of a response.
  - (2) Motions for summary judgment filed pursuant to Federal Rule of Civil Procedure 56: any party responding to a motion filed under this Rule may file a response, affidavits and other supporting documents within 21 days of the filing of the motion; any reply shall be filed within 14 days of the filing of a response.
  - (3) Motions for reconsideration under Local Rule 7.3 shall be filed within 14 days after the entry of the applicable order or decision unless the time is extended by the Court. Extensions will only be granted for good cause shown. Any response may be filed no later than 14 days after service of the motion. Any reply shall be filed within seven days of the filing of a response.
  - (4) All motions *in limine* shall be filed no later than 21 days before the day scheduled for jury selection, or at such time as the Court may direct, absent good cause shown in a timely written motion to file out of time.
  - (5) Except as provided in LRCi 6.1(b)(1) and (2) or otherwise provided by order of Court, a party shall file a response within 14 days after service of the motion. A party shall file a reply, if any, within seven days after service of the response. The Court may specify a shorter period of time or, on motion, grant additional time.
  - (6) Nothing herein shall prohibit the Court from ruling without a response or reply when deemed appropriate.
  - (7) No party may amend the deadlines for the filing of motions or responses thereto if the Court has issued an order setting such deadlines. In the absence of such an order, a party may seek an extension from the other party of the deadline otherwise prescribed in this Rule. When a party requests an extension of time from the other party, the parties shall first make a good faith effort

to negotiate a reasonable extension which shall not exceed 30 days from the deadline otherwise prescribed in this Rule. Only one such extension for the motion, response, or reply in question is permitted. The party seeking the extension must file notice of any such negotiated extension before the filing date prescribed in this Rule. If the parties cannot agree, the party seeking an extension may apply to the Court. If the Court grants the application, the parties may not thereafter alter the deadlines set by the Court without leave of the Court.

District Court Rules Civ. Proc., Rule 7.1.

MOTIONS

- (a) **Motion, Response and Reply.** Only a motion with memorandum in support, a memorandum in response, a reply memorandum, a proposed order, and supporting documents to the motion or memorandum may be filed with the Court. Any further response or reply may be made only by leave of Court obtained before filing.
- (b) **Supporting Documents.** Documents supporting allegations of fact not appearing of record that are relied upon in support of a motion, response or reply shall be filed as attachments to the document in which the allegation of fact appears, or shall be filed as soon thereafter as they become available.
- (c) **Memoranda.**
  - (1) **Memorandum in Support of Motion.** Motions shall be filed separately from the memorandum in support of the motion; provided, however, that the motion and memorandum in support may be submitted as a single document if the combined document does not exceed five pages in length. The motion shall contain a brief statement of the relief requested. The memorandum shall contain the argument in support of the motion, including citation to relevant legal authority.
  - (2) **Memorandum in Response.** A response to a motion shall contain argument setting forth the party's position, including citation to relevant legal authority.
  - (3) **Reply Memorandum.** A reply shall respond to the arguments presented in the memorandum in response and shall not raise new issues that do not respond to the arguments.
  - (4) **Page Limit.** With the exception of exhibits and other supporting documentation, no document filed with the Court shall exceed 20 pages without leave of Court, sought at least two days prior to the filing of the document. The page limitation applies only to the substantive portions of the filing and therefore does not include, for example, the case caption, signature block and the certificate of service or consultation.
- (d) **Request for Oral Argument.** A request for oral argument shall be separately stated by the movant or respondent at the conclusion of the motion or response.
- (e) **Draft orders.** All motions shall be accompanied by a draft order that sets forth specifically the relief requested. In the case of a request for the extension of any deadline, the draft order shall set forth the actual date of the new deadline rather than stating that the existing deadline is extended by a certain number of days.

- (f) **Seeking concurrence to a non-dispositive motion.** Unless exigent circumstances exist, all non-dispositive motions shall contain a representation that the movant sought concurrence in the motion from each party, and that it has been either given or denied.
- (g) **Motions to continue.** Unless there are exigent circumstances, prior to seeking a continuance of a proceeding, the movant shall consult the other parties and propose in the motion several alternative dates and times (if appropriate) that are agreeable to all parties.
- (h) **Post-Trial Motions.** All post-trial motions that seek to affect a judgment, such as those filed pursuant to Federal Rules of Civil Procedure 50, 59, and 60, and Federal Rule of Criminal Procedure 29, shall include citations to the specific portions of the record upon which the proponent relies in support of the motion. Any necessary transcripts must be ordered promptly in order to facilitate the timely filing of the motion. By leave of Court, and for good cause shown, the record citations may be included in a subsequently filed supplement to the motion. Failure to comply with this Rule may result in the Court striking such deficient motions as non-compliant.

District Court Rules Civ. Proc., Rule 7.3.  
MOTIONS FOR RECONSIDERATION

- (a) A party may file a motion asking the Court to reconsider its order or decision. Such motion shall be filed in accordance with LRCi 6.1(b)(3). A motion to reconsider shall be based on:
  - (1) an intervening change in controlling law;
  - (2) the availability of new evidence, or;
  - (3) the need to correct clear error or prevent manifest injustice.
- (b) A motion for reconsideration shall state whether it is based upon LRCi 7.3(a)(1), (2) or (3) and shall concisely identify, without argument, the relevant change in controlling law, the new evidence, or the clear error (as applicable). Any argument related to the motion shall be included in the separate memorandum required under LRCi 7.1(c)(1).
- (c) A motion for reconsideration shall include the following certification by counsel: “I express a belief, based on a reasoned and studied professional judgment, that the grounds for reconsideration set forth above are present in this case.”
- (d) *Pro se* litigants need only comply with subsections (a) and (b).

District Court Rules Civ. Proc. 8.1  
*LIS PENDENS*

- (a) A party who has filed a *lis pendens* relating to an action pending in this Court shall promptly file a notice in the action that identifies
  - (1) the property(ies) against which the *lis pendens* has been filed or recorded;

- (2) the jurisdiction and office in which the *lis pendens* has been filed or recorded; and
- (3) the identifying information assigned to the *lis pendens* (e.g., document number, recording book, etc.) by the office where the *lis pendens* is filed.

(b) The party shall attach a copy of the *lis pendens* to the notice.

District Court Rules Civ. Proc., Rule 9.1.  
SOCIAL SECURITY NUMBER IN SOCIAL SECURITY CASES

Any person seeking judicial review of a decision of the Secretary of Health and Human Services under Section 205(g) of the Social Security Act [42 U.S.C. § 405(g)] shall provide, on a separate paper attached to the complaint served on the Secretary of Health and Human Services, the social security number of the worker on whose wage record the application for benefits was filed. The person shall also state, in the complaint, that the social security number has been attached to the copy of the complaint served on the Secretary of Health and Human Services. Failure to provide a social security number to the Secretary of Health and Human Services will not be grounds for dismissal of the complaint.

District Court Rules Civ. Proc., Rule 11.1.  
CITATION OF AUTHORITY

By signing a motion or supporting memorandum or brief, an attorney certifies to the Court that:

- (a) the applicable law in this jurisdiction has been cited, including authority for and against the position being advocated by counsel;
- (b) the applicable law in this jurisdiction has been presented before law from another jurisdiction is cited. Counsel must file with the document a copy of any foreign law relied upon therein.

District Court Rules Civ. Proc., Rule 11.2.  
VIOLATIONS OF LOCAL RULES

In addition to sanctions under its inherent authority or other statute or rule, the Court may impose sanctions for violation of any Local Rule.

District Court Rules Civ. Proc., Rule 15.1.  
FORM OF A MOTION TO AMEND AND ITS SUPPORTING DOCUMENTATION

A party who moves to amend a pleading shall file the proposed amendment with the motion. Except as otherwise ordered by the Court, any amendment to a pleading, whether filed as a matter of course or upon a motion to amend, must reproduce the entire pleading as amended specifically delineating the changes or additions and may not incorporate any prior pleading by reference. A proffered amended pleading must note prominently on the first page the numbered amendment it represents; *i.e.*, 1st, 2nd, or 3rd amendment.

District Court Rules Civ. Proc., Rule 16.1.  
PRETRIAL PROCEDURE

- (a) **Discovery Memorandum.** All parties shall conduct discovery expeditiously and diligently. No less than three business days prior to the initial scheduling conference held pursuant to Federal Rule of Civil Procedure 16, or at such time as the Court may direct, each party shall file with the Court a discovery memorandum which shall include, but need not be limited to, the following items:
- (1) a brief statement of the facts underlying the claims or defenses in the action and of the legal issues in the case;
  - (2) a description of all discovery conducted by the party to date;
  - (3) a description of all discovery problems encountered to date, the efforts undertaken by the party to remedy these problems, and the party's suggested resolution of the problems;
  - (4) a description of the party's further discovery needs, including any special needs (e.g., videotape, telephone depositions, or problems with off island witnesses or documents, etc.);
  - (5) the party's estimate of the time needed to complete discovery;
  - (6) a statement regarding whether expert testimony will be necessary, and the party's anticipated schedule for retention of experts and submission of their reports;
  - (7) a statement regarding whether there should be any limitation placed upon use of any discovery device and, if so, the reason the limitation is sought; and
  - (8) any other information as the Court may direct.
- (b) **Joint Final Pretrial Order.** The proposed Joint Final Pretrial Order shall be prepared through cooperation of counsel within the deadlines and in accordance with instructions given by the Court. After each counsel has submitted the respective portions of the proposed pretrial order to other counsel, plaintiff's counsel shall convene a conference, in person or by telephone, to attempt to reconcile any matters on which there is a disagreement. After diligent efforts to resolve such disagreements, all areas of agreement or disagreement shall be noted in the proposed Joint Final Pretrial Order. The proposed Order shall be a single document reflecting efforts of all counsel, signed by all counsel of record, and then filed by plaintiff's counsel for review and entry by the Court. The Court may enforce the provisions and requirements of the Joint Final Pretrial Order by sanctions against counsel or the parties.
- (c) **Trial Briefs, Requests to Charge, Proposed Findings of Fact and Conclusions of Law.** No later than seven days before the date set for trial or at such time and in such manner as the Court may direct:
- (1) Each party must file a trial brief or memorandum with citations and authorities and arguments in support of the party's position on all disputed issues of law.



(2) In a jury case, each party must also file written requests for charge to the jury. Supplemental requests for charge may be submitted as permitted by the Court. All requests for charge must be plainly marked with the name and number of the case; shall contain citations of supporting authorities if any; shall designate the party submitting the same; and in the case of multiple requests by a party, shall be numbered in sequence.

(3) In a non-jury case, the litigants must file proposed Findings of Fact and Conclusions of Law.

**Appendix I to Rule 16.1** Instructions: [Please re-type completely.]

DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS AND ST. JOHN  
[or] DIVISION OF ST. CROIX

<p>[plaintiff name(s)],</p> <p style="text-align: center;">Plaintiff(s),</p> <p style="text-align: center;">v.</p> <p>[defendant name(s)],</p> <p style="text-align: center;">Defendant(s).</p>	Civil Action No.
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**JOINT FINAL PRETRIAL ORDER**

[Please retype the following statement]:The following shall constitute the Final Pretrial Order pursuant to Federal Rule of Civil Procedure 16(e), and this Final Pretrial Order shall govern the conduct of the trial of this case. Amendments to this order will be allowed only in exceptional circumstances to prevent manifest injustice.

APPEARANCES: [The names, addresses and telephone numbers of trial counsel shall be listed for each party and the identity of the party (or parties) represented shall be clearly stated.]

1. Nature of the Action and Jurisdiction of the Court: [Also include a short, plain statement of the case.]
2. Factual Contentions of Plaintiff(s): [Insert Name(s)] [Give all relevant facts, using separate sheet as a “rider” if necessary.]
3. Factual Contentions of Defendant(s): [Insert Name(s)] [Give all relevant facts using separate sheet as a “rider” if necessary.]

4. Factual Contentions of Defendant/Third-Party Plaintiff(s): [Insert Name(s)] [If not applicable, delete and renumber balance of order.]
5. Factual Contentions of Third-Party Defendant(s): [Insert Name(s)] [If not applicable, delete and renumber balance of order.]
6. Admissions and Stipulations: [Number each admission and stipulation separately. Plaintiff's counsel shall propose a reasonably full set of stipulations for defense consideration. Only the stipulations that are agreed to by all litigants may appear in the Final Order.]
7. Statement of Damages: [In every case, the statement of damages must be itemized and specific. In personal injury actions the medical specials, and any wage or other losses, should be itemized along with the nature, extent and duration of any alleged injuries. If monetary damages are not sought, the type of relief should be described.]
8. Amendments to the Pleadings: [Unless leave of court has been obtained to amend the pleadings, the Final Pretrial Order shall contain the statement: "No amendments to the pleadings shall be made."]
9. Statement of Legal Issues Presented: [Each party shall state the legal issues arising in its claim and/or defense.]
10. Legal Issues, Defenses or Claims to Be Abandoned: [Counsel should make efforts to eliminate claims and defenses that are not supported by the facts. Please see Federal Rule of Civil Procedure 11.]
11. Exhibits: [Each party shall list separately and describe with particularity each exhibit which it intends to use at the trial of this case. Any exhibit not listed may not be used as direct evidence, unless the existence of the exhibit despite due diligence was unknown to the party and its counsel at the time of submission of this order. Each party shall separately attach its Exhibit List; that listing shall serve as the party's Exhibit List at trial. If a party intends to use no exhibits at trial for any purpose, the party's Exhibit List shall so state. Exhibits should be premarked prior to trial in accordance with the Exhibit List.]
12. Additional Discovery: [Unless leave of court has been obtained to extend pretrial discovery, and it is so noted in the Final Pretrial Order, this order shall contain the statement: "All discovery is complete."]
13. Expert Witnesses: [For each party, the names of expert witnesses should be listed. Reference should be made to any prior order controlling the terms and conditions of experts' reports and testimony.]
14. Non-Expert Witnesses: [The name of each fact witness whom the party intends to call at trial shall be listed. No party shall call a witness at trial whose name does not appear on a witness list unless the existence of the potential witness was unknown to the party, despite due diligence, at the time of submission of this order.]
15. Special Problems: [Please state in detail any other special problems which require the Court's attention at the Final Pretrial Conference.]
16. Estimated Length of Trial: [Please indicate whether JURY or NON-JURY.] [Please give total estimated length of this trial. Assume that the trial is not bifurcated. If a hearing is required on any preliminary matter, please discuss this here.]

### Concluding Certification

[The following statement and signature blocks are to be retyped and appear at the conclusion of every Joint Final Pretrial Order immediately above counsels' signatures as illustrated below.]

We hereby certify by the affixing of our signatures to the Joint Final Pretrial Order that it reflects the efforts of all counsel and that we have carefully and completely reviewed all parts of this order prior to its submission to the Court. Further, it is acknowledged that amendments to this Pretrial Order will not be permitted except where the Court determines that manifest injustice would result if the amendment is not allowed.

Attorney(s) for Plaintiff(s): Attorney(s) for Defendant(s):\* Entry of the foregoing Joint Final Pretrial Order is hereby APPROVED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\*Please note that all counsel of record must sign this document. A proposed Final Pretrial Order not personally signed by the party (if *pro se*) or by an attorney who is a member of the bar of the District Court of the Virgin Islands is unacceptable.

### District Court Rules Civ. Proc., Rule 23.1. DESIGNATION OF "CLASS ACTION" IN THE CAPTION

In any case sought to be maintained as a class action, the complaint or other pleading asserting a class action shall include next to its caption, the legend "Class Action."

### District Court Rules Civ. Proc., Rule 24.1. PROCEDURE FOR NOTIFICATION OF CLAIM OF UNCONSTITUTIONALITY

- (a) In any action, suit, or proceeding in which the Territory or any agency, officer, or employee thereof is not a party, and in which the constitutionality of any statute of the Territory affecting the public interest is drawn into question, the party raising the constitutional issue shall notify the Court of the existence of the question both by checking the appropriate box on the Civil Cover Sheet and by stating on the pleading that alleges the unconstitutionality, immediately following the title of that pleading, "Claim of Unconstitutionality" or the equivalent.
- (b) Failure to notify the Court as provided in subsection (a) is not a waiver of any constitutional right otherwise timely asserted.

### District Court Rules Civ. Proc., Rule 26.1. DOCUMENT PRODUCTION; DOCUMENTS NOT FILED

- (a) When Federal Rule of Civil Procedure 5(d) forbids filing documents or other material in connection with disclosures or discovery requests and responses, a party serving such material shall promptly file a notice setting forth the nature of the material and the date on which it was served. The Clerk of Court shall return any documents or other material that are filed in violation of Federal Rule of Civil Procedure 5(d).
- (b) A party proceeding *pro se* shall file all discovery requests at the time of service.

District Court Rules Civ. Proc., Rule 26.2.  
PARTICIPATION LIMITS; DUPLICATIVE DISCLOSURES

- (a) **Depositions - Participation Limits.** No more than one attorney for each party may question the deponent, except as provided by stipulation of the parties or upon order of the Court.
- (b) **Stipulations Concerning Required Disclosures.** The parties may, by stipulation, extend the scope of disclosures under Federal Rule of Civil Procedure 26(a).
- (c) **Duty of Self-Executing Disclosure.** In complying with their obligations under Federal Rule of Civil Procedure 26(a)(1)(A), parties shall provide reports or documents received from insurers that bear on reservation of rights or denial of coverage.
- (d) **Duplicative Disclosure.** Duplicative disclosure is not required, and a statement that disclosure has already been made, and where it has been made, discharges the obligation imposed under Federal Rule of Civil Procedure 26.

District Court Rules Civ. Proc., Rule 26.3.  
EXPERT WITNESS - WRITTEN REPORT; VIDEO TAPING

- (a) **Testimony and the Expert's Written Report/Deposition.** The testimony of an expert witness at trial shall be based upon the opinions advanced in the written report disclosed under Federal Rule of Civil Procedure 26(a)(2) and/or the expert's deposition, if any. Experts shall not be permitted to testify on matters beyond the scope of the subjects and the opinions expressed in the referenced written report (or, if elicited on cross-examination, at a deposition).
- (b) **Video Taping of Expert Discovery.** Absent good cause shown, if a trial date has been set at least 45 days in advance, and the testimony of an expert witness has not been video-taped, and the witness is unavailable for the trial, the parties will be required to proceed to trial.
- (c) **Payment for Expert Witness Deposition.**
  - (1) Unless the parties have agreed to the contrary in writing, responsibility for compensating experts shall be according to Federal Rule of Civil Procedure 26(b)(4)(E). Unless otherwise provided by the Court, a proposed bill for the expert's charges must be provided to the party seeking discovery 20 days prior to the deposition. If the deposing party objects to the charges, prompt application shall be made to the Court to obtain a ruling on their reasonableness before the deposition.
  - (2) If an expert demands payment in advance of the deposition date, absent an agreement to the contrary, the party seeking discovery must advance or otherwise secure such sums.
  - (3) An expert's hourly rate for a deposition that exceeds the hourly rate for consulting with the party that retained the expert shall be presumptively unreasonable. Such a presumption is rebuttable.

District Court Rules Civ. Proc., Rule 26.4  
*DE BENE ESSE DEPOSITIONS*

- (a) **Without leave of Court.** *De bene esse* depositions shall be taken within the discovery deadlines established in the action. A *de bene esse* deposition taken solely for the purpose of authenticating records may be taken after the discovery deadline without leave of Court if the deposition is taken more than 28 days before the date scheduled for the start of the trial (or trial period, if applicable).
- (b) **With leave of Court.** Except as provided in subsection (a) *de bene esse* depositions require leave of Court. A party seeking leave of Court to take a *de bene esse* deposition shall have the burden of establishing to the Court's satisfaction that leave should be granted. Factors the Court may consider in determining whether or not leave should be granted include, without limitation, the following:
- (1) the importance of the witness' testimony to the movant's case;
  - (2) the effect of allowing the deposition on the other parties to the case, including upon their preparation for trial;
  - (3) the effect of allowing the deposition upon the administration of justice;
  - (4) whether the witness' lack of availability for trial was unexpected or known prior to the close of discovery; and
  - (5) whether the inability to compel the witness's testimony via subpoena was unexpected or known prior to the close of discovery.
- (c) **Expenses.** In the interest of fairness, the Court may require the moving party to pay the expenses and fees of the non-moving party(ies).
- (d) **Offer of Testimony.** A party who obtains leave of Court to take a *de bene esse* deposition may not offer live testimony from that witness in any part of its case; however, the moving party is not precluded from cross-examining the witness should another party offer live testimony from the witness.

District Court Rules Civ. Proc., Rule 26.5  
**TIMELY DISCOVERY**

The discovery deadline, whether fact or otherwise, is the date by which all responses to discovery shall be due according to the Federal Rules of Civil Procedure and by which all depositions shall be concluded. Counsel shall initiate discovery requests and notice depositions sufficiently in advance of the deadline to comply with this Rule. Discovery requests that call for responses or scheduled depositions after the discovery deadline will not be enforceable except by order of the Court for good cause shown. Unless otherwise ordered by the Court, motions to compel discovery must be filed within the discovery period.

District Court Rules Civ. Proc., Rule 26.6  
NO AUTOMATIC STAY

The filing of a motion under Federal Rule of Civil procedure 12 does not automatically operate to stay discovery. Any party seeking a stay of discovery must apply to the Court for such relief.

District Court Rules Civ. Proc., Rule 30.1.  
DEPOSITIONS

- (a) Parties shall cooperate in the scheduling of depositions. “Reasonable written notice” for the taking of a deposition as used in Federal Rule of Civil Procedure 30(b)(1) shall be at least 14 days prior to the deposition.
- (b) A court reporter not physically present at a deposition must contemporaneously confirm the identity of the deponent on the record, according to a reasonable protocol agreed to by counsel.
- (c) If a case is to proceed to trial, the depositions eligible for filing shall be filed at least three business days before the trial is to begin, unless otherwise directed by the Court. In that regard, a party taking the deposition shall be the custodian of the original deposition, and at its own initiative, or upon timely request by another party seeking to use the deposition, shall electronically file a copy of the original.

District Court Rules Civ. Proc., Rule 33.1.  
INTERROGATORIES

- (a) Interrogatories shall be provided to the answering party in an electronic format to facilitate the insertion of the answers after each interrogatory or subsection thereof. The answering party shall provide the original verified copy of the interrogatories and responses to the requesting party.
- (b) An interrogatory that introduces a line of inquiry that is separate and distinct from the inquiry made by the portion of the interrogatory that precedes it is considered a separate interrogatory.
- (c) An interrogatory seeking the personal identification information of several people will normally serve as a single interrogatory as long as the information sought can be ascertained from sources (even if multiple sources must be consulted) readily available to the responding party (such as the respondent’s employment records or records related to the specific incident that is the subject of the litigation).

District Court Rules Civ. Proc., Rule 34.1.  
REQUESTS FOR PRODUCTION OF DOCUMENTS

Requests for Production of Documents shall be provided to the answering party in an electronic format to facilitate the insertion of responses after each request.

District Court Rules Civ. Proc., Rule 37.1.  
PRE-FILING CONFERENCE OF COUNSEL

- (a) Duty to Confer.** Prior to filing any motion relating to discovery pursuant to Federal Rules of Civil Procedure 26-37, counsel for the parties shall confer in a good faith effort to eliminate the necessity for the motion or to eliminate as many of the disputes as possible. Such conference shall include oral communication. It shall be the responsibility of counsel for the moving party to arrange for this conference.
- (b) Certification of Counsel.** Any motions filed shall be accompanied by a certification of the moving party as to the completion of the pre-filing conference; alternatively, if not completed, the motion shall set forth the efforts made to complete such conference and the reasons why the conference could not be held. If counsel agree that meeting in person is not practicable, the conference may take place telephonically or by video conference, or similar technology. The moving party's certification shall contain the date, time, duration, and method of communication of the conference.
- (c) Deadline for Completion.** Unless otherwise provided by stipulation or by written order of the Court, the conference shall be completed within 15 calendar days after the moving party serves a written communication requesting such conference. The moving party's letter shall identify each issue and/or discovery request in dispute, state briefly with respect to each the moving party's position, providing any legal authority, and specify the terms of the discovery order to be sought. In the event counsel are unable to resolve the areas of dispute, a joint request shall be made for an informal conference with the Magistrate Judge.

District Court Rules Civ. Proc., Rule 37.2.  
MOTION PRACTICE

Motion practice hereunder shall comply with LRCi 7.1 and 37.1, addressing only those issues in dispute and, with respect to each such issue, the contentions and authorities of the party. To the extent possible, the parties should not refer the Court to documents other than those to which they are responding. In particular, those discovery requests and responses, or parts thereof, to which objections are made should be set forth in the motion, response or reply or an accompanying brief.

District Court Rules Civ. Proc., Rule 37.3.  
COOPERATION OF COUNSEL—SANCTIONS

The failure of any counsel to comply with or cooperate in, or the abuse by counsel of, the foregoing procedures may result in the imposition of sanctions.

District Court Rules Civ. Proc., Rule 38.1.  
NOTATION OF "JURY DEMAND" IN THE PLEADING

If a party demands a jury trial by endorsing it on a pleading, a notation shall be placed on the front page of the pleading immediately following the title, stating "Demand For Jury Trial" or an equivalent statement. This notation will serve as a sufficient demand under Federal Rule of Civil Procedure 38(b). Failure to use this manner of noting the demand will not result in a waiver under Federal Rule of Civil Procedure 38(d).

District Court Rules Civ. Proc., Rule 39.1.  
EXHIBITS

- (a) Unless otherwise ordered by the Court, all exhibits received in evidence or offered and rejected during trial or any evidentiary hearing, shall be delivered to the Clerk of Court through the courtroom deputy, who shall keep the same in custody until it is determined whether an appeal has been taken from a final judgment. In the event of an appeal, exhibits shall be retained by the Clerk until disposition of the appeal. The Clerk may permit United States Magistrate Judges, Official Court Reporters, and chambers staff to have custody of exhibits when necessary to expedite the business of the Court. No persons other than United States Magistrate Judges, Official Court Reporters, and chambers staff shall be permitted to remove exhibits from the Clerk's custody, except upon order of the Court in extreme circumstances.
- (b) Sensitive exhibits, after submission into evidence, shall remain in the custody of the proponent or the appropriate agency during the trial of the case and for any appeal period thereafter. Such evidence includes, without limitation, narcotics, weapons, currency, and any other evidence designated by the Court as sensitive.
- (c) Unless otherwise ordered by the Court, all exhibits in the custody of the Clerk shall be returned to the offering party upon the later of the following: (1) the expiration of the period within which an appeal must be filed, or (2) the completion of the appellate process. The Clerk shall notify the offering party in writing of the requirement to present him/herself to the Clerk's Office to claim such exhibits within thirty days of receipt of the Clerk's written request. Unclaimed exhibits may be destroyed or otherwise disposed of by the Court.

Court Rules Civ. Proc., Rule 43.1.  
INTERPRETERS

With the exception of collateral criminal proceedings under 28 U.S.C. §§ 2254, 2255 and the like, the parties involved in civil litigation in which there will be a need for an interpreter are responsible for retaining and submitting the name(s) of qualified interpreters for approval by the Court at least six days before the interpreter's services are required.

District Court Rules Civ. Proc., Rule 47.1.  
JUROR CONTACT

- (a) Before or during the trial of a case, no attorney, party, or witness shall directly or indirectly communicate with, or cause another to communicate with, any prospective or current member of the jury.
- (b) After the conclusion of a trial, no attorney, party, or witness shall directly or indirectly communicate with, or cause another to communicate with, any member of the jury without first receiving permission from the Court.



District Court Rules Civ. Proc., Rule 54.1.  
BILLS OF COSTS

- (a) Within 14 days after the entry of a final judgment or a judgment allowing costs, the prevailing party shall serve on the adverse party and file with the Clerk of Court a Bill of Costs.
- (b) Such Bill of Costs shall precisely set forth each item thereof, so that the nature of the charge can be readily understood, and shall be verified by the attorney for the applicant, stating that: (1) the items are correct, (2) the services were actually and necessarily performed, and (3) the disbursements were necessarily incurred in the action or proceeding. Counsel shall append to the verified Bill of Costs copies of all invoices in support of the request for each item.
- (c) Upon failure of the prevailing party to comply with this Rule, all costs not properly supported shall be waived.
- (d) A party may seek review by the Court by motion served within seven days of the Clerk's action.

District Court Rules Civ. Proc., Rule 56.1.  
SUMMARY JUDGMENT MOTIONS

The following procedures govern motions for summary judgment filed pursuant to Federal Rule of Civil Procedure 56.

- (a) **Documents Filed by Movant.** In addition to the documents authorized by LRCi 7.1, a party moving for summary judgment shall file a separate statement of the material facts about which the movant contends there is no genuine issue. Each fact paragraph shall be serially numbered and shall be supported by specific citation to the record. The movant shall affix to the statement copies of the precise portions of the record relied upon as evidence of each material fact.
- (b) **Documents Filed by Respondent.** Any party adverse to a motion filed under this rule may file, in addition to the documents authorized by LRCi 7.1, a response to the movant's statement of material facts about which the movant contends there is no genuine issue. The respondent must address the facts upon which the movant has relied pursuant to subsection (a), using the corresponding serial numbering and either: (i) agree that the fact is undisputed; (ii) agree that the fact is undisputed for the purpose of ruling on the motion for summary judgment only; or (iii) state that the fact is disputed. If the fact is disputed the respondent shall affix to the response copies of, and cite to, the precise portions of the record relied upon as evidence of each disputed material fact. In addition, the respondent may file a concise statement of any additional facts, serially numbered, that the respondent contends are material to the motion for summary judgment and as to which the respondent contends there exists a genuine issue to be tried.
- (c) **Reply.** In addition to the documents authorized by LRCi 7.1, if a respondent has proffered a statement of additional facts as provided in subsection (b), the moving party shall respond to these additional facts by filing a reply to the statement in the manner and form specified in subsection (b).
- (d) **Effect of Failure to Respond.** Failure to respond to a movant's statement of material facts, or a respondent's statement of additional facts, as provided by these Rules may result in a finding that the asserted facts are not disputed for the purposes of summary judgment.

District Court Rules Civ. Proc., Rule 67.1.  
MONIES PAID INTO COURT

- (a) All moneys paid into court or received by an officer thereof, in any case pending or adjudicated in the Court, shall be forthwith deposited into the Registry of the Court. Any such money may, however, be paid to the rightful owner upon security, according to the agreement of the parties, pursuant to the order of the Court.
- (b) No money deposited shall be withdrawn except by order of the Court. In every case in which the right to withdraw money deposited in court has been adjudicated or is not in dispute and such money has remained so deposited for at least five years unclaimed by the person entitled thereto, the Court shall cause such money to be deposited into the Unclaimed Fund of the United States Treasury in the name and to the credit of the person to whom it is entitled. Any claimant entitled to any such money may, thereafter, on petition to the Court and upon notice to the United States Attorney and full proof of the right thereto, obtain an order directing the Court to pay such money.

District Court Rules Civ. Proc., Rule 67.2.

WITHDRAWAL OF A DEPOSIT PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 67

Any person seeking withdrawal of money which was deposited in an interest-bearing account or instrument as required by Federal Rule of Civil Procedure 67, shall file a motion seeking withdrawal of the funds and shall provide separately, under seal, a completed IRS Form W-9—Request for Taxpayer Identification Number and Certification for the ultimate recipient of the funds. The form shall be forwarded by the Court directly to the institution holding the money, along with the pertinent Court order disbursing the funds.

District Court Rules Civ. Proc., Rule 69.1.  
EXECUTION

- (a) No attachment or execution shall be made on wages except as provided by Title 5 Virgin Islands Code, chapter 44, and this Rule.
- (b) A judgment creditor, upon application and filing an affidavit that contains a description of the judgment and its amount and states that execution has been returned unsatisfied, and after giving mailed notice to the employer-garnishee and the judgment debtor, may obtain an order for the garnishment of the wages of the judgment debtor.
- (c) An employer-garnishee or judgment debtor may move at any time to vacate a lien and continuing levy created pursuant to Title 5, Virgin Islands Code, Chapter 44. Upon receiving written notice of any court proceeding attaching the levy or the judgment on which it is based, the employer-garnishee shall make no further payments until receipt of an order of the Court terminating the proceedings.
- (d) The judgment creditor shall:
  - (1) file with the Clerk of Court every three months after serving the levy upon an employer-garnishee a receipt showing the amount received and the balance due under the levy as of the date of filing, and furnish copies thereof to the employer-garnishee and judgment debtor;

- (2) file a final receipt with the Court once the levy has been satisfied, and furnish a copy thereof to the employer-garnishee and judgment debtor; and,
- (3) move to vacate the levy within 20 days after such levy has been satisfied.
- (e) If the judgment creditor fails to file any of the receipts prescribed by 5 V.I.C. § 524(a), any interested party may move the Court to compel the defaulting judgment creditor to appear in court and make an accounting forthwith.
- (f) A judgment creditor receiving payments under this rule from an employer-garnishee shall give the Clerk of Court written notice of the receipt of amounts from any other source that are credited against the judgment.
- (g) No discovery under Federal Rules of Civil Procedure 26 to 37 shall be conducted in a proceeding pursuant to this Rule without first obtaining an order of the Court, except that the following questions may be propounded to the employer-garnishee upon written interrogatory:
  - (1) Were you, at the time of receiving this interrogatory, the employer of the defendant?
  - (2) State the amount paid the defendant as wages in the most recent pay period.

District Court Rules Civ. Proc., Rule 71A.1.  
 PROCEEDINGS TO RE-DETERMINE DEFICIENCY IN INCOME TAX

(a) **Petitions After Notice of Deficiency.** A proceeding to re-determine income tax liability pursuant to a notice of deficiency or notice of liability of any person shall be by petition naming the Director, Virgin Islands Bureau of Internal Revenue, as respondent. To the extent consistent with the Internal Revenue Code as applicable to the Virgin Islands, the following rules of the United States Tax Court, as amended from time to time, shall apply.

<i>Rule</i>	<i>Subject</i>
34(a), (b), and (c)	Petition
36	Answer
37	Reply
91	Stipulations
122	Submission Without Trial
142	Burden of Proof
151	Briefs
155	Computation By Parties For Entry of Decision
210, 211, 213, 215, 216, 217	Declaratory Judgment Actions

In applying each rule of the Tax Court incorporated herein, the word ‘Director‘ shall be substituted for ‘Commissioner‘ and the words ‘District Court of the Virgin Islands‘ shall be substituted for ‘Tax Court.‘ Any provision of the Tax Court Rules incorporated by this Rule (1) relating to service of a petition or other papers, (2) describing the number of copies of a paper or pleading to be filed, or (3)

relating to the place or manner of filing a petition, shall not apply. In such instances the Federal Rules of Civil Procedure shall apply.

- (b) Special Rule for Small Tax Cases.** For cases in which the income tax deficiency (including any additions to tax, additional amounts and penalties) in dispute is less than \$10,000, Rules 170 (General), 171 (Small tax case defined), 172 (Election of small tax case procedure), 173 (Discontinuance of proceedings), 175(a)(1), (3), (b), and (c) (Pleadings), 176 (Preliminary hearings), 177(b) and (c) (Trial) of the United States Tax Court, as amended from time to time, and Federal Rule of Civil Procedure 73, shall apply to the extent consistent with the Internal Revenue Code as applicable to the Virgin Islands.
- (c) Other Actions.** No other actions relating to the income tax laws of the Virgin Islands are affected by this Rule.

District Court Rules Civ. Proc., Rule 72.1.  
MAGISTRATE JUDGES - AUTHORITY IN PRETRIAL MATTERS

The Magistrate Judges are hereby designated to hear and determine in all civil actions any pretrial matter permitted by 28 U.S.C. § 636 and Federal Rule of Civil Procedure 72.

District Court Rules Civ. Proc., Rule 72.2.  
OBJECTIONS TO NON-DISPOSITIVE ORDERS

- (a)** A party who objects to a Magistrate Judge's order concerning a non-dispositive matter shall file a notice of objection which shall specifically designate the order or part thereof objected to and the basis for the objection. The notice of objection shall include a transcript of that portion of the hearing before the Magistrate Judge wherein findings of fact were made.
- (b)** The filing of a notice of objection does not operate to stay the order pending a determination by the District Judge. A stay of a Magistrate Judge's order must be sought in the first instance from the Magistrate Judge whose order has been objected to, upon due notice to all interested parties.

District Court Rules Civ. Proc., Rule 72.3.  
OBJECTIONS TO MAGISTRATE JUDGE'S PROPOSED FINDINGS, RECOMMENDATION OR  
REPORT

Any party who objects to a Magistrate Judge's proposed findings, recommendations or report, shall file objections that specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis of such objection. Such party shall also file a transcript of the specific portions of any hearing to which objection is made.

District Court Rules Civ. Proc., Rule 72.4.  
PROCEDURE FOR OBJECTING TO A MAGISTRATE JUDGE'S NON-DISPOSITIVE ORDER,  
PROPOSED FINDINGS, RECOMMENDATION OR REPORT

The provisions of Rule 7.1 shall govern objections to a Magistrate Judge's non-dispositive order under Rule 72.2 and objections to a Magistrate Judge's proposed findings, recommendations or report under Rule 72.3.

District Court Rules Civ. Proc., Rule 73.1.  
MAGISTRATE JUDGES—TRIAL MATTERS

- (a) **Authority.** The Magistrate Judges are hereby designated to hear and determine in all civil actions any trial matter permitted by 28 U.S.C. § 636 and Federal Rule of Civil Procedure 73.
- (b) **Conducting Civil Trials by Consent of the Parties.** A consent form signed by or on behalf of all parties shall be filed promptly. Plaintiff shall be responsible for securing execution and filing of such consent form.

District Court Rules Civ. Proc., Rule 73.2.  
MAGISTRATE JUDGES—ADDITIONAL DUTIES

The Magistrate Judges are hereby designated to perform such additional duties as are not inconsistent with the Constitution and laws of the United States, including but not limited to the following:

- (a) Conducting proceedings for the collection of civil penalties of not more than \$200 assessed under the Federal Boat Safety Act of 1971, in accordance with 46 U.S.C. § 4311(d).
- (b) Conducting examinations of judgment debtors in accordance with Federal Rule of Civil Procedure 69.
- (c) Reviewing petitions in civil commitment proceedings under Title III of the Narcotic Addict Rehabilitation Act.
- (d) Issuing warrants or entering orders permitting entry into and inspection of premises, and/or seizure of property, in non-criminal proceedings, as authorized by law, when properly requested by the IRS or other Governmental agencies.
- (e) Serving as a special master in an appropriate civil action pursuant to 28 U.S.C. § 636(b)(2) and Federal Rule of Civil Procedure 53.
- (f) Supervising proceedings conducted pursuant to 28 U.S.C. § 1782 with respect to foreign tribunals and litigants before such tribunals.

District Court Rules Civ. Proc., Rule 79.1.  
BOOKS AND RECORDS OF THE CLERK OF COURT

**(a)** The Clerk of Court shall:

- (1)** have custody of the seal of the Court and affix it when required;
- (2)** receive, deposit into the Registry of the Court, and disburse in accordance with law and the rules and orders of the Court, all fees and other moneys due to the Clerk or otherwise payable into the Court;
- (3)** ensure the custody of, and safely maintain and/or dispose of, all books, papers and records which may be filed and deposited in the Office of the Clerk of Court pursuant to law and the Guidelines issued by the Director of the Administrative Office of the United States Courts;
- (4)** supervise and direct the work of deputies and assistants, and act as the Chief Administrative Officer of the Court;
- (5)** attend in person, or by deputy, each session of the Court;
- (6)** issue all process and notices required to be issued;
- (7)** maintain the minutes of all sessions of the Court;
- (8)** maintain in each judicial division criminal, civil, admiralty, bankruptcy, probate, naturalization and miscellaneous dockets in the form required by the Director of the Administrative Office of the United States Courts, and enter in the appropriate docket the title of each cause or proceeding initiated in the judicial division, and a memorandum of every subsequent proceeding therein, with the date thereof, and a record of all fees charged;
- (9)** maintain such other indices and records and make such reports as may be necessary in the performance of the duties of the Office of the Clerk and as may be required by law, the Federal Rules of Criminal Procedure, the Federal Rules of Civil Procedure, the Admiralty Rules, the Bankruptcy Rules, these Rules, or by the Director of the Administrative Office of the United States Courts, and certify copies of the same whenever requested; and
- (10)** exercise such other powers and perform such other duties as may be assigned to the Clerk by the Court.

**(b)** The Clerk shall prepare a calendar for each session of the District Court in each judicial division which shall list the causes on the several dockets which are ready to be heard at that session in that division. Cases that become ready for hearing during the session may be added to the calendar.

District Court Rules Civ. Proc., Rule 80.1.  
COURT REPORTING FEES

A current schedule of transcript fees, as established by the Judicial Conference, is available on the Court's website and from the Official Court Reporters.

District Court Rules Civ. Proc., Rule 82.1.  
[Deleted and relocated]

District Court Rules Civ. Proc., Rule 83.1.  
ADMISSION OF ATTORNEYS

**(a) Scope of Admission.** The bar of the Court shall consist of those persons heretofore admitted to practice in the Court and those who may hereafter be admitted in accordance with these rules. Notwithstanding the provisions of subsection (b), the following category of persons shall not be admitted: any attorney who has been suspended or disbarred, or who has resigned or withdrawn from the practice of law and has not been reinstated as a member of the bar of this Court.

**(b) Requirements.**

**(1) Regular.** Any attorney who is a member in good standing of the Virgin Islands Bar may by verified application and on motion of a member of the bar of the Court and upon taking the prescribed oath be admitted as a member of the bar of the Court.

**(2) Appearance *Pro Hac Vice*; Local Counsel.** Any attorney who is a member in good standing of the bar of any United States court or the highest court of a state, the District of Columbia or a commonwealth, territory, or possession of the United States may in the discretion of the Court, on motion, and upon taking the prescribed oath, be permitted to appear and participate in a particular case. If it has not been done prior to the granting of such motion, an appearance as counsel of record shall be filed promptly by a member of the bar of the Court (Local Counsel) upon whom all notices, orders and pleadings may be served. An attorney admitted *pro hac vice* to the bar of the Court may file papers, enter appearances for parties, sign stipulations, or sign and receive payments on judgments, decrees or orders. Documents filed by an attorney admitted *pro hac vice* shall also include the signature of Local Counsel. Filings by attorneys admitted *pro hac vice* are deemed to include a representation that the filer shared the document with and received approval for filing from Local Counsel. An attorney may be admitted *pro hac vice* in no more than a total of three (3) cases in any calendar year and may not be further admitted at any time if such attorney is then admitted *pro hac vice* in three (3) active cases regardless of when such admissions occurred. Admission *pro hac vice* is not a substitute for admission to the bar of the Court, but rather is intended to facilitate occasional appearances only. Notwithstanding a lawyer's *pro hac vice* status, such an attorney is within the disciplinary jurisdiction of the Court.

**(3) Special Admission.**

**(A)** An attorney may seek special admission to the bar of the Court, if, upon verified application, the Court determines that the applicant meets the qualifications of a regular admission except for having passed the Virgin Islands Bar examination; and

- (i) the applicant is admitted to practice in the highest court of a state, the District of Columbia or a commonwealth, territory or possession of the United States;
  - (ii) the applicant is otherwise professionally, morally and ethically qualified for admission to the bar of the Court;
  - (iii) there is good cause for the admission of such person and the applicant's admission would be in the best interest of the Court; and
  - (iv) the applicant is either: an attorney representing the Government of the Virgin Islands, its branches, departments, agencies and instrumentalities; an attorney representing a public interest group; or, an attorney representing a party on a pro bono basis.
- (B) In every case, the burden shall be upon the person seeking admission pursuant to this Rule to establish to the satisfaction of the Court his or her qualifications for admission. An application must be supported by the applicant's declaration demonstrating his or her qualifications for admission. Additionally, the applicant must provide the Court current certificates of good standing bearing the original seal of the highest court from each jurisdiction to which he or she is admitted. A certificate of good standing from a bar association in and of itself is not sufficient for a Special Admission. An applicant for special admission must satisfy the same fitness requirements as any other applicant seeking permanent regular active admission to the bar of the Court. Good cause may be satisfied by demonstrating that *pro hac vice* admission has been exhausted or is inadequate. The Court may require the submission of such other information as might be deemed necessary to satisfy itself as to the attorney's fitness to practice specially before the Court.
- (C) An admission issued pursuant to this Rule shall commence upon taking the prescribed oath, shall state its special nature, and shall terminate automatically when the person fails to remain in good standing in each jurisdiction of admission. Special admission also may be terminated if the good cause upon which special admission was predicated no longer exists. While admitted under this Rule, a person shall be treated as a regular member of the bar of the Court with all responsibilities and privileges thereof.
- (D) The special admission provided by this Rule shall expire after three (3) years, unless, for good cause shown, the Court extends that period.
- (4) Adherence to Schedules; Sanctions.** All members of the bar of the Court and those specially permitted to participate in a particular action shall strictly observe the dates fixed for scheduling conferences, motions, pretrial conferences, trials or any other proceedings. Failure of counsel for any party, or of a party appearing pro se, to comply with this Rule may result in the imposition of sanctions, including the withdrawal of the permission granted under subsection (b)(2) of this Rule to participate in the particular action. All motions for continuance shall be made promptly.
- (5) Appearance by Patent Attorneys.** Any attorney who is a member in good standing of the bar of any United States court or the highest court of a state, the District of Columbia or a commonwealth, territory, or possession of the United States may be qualified for admission to the bar of this District, subject to the limitations hereinafter set forth, on motion of a member of the Court and upon taking the prescribed oath, provided such applicant has filed with the Clerk of Court a verified application for admission as an attorney of the Court establishing that the applicant:



- (A) is a member in good standing of the bar of any United States court or admitted to practice in the highest court of a state, the District of Columbia or a commonwealth, territory or possession of the United States for at least five (5) years;
- (B) has been admitted to practice as an attorney before the United States Patent Office and is listed on its Register of attorneys;
- (C) has been continuously engaged in the practice of patent law as a principal occupation in an established place of business and office located in the Territory of the Virgin Islands for at least two (2) years prior to date of application; and
- (D) has sufficient qualifications both as to pre-legal and legal training to satisfy the Court. No member admitted under this subdivision shall designate himself or herself other than as a patent attorney or patent lawyer, and that person's admission to practice before the Court shall be limited to cases solely arising under patent laws of the United States or elsewhere. Failure to continue to maintain an established place of business or office within the Territory for the practice of patent law shall, upon proof thereof to the Court and after notice and an opportunity to be heard, justify the striking of such attorney's name from the roll of patent attorneys established under this Rule. In any litigation, any patent attorney admitted under this subdivision shall be associated of record with a member of the bar of the Court admitted under subsection (b)(1) of this Rule. Nothing herein contained shall preclude any patent attorney from being admitted under subsections (b)(1) to (3) of this Rule.

**(6) Appearance by Attorneys for the United States.** Any attorney who is a member in good standing of the bar of any United States court or the highest court of a state, the District of Columbia or a commonwealth, territory, or possession of the United States may, upon taking the prescribed oath, practice before the Court in any proceeding in which he or she is representing the United States or any of its officers or agencies. If such attorney does not have an office in this district, he or she shall designate the United States Attorney to receive service of all notices or papers in that action. Service upon the United States Attorney or authorized designee shall constitute service upon a government attorney who does not have an office in this district.

**(7) Appearance by Attorneys for the Government of the Virgin Islands.** A member in good standing of the bar of any United States court or the highest court of a state, the District of Columbia or a commonwealth, territory, or possession of the United States may in the discretion of the Court and on motion by the Attorney General of the Virgin Islands or authorized designee, and upon taking the prescribed oath, be permitted to appear and participate in any proceeding in which he or she is representing the Government of the Virgin Islands or any of its officers or agencies.

**(8) Appearance by Professional Law Corporations.** The provisions of this Rule shall extend to duly created professional law corporations, authorized to be formed under the law of the jurisdiction to which the attorney employed by the corporation shall have been admitted to practice, to the same extent as they apply to partnerships and other unincorporated law firms. In every case in which such a professional law corporation participates, all appearances and papers shall be in the full name of the corporation, including such designations as "Chartered", "Professional Association," "P.C.," and the like, and shall be executed on its behalf by an individual attorney qualified under this Rule and employed by it as "Authorized Attorney." Both the corporate entity and its attorney employee shall be subject to all provisions of these Rules.

**(9) Appearance by Supervised Law Students.** With the Court's approval, an eligible law student may appear under supervision of an attorney on behalf of any client, including the United States, who has consented in writing.

**(A)** The attorney who supervises a student shall:

- (i)** be a member of the bar of the Court who maintains a bona fide office in this district;
- (ii)** personally assume professional responsibility for the student's work;
- (iii)** assist the student to the extent necessary;
- (iv)** appear with the student in all proceedings before the Court; and
- (v)** file a written agreement to supervise the student.

**(B)** In order to appear, the student shall:

- (i)** be enrolled in a law school approved by the American Bar Association;
- (ii)** have successfully completed legal studies amounting to at least two-thirds of the credits needed for graduation or the equivalent;
- (iii)** be certified by either the dean or a faculty member of that law school as qualified to provide the legal representation permitted by these Rules (This certification may be withdrawn by the person so certifying at any time by mailing a notice to the Clerk of the Court, or upon termination by the Judge presiding in the case in which the student appears without notice or hearing and without a showing of cause. The loss of certification by action of a judge shall not be considered a reflection on the character or ability of the student.);
- (iv)** be introduced to the Court by an attorney admitted to practice in this District;
- (v)** neither ask for nor receive from the client represented any compensation or remuneration of any kind for services rendered; but this limitation shall not prevent an attorney, legal aid bureau, law school, public defender agency, a state, Territory, or the United States from paying compensation to the eligible law student, nor shall it prevent any agency from making proper charges for its services;
- (vi)** certify in writing that he or she is familiar and will comply with the Disciplinary Rules;
- (vii)** certify in writing that he or she is familiar with the federal procedural and evidentiary rules relevant to the action in which he or she is appearing.

**(C)** The law student, supervised in accordance with these Rules, may:

- (i)** appear as counsel in court or at other proceedings when the written consent of the client (or of the United States Attorney when the client is the United States) and the written agreement of the supervising attorney have been filed, and when the Court has approved the student's request to appear in the particular case to the extent that the Judge presiding at the hearing or trial permits;
- (ii)** prepare and sign motions, petitions, answers, briefs, and other documents in connection with any matter in which the student has met the conditions of (B) above; each such document shall also be signed by the supervising attorney.

**(D)** Forms for designating compliance with this Rule are available in the Clerk's Office. Completed forms shall be filed with the Clerk.

(E) Participation by students under this Rule shall not be deemed a violation in connection with the rules of admission to the bar of any jurisdiction concerning practice of law prior to admission to that bar.

(10) **Appearance by Attorneys in Criminal Cases.** The Court may suspend aspects of this Rule with respect to the appearance of attorneys in criminal cases.

**(c) Procedure.**

(1) **Original Applications.** Each applicant for admission or attorney seeking leave to appear and participate in any proceeding shall file an application on a form prescribed by the Court. The application shall be made available by the Clerk upon request. An application by an applicant for admission to the bar shall also be accompanied by a motion filed by the applicant's sponsor, who shall be a member of the bar of the Court. The sponsor shall set forth sufficient grounds in the motion for admission to satisfy the Court that the sponsor has reason to know the applicant is qualified for admission. Each applicant for admission shall also pay an admission fee. The current admission fee schedule approved by the Court is posted at <http://www.vid.uscourts.gov>.

(2) **Renewal Applications.** Each member of the bar of the Court shall submit an application to renew his or her membership no later than February 4 of each calendar year, unless otherwise directed by the Court. The application shall be on a form prescribed by the Court. Notice shall be sent by the Clerk to each member of the bar of the Court at least thirty (30) days prior to the date on which the application is due. An application for renewal shall also include the payment of the renewal fee set by the Court in its admission fee schedule. A timely renewal application shall be granted if the applicant meets all of the qualifications for admission to the bar of the Court and if he or she pays the renewal fee. Failure to submit a timely renewal application or to pay the renewal fee will cause the attorney's membership in the bar of the Court to be changed to inactive status.

(3) **Admission Fund.** The Clerk shall collect the admission fees outlined herein and maintain them in the manner set forth by the Court in the Plan for Administration and Operation of the Attorney's Admission Fee Account. Such funds are to be used for projects that the Court determines are for the benefit of the bench and bar in the administration of justice.

District Court Rules Civ. Proc., Rule 83.2.

**ATTORNEYS: DISCIPLINARY RULES AND ENFORCEMENT**

**(a) Standards for Professional Conduct—Basis for Disciplinary Action.**

(1) In order to maintain the effective administration of justice and the integrity of the Court, each attorney admitted or permitted to practice before this Court shall comply with the standards of professional conduct required by the Model Rules of Professional Conduct (the 'Model Rules'), adopted by the American Bar Association, as amended. Attorneys who are admitted or permitted to practice before this Court are expected to be thoroughly familiar with the Model Rules' standards.

(2) Any attorney admitted or permitted to practice before this Court, after notice and an opportunity to be heard, may be disbarred, suspended from practice, reprimanded, or subjected to such other disciplinary action as the circumstances may warrant for misconduct.

(3) Acts or omissions by an attorney admitted or permitted to practice before this Court, individually or in concert with any other person or persons, which violate the Model Rules, shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship or in the course of judicial proceedings.

**(b) Disciplinary Proceedings.** When misconduct or allegations of misconduct which, if substantiated, would warrant discipline on the part of an attorney admitted or permitted to practice before this Court, shall come to the attention of a judicial officer of this Court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these Rules, the judicial officer shall inform the Chief Judge. Thereafter, the Chief Judge or the Chief Judge's designee shall refer the matter to a Magistrate Judge or a committee designated by the Chief Judge (Disciplinary Committee) for investigation and a report and recommendation. The Magistrate Judge or the Disciplinary Committee shall afford the attorney the opportunity to be heard. The attorney may submit objections to the report and recommendation. Any objections are to be filed with the Court within 14 days from the date of filing of the report and recommendation. The matter will then be submitted to the Court for final determination.

**(c) Disciplinary Penalties.**

(1) An order imposing discipline under this rule may consist of any of the following:

(A) disbarment;

(B) suspension;

(C) public or private reprimand;

(D) monetary penalties, including an order to pay the costs of proceedings; or

(E) if the attorney was admitted *pro hac vice* or has been otherwise permitted to appear, preclusion from, or the placement of conditions on, any further appearances before this Court.

(2) Any suspension or reprimand imposed may be subject to additional specified conditions, which may include continuing legal education requirements, counseling, supervision of practice, or any other condition which the Court deems appropriate.

**(d) Powers of Individual Judges to Deal with Contempt or Other Misconduct Not Affected.**

(1) The remedies for misconduct provided by this rule are in addition to the remedies available to individual judges under applicable law with respect to lawyers appearing before them. Misconduct of any attorney in the presence of a judge or in any manner with respect to any matter pending before the Court may be dealt with directly by the judge in charge of the matter or, at the judge's option, referred to the Chief Judge, or both.

(2) Nothing in this rule shall limit the Court's power to punish contempt or to sanction counsel in accordance with the federal rules of procedure or the Court's inherent authority to enforce its rules and orders.

(e) **Notice of Disciplinary Action to Other Courts.** The Clerk of Court shall give prompt notice of any order imposing discipline under this rule to the Court of Appeals for the Third Circuit, the Supreme Court of the Virgin Islands, and the American Bar Association.

(f) **Confidentiality.** Unless otherwise ordered by the Court, complaints, grievances, and any files based on them, shall be treated as confidential.

(g) **Disbarment or Suspension on Consent While Under Disciplinary Investigation or Prosecution.**

(1) **Affidavit of Consent.** Any attorney admitted or permitted to practice before this Court who is the subject of an investigation into, or a pending proceeding involving, allegations of misconduct may consent to disbarment or suspension, but only by delivering to this Court an affidavit stating that the attorney desires to consent to disbarment or suspension and that:

(A) the attorney's consent is freely and voluntarily given; the attorney is not being subjected to coercion or duress; the attorney is fully aware of the implications of consenting;

(B) the attorney is aware that there is a pending investigation or proceeding involving allegations that grounds exist for the attorney's discipline, the nature of which the attorney shall specifically set forth;

(C) the attorney acknowledges that the material facts so alleged are true; and,

(D) the attorney so consents because the attorney knows that if charges were predicated upon the matters under investigation, or if the proceedings were prosecuted, the attorney could not successfully defend against the charges.

(2) **Order of Disbarment or Suspension on Consent.** Upon receipt of the required affidavit, the Court may enter an order disbaring or suspending the attorney.

(3) **Disclosure.** The order disbaring or suspending the attorney on consent shall be a matter of public record. The affidavit required under the provisions of this rule shall not be publicly disclosed, however, or made available for use in any other proceeding except upon order of this Court.

(h) **Disbarment or Resignation in Other Courts.**

(1) Any attorney admitted to practice before this Court who is disbarred, disbarred on consent, or resigns from the bar of any Court while an investigation into allegations of misconduct is pending, shall be stricken from the roll of attorneys admitted to practice before this Court, upon the filing of a certified copy of the judgment or order of disbarment or accepting such disbarment on consent, or resignation.

(2) Any attorney admitted to practice before this Court, upon being disbarred, disbarred on consent, or resigning from the bar of any Court while an investigation into allegations of misconduct is pending, shall promptly inform the Clerk of the disbarment, disbarment on consent, or resignation.

**(i) Attorneys Convicted.**

**(1) Felony Convictions.**

**(A) Conviction in this District.** Upon the entry of judgment of a felony conviction against an attorney admitted or permitted to practice before this Court, the Clerk shall immediately notify the Chief Judge of the conviction. The Chief Judge or the Chief Judge's designee shall then immediately issue an order suspending the attorney, regardless of the pendency of any appeal, until final disposition of a disciplinary proceeding as set forth in this Rule. A copy of such order shall be served upon the attorney.

**(B) Convictions in Other Courts.** Upon the filing with this Court of a certified copy of a judgment of conviction demonstrating that any attorney admitted or permitted to practice before this Court has been convicted of a felony in any Court of the United States or of a state, the District of Columbia, the Commonwealth of Puerto Rico, the Territory of Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States, the Chief Judge or the Chief Judge's designee shall enter an order immediately suspending that attorney, regardless of the pendency of any appeal, until final disposition of a disciplinary proceeding to be commenced upon such conviction. A copy of such order shall be served upon the attorney.

**(2) Other Crimes.** Upon the filing of a certified copy of a judgment of conviction of an attorney for any crime, the Chief Judge may appoint a Disciplinary Committee for whatever action deemed warranted.

**(3) Certified Judgment as Conclusive Evidence.** A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based upon the conviction.

**(4) Reinstatement Upon Reversal of Conviction.** An attorney suspended under the provisions of this rule will be reinstated immediately upon the filing of a certificate demonstrating that the underlying conviction has been reversed, but the reinstatement will not terminate any disciplinary proceeding then pending against the attorney.

**(j) Discipline Imposed by Other Courts.**

**(1)** When it is shown to this Court that any member of its Bar has been suspended or disbarred from practice in any other court of record, or has been guilty of conduct unbecoming a member of the bar of this Court, the member will be subject to suspension or disbarment by this Court. The member shall be afforded an opportunity to show good cause, within such time as the Court shall prescribe, why the member should not be suspended or disbarred. Upon the member's response to the order to show cause, and after hearing, if requested or ordered by the Court, or upon expiration of the time prescribed for a response, if no response is made, the Court shall enter an appropriate order.

- (2) Upon the filing of a certified copy of a judgment or order establishing that an attorney admitted or permitted to practice before this Court has been disciplined by any court of competent jurisdiction, this Court shall issue forthwith a notice directed to the attorney containing:
  - (A) a copy of the judgment or order from the issuing court; and
  - (B) an order directing the attorney to show cause within thirty (30) days after service why disciplinary action should not be taken against the attorney.
- (3) The Chief Judge may designate another judge or a Disciplinary Committee to investigate and submit a report and recommendation.

**(k) Reinstatement.**

- (1) **After Disbarment or Suspension.** An attorney suspended or disbarred may not resume practice until reinstated by order of this Court.
- (2) **Hearing on Application.** Petitions for reinstatement by an attorney who has been disbarred or suspended under this rule shall be filed with the Chief Judge of the Court who shall schedule the matter for consideration by the active district judges of this Court within thirty (30) days from receipt of the petition. In considering the petition for reinstatement, the active district judges shall enter the order they deem appropriate. In considering the petition for reinstatement, the Court may schedule a hearing.
- (3) **Burden of Proof.** The petitioner shall have the burden of demonstrating by clear and convincing evidence that the petitioner has the moral qualifications, competency and learning in the law required for admission to practice before this Court and that resumption of the practice of law will not be detrimental to the integrity of the bar, the administration of justice, or undermine the public interest.
- (4) **Conditions of Reinstatement.** If the petitioner is found unfit to resume the practice of law, the petition shall be dismissed. If the petitioner is found fit to resume the practice of law, the judgment shall reinstate the petitioner, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings and upon the making of partial or complete restitution to parties harmed by the petitioner whose conduct led to the suspension or disbarment. This list is not intended to be exhaustive.

**(l) Duties of the Clerk of Court.**

- (1) Upon being informed that an attorney admitted or permitted to practice before this Court has been convicted of any crime, the Clerk shall determine whether the Clerk of Court in which such conviction occurred has forwarded a certificate of such conviction to this Court. If a certificate has not been forwarded, the Clerk shall promptly obtain a certificate and file it with this Court.
- (2) Upon being informed that an attorney admitted or permitted to practice before this Court has been subjected to discipline by another court, the Clerk shall determine whether a certified or exemplified copy of the disciplinary judgment or order has been filed with this Court, and, if not, the Clerk shall promptly obtain a certified or exemplified copy of the disciplinary judgment or order and file it with this Court.

- (3) Whenever it appears that any person who is convicted of any crime, disbarred, suspended, censured, disbarred on consent, or otherwise precluded from appearance and practice by this Court, is admitted to practice law in any other jurisdiction(s) or before any other court(s), the Clerk shall promptly transmit to the other court(s) a certificate of the conviction or a certified exemplified copy of the judgment or order of disbarment, suspension, censure, disbarment on consent, or order of preclusion, as well as the last known office and residence addresses of the defendant or attorney.
- (4) The Clerk shall, likewise, promptly notify the National Discipline Data Bank operated by the American Bar Association of any order imposing public discipline upon any attorney admitted to practice before this Court.