

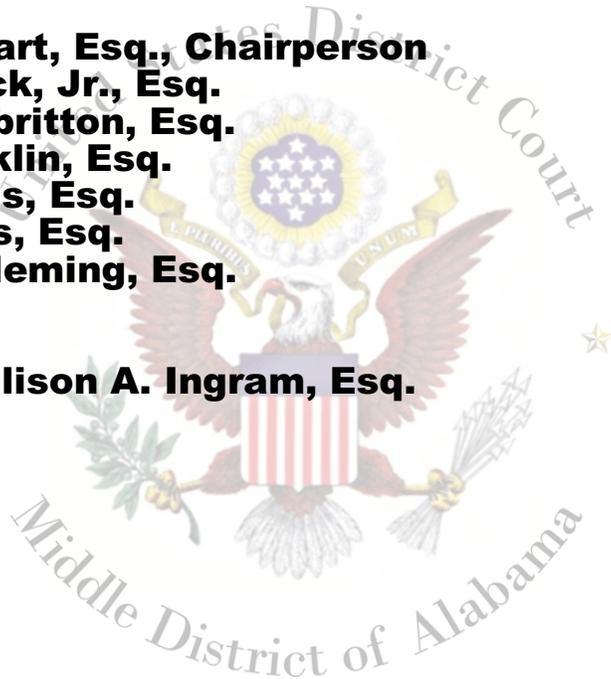
**LOCAL RULES FOR
THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
EFFECTIVE
DECEMBER 1, 2010**

**Amended on October 1, 2011 by adding
Local Rule 83.4 (g)**

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**LOCAL RULES OF THE UNITED STATES DISTRICT
COURT FOR THE MIDDLE DISTRICT OF ALABAMA
FOR CIVIL AND CRIMINAL CASES**

Effective December 1, 2010

Index follows these rules.

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PART 1: CIVIL RULES and GENERAL PROVISIONS CIVIL RULES AND GENERAL PROVISIONS [Cite as M.D. Ala. LR]

Local Rule 1.1 Scope and Construction.

(a) Title and Citation. These rules shall be known as the Local Rules of the United States District Court for the Middle District of Alabama. Rules applying to civil

matters and to general provisions should be cited as "M.D. Ala. LR " and rules applying to criminal matters should be cited as "M.D. Ala. LCrR ."

(b) **Effective Date.** These rules become effective on December 1, 2010 and shall govern all proceedings thereafter commenced and, insofar as just and practicable, all proceedings then pending.

(c) **Scope and Construction.** These rules, made pursuant to the authority of 28 U.S.C. § 2071, Fed. R. Civ. P. 83, and Fed. R. Crim. P. 57, shall apply to all proceedings, whether civil or criminal, unless specifically provided to the contrary or necessarily restricted by inference from the context.

(d) **Relationship to Prior Rules and Subsequent Orders.** These rules supersede all previous rules promulgated by this Court or any judge of this Court except for those general or standing orders that exist at the time the rules are published and that do not expressly conflict with these rules. These rules, however, may be affected by any general or standing orders promulgated pursuant to the authority of 28 U.S.C. 2071(e) and entered by this Court after publication of these rules.

(e) Any judge of this Court may suspend application and enforcement of these local rules, in whole or in part, in the interests of justice in individual actions. When any judge of this Court, in a specific action, issues any order which is not consistent with these rules, such order shall constitute a suspension of the rules with respect to that action only, and only to the extent that such order is inconsistent with the rules.

(f) Subject to the review of the District Court, the Bankruptcy Court for the Middle District of Alabama is authorized to make and amend rules governing practice and procedure in all actions within its jurisdiction. Any rules made pursuant to this authorization must be consistent with Bankruptcy Rule 9029, and Fed.R.Civ.P. 83, and may not limit the use of the Official Forms.

(g) **Rules of Construction and Definition.** United States Code, Title 1, Sections 1 to 5, shall, as far as applicable, govern the construction of these rules.

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Local Rule 1.2 Sanctions.

Sanctions. The Court may impose a sanction for the violation of any local rule. Imposition of sanctions will lie within the sound discretion of the judge whose case is affected.

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**Local Rule 3.1
Civil Cover Sheet.**

(a) Completed Civil Cover Sheet Required. A completed civil cover sheet (Form JS-44) shall be submitted to the Clerk with the initial civil complaint or notice of removal filed in this Court by a litigant represented by counsel. This requirement is solely for administrative purposes, and matters appearing in the civil cover sheet have no legal effect in the action.

(b) Failure To Comply. If the initial complaint or notice of removal is filed without a completed civil cover sheet, the Clerk shall mark the document as to the date received and promptly give notice of the omission to the party filing the document. When the civil cover sheet has been completed, the Clerk shall file the complaint or other document nunc pro tunc as of the date of the original receipt.

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**Local Rule 4.1
Service of Process**

Unless otherwise ordered by the Court, the following procedures for service of process apply in this District.

(a) Summons. The provisions of Fed.R.Civ.P. 4 apply in this District. If service is effected by summons, the person effecting service shall make proof thereof to the Court within seven (7) days of the date service is effected. *See* Fed.R.Civ.P. 4(l).

(b) Waiver of Service. The provisions of Fed.R.Civ.P. 4(d) apply in this District. If service is waived, Plaintiff shall file the waiver of service with the Court within seven (7) days after receipt of the waiver by Plaintiff.

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**Local Rule 5.1
Notification of Claim of Unconstitutionality.**

(a) Act of Congress. In any action, suit, or proceeding in which the United States or any agency, officer, or employee thereof is not a party and in which the constitutionality of an Act of Congress affecting the public interest is challenged, the party raising the constitutional issue shall notify the Court of the existence of the question either by checking the appropriate box on the Civil Cover Sheet or by stating on the pleading, document or other papers that allege the unconstitutionality, in the caption under the case number, "Claim of Unconstitutionality" or the equivalent so that the Clerk can comply with the requirements of 28 U.S.C. § 2403 and Fed. R. Civ. P. 5.1.

(b) State Statute. In any action, suit, or proceeding in which a State or any agency, officer, or employee thereof is not a party and in which the constitutionality of any

statute of that state affecting the public interest is challenged, the party raising the constitutional issue shall notify the Court of the existence of the question either by checking the appropriate box on the Civil Cover Sheet or by stating on the pleading, document or other papers that allege the unconstitutionality, in the caption under the case number, "Claim of Unconstitutionality" or the equivalent so that the Clerk can comply with the requirements of 28 U.S.C. § 2403 and Fed. R. Civ. P. 5.1.

(c) No Waiver. Failure to comply with this rule is not grounds for waiving the constitutional issue or for waiving any other rights the party may have. Any notice provided under this rule, or lack of notice, will not serve as a substitute for, or as a waiver of, any pleading requirements set forth in the federal rules or statutes.

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Local Rule 5.2 Redaction of Personal Identifiers

(a) Parties to any litigation shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all pleadings, documents or other papers filed with the Court, including exhibits to pleadings, documents or other papers, whether filed electronically or by paper, unless otherwise ordered by the Court:

1. Social Security Numbers. If an individual's social security number must be included in a pleading, only the last four digits of that number should be used.
2. Names of Minor Children. If the involvement of a minor child must be mentioned, only the initials of that child should be used.
3. Dates of Birth. If an individual's date of birth must be included in a pleading, only the year should be used.
4. Financial Account Numbers. If financial account numbers are relevant, only the last four digits of these numbers should be used.
5. Addresses of Individuals. If the address of an individual is relevant, only the city and state should be used.

(b) Any party wishing to file a document containing the personal data identifiers listed above may do so using one of two methods:

1. File a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal, and may be amended as of right.

2. File an unredacted version of the document under seal.

(c) A party filing an unredacted document under seal that contains personal data identifiers shall simultaneously file a redacted copy of the document for the public file. The unredacted version of the document or the reference list shall be retained by the Court as part of the record.

(d) The responsibility for redacting these personal identifiers rests solely with counsel and the parties who should not include sensitive information in any document filed with the Court unless the information is necessary and relevant to the case. The Clerk of the Court will not review each pleading for compliance with this order. Counsel are urged to notify all clients of this order and the provisions of the E-Government Act of 2002 and Federal Rule of Civil Procedure 5.2 as amended, so that an informed decision about the inclusion of information in pleadings, documents or other papers may be made. It is the sole responsibility of counsel and the parties to insure that all pleadings, documents or other papers filed with Court comply with this order concerning the redaction of personal data identifiers.

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**Local Rule 5.3
Filing of Documents By Electronic and Other Means**

(a) Pleadings and documents are electronically filed, filed conventionally at the counter in the Clerk's office or received in hand, by mail or otherwise. In very limited circumstances, they may be filed by facsimile, as set forth below.

(b) Pleadings and documents may be filed, signed and verified by electronic means to the extent and in the manner authorized by the Court's General Order(s) and the Civil and Criminal Administrative Procedures regarding Electronic Case Filing.

(c) Pleadings and documents may be filed over the counter in the Clerk's Office in the Federal Courthouse at One Church Street in Montgomery, by mail or other delivery between the hours of 8:00 a.m. and 5:00 p.m. After 5:00 p.m., and before 8:00 a.m., pleadings can be accepted at the drop box, located in front of the Federal Courthouse building on Church Street. Pleadings and documents are accepted by mail, but they will not be time/date-stamped until the documents are received by the Clerk's Office.

(d) Filing of papers by facsimile is allowed subject to the following restrictions:

(1) telephonic authorization must be obtained from the Clerk of the Court or, in his/her absence, from his/her Chief Deputy, before any paper is transmitted by facsimile for filing.

(2) the Clerk or his/her Chief Deputy shall approve the transmission only in an emergency situation.

(3) originals of the transmissions must follow by overnight mail.

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**Local Rule 5.4
Service of Documents By Electronic Means and Other Means**

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

(b) In all cases other than those where documents are filed through the Court's electronic transmission facilities, service of documents filed with the Court should be accomplished pursuant to the Federal Rules of Civil Procedure in a method that also ensures that the receiving party receives the documents at or near the same time they are filed.

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**Local Rule 5.5
Emergency Filing of Pleadings, Motions and Other Papers.**

(a) When the necessity arises that an attorney must file pleadings, motions or other papers before the hour of 8:00 a.m. or after 5:00 p.m., and the attorney is unable to file the papers electronically and/or it is not practical to file them in the drop box, located in front of the Federal Courthouse building on Church Street, the following persons are designated to be on call to accept these filings in the following order: Clerk of the Court or Chief Deputy Clerk, whose contact information can be obtained from the Court's website at <http://www.almd.uscourts.gov> or by calling the clerk's office at 334-954-3600 and/or the CM/ECF Help Desk - 334-954-3935.

(b) Pleadings, motions and other papers that are filed after hours should show the date and time received and the initials of the official receiving them.

(c) In emergency situations, if neither the Clerk nor Chief Deputy Clerk is available, any district judge or magistrate judge may accept pleadings, motions or other papers after hours.

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**Local Rule 5.6
Document Size of Papers Filed with Court.**

All pleadings, motions, and other papers presented for filing shall be on 8-1/2 x 11 inch white paper of good quality, flat and unfolded, bound only by easily removable paper or spring type binder clips, and not stapled or mechanically bound or fastened in any way, and shall be plainly typewritten, printed, or prepared by a clearly legible duplicating process, and double-spaced, except for quoted material. Each page shall be numbered consecutively. Exhibits submitted for filing shall be of that size if practicable and must be legible.

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**Local Rule 5.7
Letter Briefs**

Pleadings, Briefs and Motions will not be accepted in “letter form.” Any such “letters motions” or “letter briefs” or “supplemental information” will not be considered by the Court. All documents requesting any Court action or presenting any matters for consideration of the Court must be filed in accordance with the procedures set forth in the Federal Rules of Civil Procedure and these Local Rules.

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**Local Rule 5.8
Page substitutions**

Page substitutions in complaints, or pleadings, documents or other papers filed with the Court will not be accepted. Page substitutions must be done by the filing of an appropriate motion.

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**Local Rule 5.9
Removal of Court Files and Return or Destruction of Exhibits.**

(a) **Removal of Case Files from Clerk's Office.** The Clerk is not permitted to allow the removal of case files from the Clerk's Office by parties or counsel without an order of this Court.

(b) **Exhibits Generally.** In both civil and criminal actions, all exhibits filed with or received by the Court during the pendency of the action, including during trial shall

be promptly returned by the clerk to the custody of the offering party or investigating agency upon the rendering of a verdict in a jury action or upon the entering of the final order in a non-jury action. The clerk shall obtain a receipt for all such returned exhibits and shall place same in the Court file.

(c) Matters on Appeal. In the event of an appeal, it shall be the duty of the party, investigating agency or the United States Attorney to whom such exhibits have been delivered to produce same as may be required for such appellate process or other or further proceedings in this Court. It shall also be the responsibility of the investigating agency or the United States Attorney to document the chain of custody for each returned exhibit during the time permitted for filing an appeal and during the pendency of an appeal filed in compliance with Fed.R.Crim.P.3.

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Local Rule 7.1 Conflict Disclosure Statement

(a) All parties and amici curiae (including individuals and governmental entities) shall file a Conflict Disclosure Statement, at the time of the filing of the initial pleading, or other Court paper on behalf of that party or as otherwise ordered by the Court, identifying all parent companies, subsidiaries, partners, limited liability entity members and managers, trustees (but not trust beneficiaries), affiliates, or similar entities that could potentially pose a financial or professional conflict for a judge. In emergency or any other situations where filing the Disclosure Statement with the initial pleading, or other Court paper, is impossible or impracticable, it shall be filed within seven days of the date of the original filing, or such other time as the Court may direct. For the purposes of this rule, “affiliate” shall be a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the specified entity; “parent” shall be an affiliate which controls such entity directly, or indirectly through intermediaries; and “subsidiary” shall be an affiliate controlled by such entity directly, or indirectly through one or more intermediaries.

(b) The purpose of this Disclosure Statement is to enable the judges of this Court to determine the need for recusal pursuant to 28 U.S.C. §455 or otherwise. Counsel shall have the continuing obligation to amend the disclosure statement to reflect relevant changes.

(c) The statement shall identify the represented entity’s general nature and purpose and if the entity is unincorporated, the statement shall include the names of any members of the entity that have issued shares or debt securities to the public. No such listing need be made, however, of the names of members of a trade association or professional association. For purposes of this rule, a “trade association” is a continuing association of numerous organizations or individuals operated for the

purpose of promoting the general commercial, professional, legislative, or other interests of the membership. The form of the Disclosure Statement is set forth in Appendix A to these Rules.

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**Local Rule 9.1
Pro Se Civil Rights and Habeas Corpus Filings.**

(a) Every pro se action by an inmate under 42 U.S.C. § 1983 and every pro se petition for the writ of habeas corpus under 28 U.S.C. §§ 2254 and 2255 must be (1) legibly handwritten, printed, or typed (inmates are strongly encouraged to use the forms available at the respective facilities, on the Court's website, or, if requested in writing, from the Clerk's office), (2) signed under penalty of perjury in accordance with the law, (3) accompanied by a pauper's affidavit (on a Court-provided form) if plaintiff seeks to proceed without payment of costs, and (4) completely filled out.

(b) In a case in which an inmate plaintiff is represented by counsel, nothing will be accepted for filing (except a pro se motion for release of counsel) unless it is filed by counsel.

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**Local Rule 9.2
Capital Habeas Corpus Cases**

(a) In order to provide for a comprehensive and organized record for a capital habeas proceeding, and to avoid duplication by the parties, the following is required:

(1) The entire record of the case shall be filed with the Clerk of the Court at a time to be designated by the Court.

(2) The petitioner shall be the party responsible for filing the record, unless the parties agree that the respondent will file the record.

(3) The record shall be divided into volumes each consisting of approximately two hundred pages. Each volume shall be numbered and have a cover that includes the case name, the case number, and a designation of what category of documents, as described below, is contained in the volume. See sample volume covers in the forms.

(4) The record shall be assembled in the following order and shall be separated by tabs according to the following categories:

(a) State Court – Trial. This section shall include the trial transcript and the circuit clerk's record from the trial proceeding.

(b) Alabama Court of Criminal Appeals -- Direct Appeal. This section shall include the direct appeal briefs filed by both parties with the Alabama Court of Criminal Appeals and the opinion(s) from the Alabama Court of Criminal Appeals.

(c) Alabama Supreme Court – Direct Appeal This section shall include the direct appeal briefs filed by both parties with the Alabama Supreme Court and the opinion(s) from the Alabama Supreme Court.

(d) United States Supreme Court – Direct Appeal. This section shall include the pleadings filed by both parties with the United States Supreme Court and the decision(s) from the United States Supreme Court.

(e) State Court – Collateral Appeal. This section shall include the post-conviction hearing transcript and the circuit clerk's record from the Rule 32 proceedings with the trial Court.

(f) Alabama Court of Criminal Appeals -- Collateral Appeal. This section shall include the post-conviction appeal briefs filed by both parties with the Alabama Court of Criminal Appeals and the opinion(s) from the Alabama Court of Criminal Appeals.

(g) Alabama Supreme Court – Collateral Appeal. This section shall include the post-conviction appeal briefs filed by both parties with the Alabama Supreme Court and the opinion(s) from the Alabama Supreme Court.

(h) United States Supreme Court – Collateral Appeal. This section shall include the pleadings filed by both parties with the United States Supreme Court and the decision(s) from the United States Supreme Court.

(5) A separate index of the record shall be prepared which identifies each volume of the record, the category of the proceedings contained in the volume, and the general content of the record contained in the volume, including number of pages. For example, the index will read: Volume 1, Circuit Court – Trial, clerk's record pages 1-175; and Volume 2, Circuit Court – Trial, trial transcript pages 1-200. The index shall be served on the opposing party. See attached sample index.

(6) In referencing this record in any pleadings or briefs filed in this case, the parties shall make specific reference by tab number, volume number and page number.

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**Local Rule 9.3
Request for Three-Judge Court.**

(a) Notation on Pleading. In any action or proceeding which a party believes is required to be heard by a three-judge district Court, the words "Three-Judge District Court Requested" or the equivalent shall be included in the caption under the case number of the first pleading in which the cause of action requiring a three-judge Court is pleaded. Unless the basis for the request is apparent from the pleading, it shall be set forth in the pleading or in a brief statement attached thereto. The words "Three-Judge District Court Requested" or the equivalent on a pleading is a sufficient request under 28 U.S.C. § 2284.

(b) Failure to comply. Failure to comply with this rule is not a ground for failing to convene or for dissolving a three-judge Court.

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**Local Rule 11.1
Identification of Counsel on Pleadings, Motions and Other Papers.**

a) Identification of Counsel. In addition to the requirements of Fed. R. Civ. P. 11, each attorney signing any paper filed with the clerk must place his/her typewritten name immediately under the signature line and place one of the following identification numbers under his/her typewritten name:

(1) Alabama State Bar Members: These attorneys should provide their Alabama State Bar number.

(2) Out-of-State Attorneys: These attorneys should provide either the attorney number assigned by their state's unified bar or, if not a member of a unified bar, the registration number assigned by the highest Court in their jurisdiction of admission.

(b) Certificate of Service. The certificate of service must show the name and service address of each attorney and/or party on whom the pleading, motion or other paper was served.

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**Local Rule 15.1
Form of Motion To Amend and Supporting Documents.**

A party who moves to amend a pleading, document or other papers shall attach the original of the amendment to the motion. Any amendment to a pleading, document or other papers, whether filed as a matter of course or upon a motion to amend, must, except by leave of Court, reproduce the entire pleading, document or other

papers as amended, and may not incorporate any prior pleading, document or other papers by reference. A failure to comply with this rule is not grounds for denial of the motion.

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**Local rule 16.1
Court Annexed Mediation.**

(a) Purpose. This Court has established a program of voluntary mediation to assist litigants in resolving their disputes prior to trial. The Court stresses that mediation is completely voluntary and confidential. The Court strictly enforces the confidentiality of mediation. The Court encourages litigants to consider the salutary benefits of resolving their dispute at an early stage through voluntary mediation.

(b) Nature of Mediation. Mediation is a process of confidential negotiation through which parties may often achieve results which could not be obtained through submission of their case to a jury. Successful mediation saves the substantial time and expense involved with a trial. Successful mediation allows parties to alleviate the risk of trial and at the same time permits the parties to play an active role in the final decision about their case. The mediation process generally involves a joint meeting with all parties and counsel to discuss the case and each side's position. After this meeting, the mediator will meet with each side individually for a full discussion of that side's case. Throughout the process, the goal of the mediator is to assist the parties in negotiating a settlement. Often the mediator will provide to the parties a frank, honest opinion about the strengths and weaknesses of their case. Frequently, an objective viewpoint assists parties in making good decisions about settlement.

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**Local 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, document or other papers asserting a class action, shall include in its caption under the case number, the legend "Class Action."

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**Local Rule 26.1
Initial Disclosures**

Parties are to complete the initial disclosure requirements of Federal Rule of Civil Procedure 26. Failure to comply with Rule 26, including the duty to supplement

disclosures already made, may bar the presentation of evidence or witnesses on motion or at trial.

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Local Rule 26.2
Form of Certain Discovery Documents.

The party serving written interrogatories pursuant to Fed. R. Civ. P. 33, requests for production of documents or things pursuant to Fed. R. Civ. P. 34, or requests for admission pursuant to Fed. R. Civ. P. 36, shall number each interrogatory sequentially and each request sequentially, regardless of the number of sets of interrogatories or number of requests. The party answering, responding, or objecting to an interrogatory or request shall quote each such interrogatory or request (including the sequential number assigned to the particular interrogatory or request) in full immediately preceding the statement of any answer, response, or objection thereto.

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Local Rule 26.3
Non-filing of Civil Discovery.

Except as otherwise directed by the Court or by these rules, in all civil actions other than inmate complaints challenging the conditions of confinement:

(a) Interrogatories, requests for production, requests for admissions and responses thereto, and notices of depositions shall be served in accordance with Fed. R. Civ. P. 5, but shall not be filed with the Clerk except upon order of the Court or for use at trial or in connection with motions. The party responsible for service of the discovery material shall retain the original and become the custodian.

(b) No depositions shall be filed with the Clerk unless the Court directs otherwise, or unless in support of or in opposition to a motion. Counsel who notices a deposition shall be the custodian of the deposition and shall maintain the original for filing.

(c) If discovery materials are germane to any motion or response, the relevant material shall be filed with the motion or response.

(d) During the pendency of any case the custodian of any discovery materials, other than depositions, shall provide to counsel for all other parties reasonable access to the material and an opportunity to duplicate the material at the expense of the copying party, and any other person may, with leave of Court, obtain a copy of any discovery material from its custodian upon payment of the expense of the copy.

(e) When documentation of discovery not previously in the record is needed for appeal purposes, upon an application and order of the Court, or by stipulation of counsel, the necessary discovery papers shall be filed with the Clerk.

(f) The provisions of this Rule for non-filing of discovery materials and their retention by counsel as custodian do not apply (1) to depositions noticed by, or discovery materials to be served by, litigants who are not represented by counsel, or (2) in civil actions instituted by inmate plaintiffs challenging the conditions of confinement. Nor do these provisions preclude the Clerk from receiving and docketing discovery materials on file when a case is removed or transferred from another Court.

(g) Any discovery material, depositions and trial exhibits filed with the Clerk will be disposed of by the Clerk as set out by M.D. Ala. LR 5.9.

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Local Rule 37.1
Discovery Motions To Include Discovery at Issue.

Any discovery motion filed pursuant to Fed. R. Civ. P. 26(c) and 37 shall include, in the motion itself or in an attached memorandum, a verbatim recitation of each interrogatory, request, answer, response, and objection which is the subject of the motion or a copy of the actual discovery document which is the subject of the motion.

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Local Rule 38.1
Notation of Jury Demand in the Pleading.

If a party demands a jury trial by endorsing it on a pleading, as permitted by Fed. R. Civ. P. 38(b), a notation shall be placed in the caption under the case number, stating "Demand for Jury Trial" or an equivalent statement. This notation will serve as a sufficient demand under Rule 38(b). Failure to make such a notation will not result in a waiver pursuant to Fed. R. Civ. P. 38(d) when the demand is otherwise endorsed on the pleading.

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Local Rule 39.1
Premarked Exhibits.

(a) **Trial Exhibits.** All trial exhibits must be premarked and timely exchanged with the premarked numbers in accordance with the Court's scheduling order prior to trial. Exhibit labels are available from the Clerk's office.

(b) Demonstrative Aides. Any object which a party will seek to use for demonstrative purposes only, and not as a trial exhibit, need not be premarked but must be shown to the other side for examination to allow a ruling on any objections prior to trial.

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**Local Rule 40.1
Calendar of Cases.**

Civil cases shall be divided among the judges of this Court through a computerized random selection process (e.g., a judge could be assigned a certain number of cases more than another judge, that judge then could be assigned a number fewer than the first judge, and the third judge could be assigned a number of cases more than both of these judges, with the number of cases assigned to the respective judges equalizing themselves at the end of the year). The Clerk of the Court shall then prepare such trial calendars as are needed for the cases so assigned.

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**Local Rule 45.1
Deadlines and Procedures for Requesting
Issuance of Subpoenas or Writs Ad Testificandum.**

(a) Deadline for filing requests for witnesses when subpoena or writ ad testificandum is to be served by the U. S. Marshal Service in other than in forma pauperis cases:

(1) In all civil or criminal cases, other than in forma pauperis cases, all subpoenas or writs ad testificandum requesting the attendance of witnesses that are to be served by the U. S. Marshal Service should

(A) be filed not less than fourteen (14) calendar days prior to the trial date or hearing; and

(B) contain the complete name and address of the witness (and inmate or civilian status and AIS number if available).

(b) Procedures for issuance of subpoena or writ ad testificandum in in forma pauperis cases in 28 U.S.C. § 2255 proceedings or in proceedings for a writ of habeas corpus or in indigent defendant criminal cases:

(1) In all in forma pauperis cases in § 2255 proceedings or in proceedings for a writ of habeas corpus, an indigent party desiring the attendance of any witness by subpoena or writ ad testificandum shall file not later than twenty-one (21) calendar days before the trial or hearing a motion that contains

(A) the complete names and addresses of witnesses (and inmate or civilian status and AIS number if available); and

(B) a brief statement of the expected testimony of each witness (if such stated testimony is not material or is simply repetitive, the Court may in its discretion deny the requested subpoena or writ ad testificandum).

(2) In all indigent defendant criminal cases, an indigent defendant's ex parte motion under Fed. R. Crim. P. 17(b) should

(A) be filed not later than twenty-one (21) calendar days before the trial or hearing; and

(B) contain, in addition to the showing required by Fed. R. Crim. P. 17(b), the complete names and addresses of witnesses (and inmate or civilian status and AIS number if available).

(3) Except in pro se prisoner cases, a subpoena for each witness must be attached to the motion.

(4) In criminal cases, an indigent defendant may request that such motion be filed under seal.

(c) Failure of Witness To Appear: No continuance of any cause will be predicated on the failure of a witness to appear unless this rule has been complied with, except upon a showing of exceptional circumstances.

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**Local Rule 45.2
Subpoena of Hospital Records.**

Hospital records may be subpoenaed and used in this Court in accordance with the provisions of Ala. Code §§ 12-21-5 through 12-21-7 (1975 & 1995), the provisions of which are hereby adopted and incorporated herein, except that the attorney requesting such records shall, as an officer of the Court, receive the subpoenaed records and shall be responsible for their safekeeping. Prior notice of such subpoena shall be served on all parties. Such attorney shall make the records available to opposing parties upon request and make prompt payment to the medical provider for the reasonable cost of reproducing the records.

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**Local Rule 47.1
Juror Information, Questionnaires and Contact.**

(a) Attorneys, parties, anyone in their employ, or anyone acting for them or on their behalf shall not, disclose any information obtained from the juror questionnaires

provided by the Court and during the jury voir dire process. Attorneys who are provided with questionnaires are responsible for their receipt, review, maintenance, and destruction. No copies of the questionnaires will leave the attorney's office, either electronically or in hard copy. Upon completion of the empaneling of the jury, the attorneys will ensure that all copies (including electronic copies) of the questionnaires of all jury venire members (including the questionnaires of the jurors selected to serve), are immediately destroyed, the computer disc, if applicable, is returned to the court at the time of jury selection, and the information is deleted from the attorney's computer database.

(b) Attorneys, parties, anyone in their employ, or anyone acting for them or on their behalf shall not, without filing a formal motion therefor with the Court and securing the Court's permission, initiate any form of contact for the purpose of interrogating jurors or alternate jurors in civil or criminal cases, in any manner, in an attempt to determine what the jurors thought about any aspect of the case or evidence, the basis for any verdict rendered or to secure other information concerning the deliberations of the jury or any members thereof .

(c) Attorneys, parties, anyone in their employ, or anyone acting for them or on their behalf shall not, without filing a formal motion therefor with the Court and securing the Court's permission, provide any identifying information about a juror or alternate juror in a civil or criminal case to a non-party, or provide any assistance in any form to a non-party who is seeking to contact a juror or alternate juror in civil or criminal cases, in an attempt to determine what the jurors thought about any aspect of the case or evidence, the basis for any verdict rendered or to secure other information concerning the deliberations of the jury or any members thereof.

(d) The Court itself may conduct interrogation of jurors in lieu of granting permission to the movant.

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Local Rule 54.1

Recovery of Taxable Costs Other than Attorneys' Fees.

(a) **Costs.** Requests for taxation of costs (other than attorneys' fees) under Fed. R. Civ. P. 54(d) shall be filed with the Clerk within 35 days after entry of final judgment from which an appeal may be taken. Failure to file within this time period will be deemed a waiver.

(b) **Forms and distribution.** Costs bill forms should be obtained from the Clerk's Office. Within the time set by subdivision (a) the form must be filed and served in accordance with the Federal Rules of Civil Procedure and Local Rules 5.3 and 5.4.

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**Local Rule 54.2
Taxation of Juror Costs.**

Whenever a civil case that has been set for jury trial is settled or otherwise disposed of, counsel shall so inform the Clerk's Office at least one full business day prior to the day the jury is scheduled to be selected or the trial is scheduled to commence, in order that the jurors may be notified not to attend. If such notice is not given to the Clerk's Office, then, except for good cause shown, juror costs, including attendance fees, mileage, and per diem, shall be assessed equally against the parties and their counsel, or otherwise as directed by the Court.

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**Local Rule 58.1
Payment of Judgments.**

Except as otherwise directed by a judge of this Court, each money judgment recovered in this Court, including those entered on the minutes of the Clerk upon the verdict of a jury, shall be deemed to include the following provision: "It is further CONSIDERED and ORDERED by the Court that payment of the proceeds of the judgment and costs herein shall be made directly to both the prevailing party and his/her attorney(s) and that, upon receipt thereof, the prevailing party and his/her attorney(s) will satisfy said judgment on the records of this Court."

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**Local Rule 72.1
Magistrate Judges: Selection of Chief Magistrate Judge.**

(a) Qualifications and Term:

(1) Chief Magistrate Judge: The Chief Magistrate Judge of the district shall be the Magistrate Judge in regular active service who is senior in commission of those Magistrate Judges who--

- (A) are sixty-four years of age or under;**
- (B) have served for one year or more as a Magistrate Judge; and**
- (C) have not served previously as Chief Magistrate Judge.**

(2) Acting Chief Magistrate Judge:

(A) In any case in which no Magistrate Judge meets the qualifications of paragraph (1), the youngest Magistrate Judge in regular active service who is sixty-five years of age or over and who has served as Magistrate Judge for one year or more shall act as the Chief Magistrate Judge.

(B) In any case under subparagraph (A) in which there is no Magistrate Judge in regular active service who has served as a Magistrate Judge for one year or more, the Magistrate Judge in regular active service who is senior in commission and who has not served previously as Chief Magistrate Judge shall act as the Chief Magistrate Judge.

(3) Term of Service:

(A) Except as provided in subparagraph (c), the Chief Magistrate Judge of the district appointed under paragraph (1) shall serve for a term of seven years and shall serve after expiration of such term until another Magistrate Judge is eligible under paragraph (1) to serve as Chief Magistrate Judge of the district.

(B) Except as provided in subparagraph (c), a Magistrate Judge acting as Chief Magistrate Judge under subparagraph (A) or (B) of paragraph (2) shall serve until a Magistrate Judge has been appointed who meets the qualifications under paragraph (1).

(C) No Magistrate Judge may serve or act as Chief Magistrate Judge of the district after attaining the age of seventy years unless no other Magistrate Judge is qualified to serve as Chief Magistrate Judge of the district under paragraph (1) or is qualified to act as Chief Magistrate Judge under paragraph (2).

(b) Precedence among Magistrate Judges: The Chief Magistrate Judge shall have precedence over the other Magistrate Judges and preside at any session which he/she attends with only the other Magistrate Judges. Other Magistrate Judges shall have precedence and preside according to the seniority of their commissions. Magistrate Judges whose commissions bear the same date shall have precedence according to seniority in age.

(c) Relief from Duties: If the Chief Magistrate Judge desires to be relieved of his/her duties as Chief Magistrate Judge while retaining his/her active status as Magistrate Judge, he/she may so certify to the Chief District Judge of the district and thereafter, the Chief Magistrate Judge of the district shall be such other Magistrate Judge who is qualified to serve or act as Chief Magistrate Judge under subsection (a).

(d) Temporary Disability: If a Chief Magistrate Judge is temporarily unable to perform his/her duties as such, they shall be performed by the Magistrate Judge in

active service, present in the district and able and qualified to act, who is next in precedence.

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Local Rule 72.2
Assignment of Duties to Magistrate Judges.

(a) The full-time Magistrate Judges of this Court are authorized to exercise all powers and perform all duties authorized by 28 U.S.C. §§ 636(a) and (b), including all duties not inconsistent with the Constitution and laws of the United States.

(b) Magistrate Judges have the authority, upon the consent of the parties, to exercise full judicial authority in civil cases, including the conducting of jury trials and entry of final judgement.

(c) Procedures outlining the assignment and re-assignment of civil cases to the Magistrate Judges are contained in the General and Standing Orders of the Court.

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Local Rule 73.1
Consent for Trial of Civil Case by Magistrate Judge.

The full-time Magistrate Judges of this Court are specially designated to exercise all powers and perform all duties authorized by 28 U.S.C. § 636(c) upon consent of the parties to a case. Consent by the parties may be given at any time prior to trial unless otherwise directed by a district judge of this Court.

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Local Rule 81.1
Removal: Legible Copies of State Documents Required.

A party who desires to remove a civil action from state Court to this Court pursuant to 28 U.S.C. § 1446 must file, simultaneously with the notice of removal, clear and legible copies of all records and proceedings from the state Court.

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Local Rule 83.1
**Attorneys: Admission to Practice and
Disciplinary Proceedings.**

(a) Bar of Court. The Bar of this Court consists of those persons previously admitted to (and not removed from) the Bar of this Court and of those persons who hereafter are admitted under this rule.

(1) Any attorney who is admitted to practice before the Supreme Court of Alabama may be admitted to the Bar of this Court upon the submission of an application, payment of the prescribed admission fee, and

(A) the order of a district judge of this Court (on oral or written motion by a member of the Bar of this Court or on the Court's own motion), and the administering of the prescribed oath before any judge (or other designee) of this Court; or

(B) the filing of a certificate of good standing from the Clerk of the United States District Court located within the district in which the applicant resides or regularly practices law.

(2) Attorneys are required to renew their application for admission every five years by submission of an application and payment of the prescribed fee.

(b) Appearance Pro Hac Vice.

(1) Any attorney who is not a member of the Bar of this Court but who is admitted to practice before the United States District Court for the district in which such person resides or regularly practices law, may, upon request, be admitted pro hac vice by an order of any district judge, magistrate judge, or bankruptcy judge of this Court.

(2) In proceedings where the parties have consented to jurisdiction before a Magistrate Judge, the Magistrate Judge may, upon request, admit an attorney pro hac vice, subject to the requirements herein.

(3) A certificate of good standing from the district in which the attorney is admitted must be attached to his/her request for admission pro hac vice.

(4) Any such attorney who appears as counsel by filing any pleading, document or other papers in any case pending in this Court shall, contemporaneously with the filing of such papers, apply for admission pro hac vice as set out herein.

(c) Appearance on behalf of United States. Any attorney representing the United States or any agency thereof, having the authority of the government to appear as its counsel, may appear specially and be heard in any case in which the government or such agency is a party, without formal or general admission.

(d) Any attorney employed by the Federal Defender Office of this District may appear specially and be heard in any action in which the Federal Defender has been appointed without formal or general admission.

(e) By Whom Parties May Appear. In all cases filed in, or removed to this Court, parties may be represented of record only by a member of the Bar of this Court or by an attorney permitted to appear pursuant to subsection (b), (c) or (d) of this rule.

(f) Continuing Representation. Unless disbarred or suspended, attorneys shall be held at all times to represent the parties for whom they appear of record in the first instance until, after formal motion and notice to such parties and to opposing counsel, they are permitted by order of Court to withdraw from such representation. The Court may, however, permit withdrawal without formal motion and notice if other counsel have entered their appearance for the party.

(g) Standards for Professional Conduct; Obligations. Attorneys admitted to practice before this Court shall adhere to this Court's Local Rules, the Alabama Rules of Professional Conduct, the Alabama Standards for Imposing Lawyer Discipline, and, to the extent not inconsistent with the preceding, the American Bar Association Model Rules of Professional Conduct. Attorney misconduct, whether or not occurring in the course of an attorney/client relationship, may be disciplined by disbarment, suspension, reprimand, monetary sanctions, removal from this Court's roster of attorneys eligible for practice before this Court, or such other sanction as the Court may deem appropriate.

(h) Discipline. When alleged attorney misconduct is brought to the attention of the Court, whether by a Judge of the Court, any lawyer admitted to practice before the Court, any officer or employee of the Court, or otherwise, the Court may, in its discretion, dispose of the matter through the use of its inherent, statutory, or other powers; refer the matter to an appropriate state bar agency for investigation and disposition; refer the matter to the local grievance committee as hereinafter defined; or take any other action the Court deems appropriate. These procedures are not mutually exclusive.

(i) Grievance Committee. The Judges of this Court may, at the request of any Judge thereof, appoint a committee of not less than five persons to address alleged attorney misconduct. A majority of the Committee shall constitute a quorum. The Committee shall serve until its assigned task is completed.

(1) Purpose and Function. The purpose and function of such appointed Committee shall be to conduct, upon referral by the Court, investigations, inquiries, and hearings, where appropriate, of alleged misconduct of any member of the Bar of this Court; and, to submit written findings and recommendations to the Court thereafter. Members of a Grievance Committee, while serving in their official capacities, shall be considered to be representatives of and acting under the powers and immunities of the Court, and shall enjoy such immunities while acting in good faith in such capacity.

(2) Powers of Committee. The Committee shall be vested with such powers as are necessary to conduct the proper and expeditious disposition of any matter

referred by the Court, including the power to compel the attendance of witnesses, to take or cause to be taken the deposition of any witnesses, to secure the production of documentary evidence, to administer oaths, and those powers described elsewhere in these rules.

(j) Disciplinary Proceedings.

(1) Preliminary Investigation. Upon referral of a disciplinary matter, the Committee shall conduct a preliminary investigation to determine whether a formal disciplinary proceeding should be initiated. If no such finding is made, the Committee shall file with the Court its written recommendations for disposition of the matter whether by dismissal, admonition, deferral or any other action. In cases of dismissal, the attorney who is the subject of the investigation need not be notified of the proceeding. All investigative reports, records, and recommendations generated by or on behalf of the Committee under such circumstances shall remain strictly confidential. Such reports, records, and recommendations shall be kept with the clerk of the Court in a sealed envelope or box labeled "confidential: to be opened only upon written order of the Court" and shall be destroyed five years after final disposition of the matter.

(2) Probable Cause, Show Cause Order. Upon a finding that probable cause exists, the Committee shall file with the Court a written report of its investigation, stating with specificity the facts supporting its conclusions, and, shall apply to the Court for issuance of an order requiring the attorney to show cause within 35 days after service of that order why the attorney should not be disciplined. The Court may, upon concurrence by a majority of its members, issue an appropriate show cause order. Such issued show cause order shall be accompanied by a copy of the Committee's written report for service upon the attorney. Such written report shall otherwise remain confidential.

(3) Rescission of Show Cause Order, Hearing. The Committee shall act on the attorney's response either by recommending the Court rescind its Order To Show Cause, or by conducting a confidential hearing on the matter affording the attorney an opportunity to be represented by counsel, to present witnesses and other evidence, and to confront and cross-examine witnesses in a proceeding guided by the spirit of the Federal Rules of Evidence. A record shall be made of all proceedings. Unless he or she asserts a privilege or right properly available under applicable federal or state law, the attorney may be called as a witness by the Committee to make specific and complete disclosure of all matters material to the charge of misconduct.

(4) Recommendations. Upon completion of the proceeding, the Committee shall make its confidential written report and recommendation to the Court. The Committee shall include findings of fact as to the charges and recommendations regarding whether or not the accused attorney should be found guilty of misconduct justifying disciplinary actions by the Court, and

recommendations as to the disciplinary measures to be applied by the Court. The report shall be accompanied by a record of the proceedings including an appropriate index which record shall include a transcript of the proceedings, all pleadings, and all evidentiary exhibits. A copy of the report and recommendation shall also be furnished to the attorney.

(5) **Actions by Court.** The Court, by majority vote of its judges, shall take such further action as it deems appropriate.

(k) Conviction of Crime.

(1) **Suspension.** Upon the filing with this Court of a certified copy of a judgment of conviction demonstrating an attorney has been convicted in a Court of competent jurisdiction of a felony, or a misdemeanor involving moral turpitude, the Court shall enter its order suspending the attorney, unless a majority of the judges of the Court deem such a suspension contrary to the interests of justice. The suspension shall remain in effect until further order of the Court.

(2) **Proceedings.** The Court may also institute such proceedings, to include grievance committee proceedings, to determine the extent of final discipline to be imposed upon the attorney, provided the final proceedings shall not occur until all appeals from the conviction are concluded.

(3) **Reinstatement, Proceedings then Pending.** A suspension hereunder shall be terminated immediately upon the filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed. However, reinstatement shall not terminate any disciplinary proceedings then pending against the attorney, the disposition of which shall be determined by the Court utilizing the procedures hereunder.

(l) Discipline Imposed by Other Courts.

(1) **Notification to Clerk.** An attorney admitted to practice before this Court shall, upon being suspended, disbarred, or subjected to any form of public discipline by any other Court, promptly inform the Clerk of this Court of such action. This Court, acting by a majority of its judges, may refer this matter to a grievance committee or issue its order to the attorney to show cause, within 35 days, why he or she should not be disciplined by this Court.

(2) **Conclusiveness of Final Adjudication.** A final adjudication in another Court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purpose of a disciplinary proceeding in this Court, unless the attorney demonstrates, and the Court is satisfied that, upon the face of the record upon which the discipline in another jurisdiction is predicated, it clearly appears that:

(A) The procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process or

(B) There was such infirmity of proof establishing misconduct as to give rise to the clear conviction that this Court could not, consistent with its duty, accept as final the conclusion on that subject.

(3) Actions by Court. The Court, acting upon the attorney's response to the Show Cause Order or upon the report and recommendation of a grievance committee if appointed, may take such further disciplinary action as a majority of the judges deem appropriate under the circumstances.

(m) Disbarment on Consent or Resignation in Other Courts.

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

(2) Removal from Roll of Attorneys. An attorney admitted to practice before this Court who shall be disbarred on consent or resign from the Bar of any other Court of the United States or the District of Columbia, or from the Bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending shall, upon filing with this Court of a certified copy of the judgment or order accepting such disbarment on consent or resignation, cease to be permitted to practice before this Court and be stricken from the roll of attorneys admitted to practice before this Court.

(n) Disbarment on Consent While under Disciplinary Investigation or Prosecution, or Otherwise.

(1) Consent. Any attorney who desires to consent to disbarment by this Court for any reason, to include those related to allegations of misconduct, may consent to disbarment but only upon delivery of an affidavit to this Court, in such form and content as may be required to satisfy the Court that the consent to disbarment is:

(A) Freely and voluntarily rendered without coercion or duress and, that the attorney is fully aware of the implications of so consenting;

(B) For reasons recited within the affidavit, which the attorney acknowledges are true, which form the basis for disbarment.

(2) Entry of Order of Disbarment. Upon receipt of the required affidavit, this Court shall enter its order of disbarment. However, the affidavit required

pursuant to the provisions of this Rule shall not be publicly disclosed or made available for use in any other proceeding except upon order of this Court.

(o) Incompetence or Incapacity.

(1) When it appears that an attorney, for whatever reason, is failing to perform at an adequate level of competence necessary to protect his/her client's interests, the Court shall be empowered to take such remedial action, acting by a majority of its members, as it deems appropriate to insure the attorney's maintenance of an adequate level of competency, to include, but not restricted to:

(A) Appropriate referral of the affected attorney to such entities or parties as may assist the attorney in achieving necessary levels of competency;

(B) Limiting or restricting the attorney's practice before the Court;

(c) Suspension from practice until compliance with competency levels is insured.

(2) Action by the Court relating to matters of attorney competency shall be taken by a majority vote of the judges thereof after consideration of such response from the attorney as the Court may deem appropriate.

(p) Reinstatement.

(1) After Disbarment or Suspension. An attorney suspended for three months or less shall be automatically reinstated at the end of the period of suspension upon the filing with this Court of an affidavit of compliance with the provisions of the order. An attorney suspended for more than three months or disbarred may not resume the practice of law before this Court until reinstated by order of the Court.

(2) Time of Application Following Disbarment. An attorney who has been disbarred after hearing or consent may not apply for reinstatement until the expiration of at least five years from the effective date of disbarment.

(3) Hearing on Application. Petitions for reinstatement by a disbarred or suspended attorney under this Rule shall be filed with the Chief Judge of this Court. The Chief Judge may submit the petition to the Court or may, in his/her discretion, refer the petition to the Grievance Committee which shall within thirty days of the referral schedule a hearing at which the petitioner shall have the burden of establishing by clear and convincing evidence that he or she has the moral qualifications, competency, and learning in the law required for admission to practice before this Court and that his/her resumption of the practice of law will not be detrimental to the integrity and

standing of the bar or the administration of justice, or subversive of the public interest. Upon completion of the hearing the Committee shall make a full report to the Court. The Committee shall include its findings of fact as to the petitioner's fitness to resume the practice of law and its recommendations as to whether or not the petitioner should be reinstated.

(4) Conditions of Reinstatement. If after consideration of the Committee's report and recommendation the Court finds that the petitioner is unfit to resume the practice of law, the petition shall be dismissed. If after consideration of the Committee's report and recommendation the Court finds that the petitioner is fit to resume the practice of law, the Court shall reinstate the petitioner, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings, and on the making of partial or complete restitution to all parties harmed by the petitioner whose conduct led to the suspension or disbarment. Provided further, that if the petitioner has been suspended or disbarred for five years or more, reinstatement may be conditioned, in the discretion of the Court, upon the furnishing of proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment. Provided further that any reinstatement may be subject to any conditions which the Court in its discretion deems appropriate.

(5) Successive Petitions. No petition for reinstatement under this rule shall be filed within one year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

(6) Deposit for Costs of Proceedings. Petitions for reinstatement under this Rule shall be accompanied by a deposit in an amount to be set from time to time by the Court in consultation with the Grievance Committee to cover anticipated costs of the reinstatement proceeding.

(7) Oath and Fee Upon Reinstatement. Any attorney disbarred or suspended from practice in this Court and subsequently readmitted shall take the oath, pay the fee then prescribed, and sign the roll of attorneys for this district.

(q) Attorneys Specially Admitted Subject to Discipline. Whenever an attorney applies to be admitted or is admitted to this Court for purposes of a particular proceeding (pro hac vice), the attorney shall be deemed thereby to have conferred disciplinary jurisdiction upon this Court for any alleged misconduct arising in the course of or in the preparation for such a proceeding which is a violation of this Court's Local Rules and/or the Rules of Professional Conduct adopted by this Court as provided in these Rules.

(r) Appointment of Counsel. Whenever, at the direction of the Court or upon request of the Grievance Committee, counsel is to be appointed pursuant to these rules to investigate or assist in the investigation or misconduct, to prosecute or assist in the

prosecution of disciplinary proceedings, or to assist in the disposition of a reinstatement petition filed by a disciplined attorney, this Court, by a majority vote of the active Judges thereof, may appoint as counsel any active member of the Bar of this Court, or may, in its discretion, appoint the disciplinary agency of the highest Court of the state wherein the Court sits, or other disciplinary agency having jurisdiction.

(s) Service of Paper and Other Notices. Service of an order to show cause instituting a formal disciplinary proceeding shall be made by personal service or by registered or certified mail addressed to the affected attorney at the address shown on the roll of attorneys admitted to practice before this Court. Service of any other papers or notices required by these rules shall be deemed to have been made if such paper or notice is addressed to the attorney at the address shown on the role of attorneys admitted to practice before this Court; or to counsel or the respondent's attorney at the address indicated in the most recent pleading, document or other papers filed by them in the course of any proceeding.

(t) Duties of the Clerk.

(1) Upon being informed that an attorney admitted to practice before this Court has been convicted of any crime, the Clerk of this Court shall determine whether the Court in which such conviction occurred has forwarded a certificate of such conviction to this Court. If a certificate has not been so forwarded, the Clerk of this Court shall promptly obtain a certificate and file it with this Court.

(2) Upon being informed that an attorney admitted to practice before this Court has been subjected to discipline by another Court, the Clerk of this Court shall determine whether a certified or exemplified copy 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 has been convicted of any crime or disbarred or suspended or censured or disbarred on consent by this Court is admitted to practice law in any other jurisdiction or before any other Court, this Court shall, within 14 days of that conviction, disbarment, suspension, censure, or disbarment or consent, transmit to the disciplinary authority in such other jurisdiction, or for such other Court, a certificate of the conviction or a certified or exemplified copy of the judgment or order of disbarment, suspension, censure, or disbarment on consent, as well as the last known office and residence addresses of the disciplined attorney.

(4) The Clerk of this Court shall, likewise, promptly notify the National Discipline Bank operated by the American Bar Association of any order imposing public discipline on any attorney admitted to practice before this Court.

(u) Retained Powers. Nothing contained in this rule shall be construed to deny the Court its inherent power to maintain control over the proceedings conducted before it or to deny the Court those powers derived from statute, rules of procedure, or other rules of Court.

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**Local Rule 83.2
Law Student Representation**

(a) An eligible law student acting under a supervising attorney may enter an appearance in this Court on behalf of any party, including the United States or a governmental agency, provided the party on whose behalf the student appears has consented thereto in writing. If the law student is an intern for, or is otherwise employed by, the United States Attorney or the Public Defender, it shall be sufficient to file the written consent and approval with the Clerk of the Court and with each active District Judge and Magistrate Judge once for the term of the student's participation.

(b) The supervising attorney shall be a member of the bar of this Court and, with respect to the law student's proposed appearance before this Court, shall:

- (1) file with the Clerk of this Court the attorney's written consent to supervise the student in each case in which the student appears;**
- (2) assume personal professional responsibility for the student's work, including malpractice protection for the benefit of the represented clients;**
- (3) assist the student to the extent necessary;**
- (4) appear with the student in all proceedings before the Court and be prepared to supplement any written or oral statement made by the student to this Court or opposing counsel.**

(c) In order to be eligible to appear, the student shall:

- (1) be enrolled in a law school accredited by the American Bar Association.**
- (2) have completed legal studies amounting to at least four semesters, or the equivalent if the school is on some basis other than a semester basis;**
- (3) be certified, by either the dean or a faculty member of the student's law school designated by the dean, as being of good character and competent legal ability, and as being adequately trained to perform as an eligible law student under this rule. The certification of a student by the dean shall remain in effect for 18 months, or until the announcement of the results of the student's first bar examination following the student's graduation, whichever is earlier. For any student who passes that examination, or who is admitted to the bar**

without taking an examination, the certification shall continue in effect until the date the student is admitted to the bar;

(4) be introduced to this Court by an attorney admitted to practice before this Court;

(5) neither ask for nor receive any compensation, fees, or remuneration of any kind for the student's services from the party on whose behalf the student renders services, or from any other party, but this rule shall not prevent an attorney, legal aid bureau, law school, public defender agency, or the United States from paying compensation to the eligible law student, nor shall it prevent any attorney, law firm, or agency from making such charges for its services as may otherwise be proper; and

(5) certify in writing that the student has read and is familiar with the Code of Professional Responsibility of the American Bar Association, the Federal Rules of Civil Procedure, the Local Rules of this Court; and any other federal rules relevant to the case in which the student is appearing.

(d) Upon filing with the Clerk of this Court the written consents and certifications required by this rule, an eligible law student supervised in accordance with this rule may, with respect to any new case or other proceeding for which the student is certified under this rule:

(1) engage in the drafting or preparation of complaints, motions, briefs, appendices, or other pleadings, documents or other papers, and may appear in proceedings on such pleadings, documents or other papers, provided the supervising attorney also signs and appears on the pleadings, documents or other papers;

(2) appear before this Court and participate in conferences, oral argument, mediation, or the examination and cross-examination of witnesses, provided the supervising attorney is present in Court;

(3) take part in other activities in connection with the case, subject to the direction of the supervising attorney.

(e) Notwithstanding the filing of written consent by the client and certification of the law student, this Court may at any time without notice, hearing, or any showing of cause, terminate such certification or refuse to allow the student to participate in a particular case. The dean or a faculty member of the student's law school designated by the dean may also withdraw certification by mailing a notice of withdrawal to the Clerk of this Court. The loss of certification by action of this Court shall not be considered a reflection on the character or ability of the student. The dean or a faculty member of the student's law school designated by the dean may recertify such a student for appearances before this Court.

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**Local Rule 83.3
Registry Funds**

Rules regarding registry funds are contained in the Court's general and standing orders.

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**Local Rule 83.4
Photography, Broadcasting, Recording and Electronic Devices**

(a) The taking of photographs and operation of audio or video recording in the courtroom or its environs, and radio, television or other broadcasting from the courtroom during the progress or in connection with judicial proceedings, including proceedings before a United States District, Magistrate, Bankruptcy Judge or Administrative Law Judge, whether or not court is in session, is prohibited. However, attorneys and members of their staffs may possess and use electronic or photographic means for the presentation of evidence.

(b) The Court maintains a written policy on the use of cellular telephones, paging devices, and laptop computers. For the most recent Court policy, see the Court's Standing and General Orders which may be obtained from the Court's website at <http://www.almd.uscourts.gov> or by calling the clerk's office at 334-954-3600.

(c) In exceptional situations, at the request of the United States Marshal or United States Attorney, the court may direct limitations on photography and broadcasting to maintain the secrecy of grand jury proceedings, to protect jurors and witnesses, and to further the interests of justice in unusual, hazardous, or inflammatory circumstances.

(d) The broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings may be authorized by the presiding judge.

(e) The courtroom and its environs, as such terms are used in this rule, and in the applicable General and Standing Orders of the Court shall include any portion of the United States courthouse buildings and the exterior steps to such buildings, and parking areas adjacent to such buildings if such areas are owned by the United States Government. The environs of the courtroom as defined in this rule shall not include the office of any elected official within any United States courthouse, nor should it include the office area of any other agency within such buildings where photography, broadcasting, and recording have been invited or authorized by the person in charge thereof with respect to a matter which is unrelated to court proceedings or security. Where the interests of justice or public safety may so require, the Court may direct the marshal to extend the environs of the courtroom, as such term is contemplated in this order, to the curb or edge of the public streets or thoroughfares adjacent to such buildings if such areas are owned by the United States Government.

(f) It is the purpose of this order to preserve and protect the dignity and solemnity of court proceedings, to promote public safety and the safety of the court and its personnel, and to facilitate access to court functions by the public and court officers while allowing the progressive use of electronic devices which will aid in the preparation and trial of cases and the hearing and resolution of motions and other court matters. Nothing herein contained shall be construed unreasonably so as to restrict the constitutional rights of any individual.

(g) There is a limited exception to the ban on recording and publication of district court proceedings as set forth in Local rule 83.4 for district judges participating in a pilot program established by the Judicial Conference of the United States in September 2010 (JCUS-SEP 10, pp. 3-4) to evaluate the effect of cameras in district courtrooms, of video recordings of proceedings therein, and of publication of such video recordings.

Any recording and publication conducted pursuant to the pilot program must comply with the program guidelines issued by the Judicial Conference Committee on Court Administration and Case Management, pursuant to the pilot program (available at www.uscourts.gov).

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**Local Rule 83.5
Extraordinary Expenses for Indigent Clients**

(a) This Court currently maintains an attorneys fee fund to provide funds for extraordinary expenses incurred by counsel appointed by the court to represent indigent plaintiffs in civil actions.

(b) Counsel who wish to receive money from the fund for extraordinary expenses must file a written motion requesting the funds prior to expenditure and detailing the reasons why the funds are necessary.

(c) If a motion requesting extraordinary expenses is granted, appointed counsel must fill out completely the Claim Form for Reimbursement of expenses and file such with the Clerk of Court within 21 days from the date of final judgement.

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**PART 2: LOCAL CRIMINAL RULES
[Cite as M.D. Ala. LCrR]**

**Local Criminal Rule 1.1
Scope and Construction.**

(a) Title and Citation. These rules shall be known as the Local Criminal Rules of the United States District Court for the Middle District of Alabama. Rules applying to criminal matters should be cited as "M.D. Ala. LCrR ."

(b) Effective Date. These rules become effective on December 1, 2010 and shall govern all proceedings thereafter commenced and, insofar as just and practicable, all proceedings then pending.

(c) Scope and Construction. These rules, *along with the Civil and General Provisions in Part I. above*, made pursuant to the authority of 28 U.S.C. § 2071, Fed. R. Civ. P. 83, and Fed. R. Crim. P. 57, shall apply to all criminal proceedings, unless specifically provided to the contrary or necessarily restricted by inference from the context.

(d) Relationship to Prior Rules and Subsequent Orders. These rules supersede all previous rules promulgated by this Court or any judge of this Court except for those [General and Standing Orders](#) that exist at the time the rules are published and that do not expressly conflict with these rules. These rules, however, may be affected by any general or standing orders entered by this Court after publication of these rules.

(e) Any judge of this Court may suspend application and enforcement of these local rules, in whole or in part, in the interests of justice in individual actions. When any judge of this Court, in a specific action, issues any order which is not consistent with these rules, such order shall constitute a suspension of the rules with respect to that action only, and only to the extent that such order is inconsistent with the rules.

(f) Rules of Construction and Definition. United States Code, Title 1, Sections 1 to 5, shall, as far as applicable, govern the construction of these rules.

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**Local Criminal Rule 12(b).1
Notice of Entrapment Defense.**

(a) Notice by defendant. A defendant intending to claim a defense of entrapment shall, within the time provided for the filing of pretrial motions or at such later time as the Court may direct, serve upon the attorney for the Government written notice of such intention and file a copy of such notice with the Clerk.

(b) Waiver. If there is a failure to comply with the requirements of subdivision (a), entrapment may not be raised as a defense. The Court may for cause shown allow late filing of the notice or grant additional time to the parties to prepare for trial or make such other order as may be appropriate.

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**Local Criminal Rule 16.1
Criminal Discovery**

This rule is the standard discovery procedure and the sole means of the exchange of discovery in criminal cases, except in extraordinary circumstances. This rule is intended to promote the efficient exchange of discovery without altering the rights

and obligations of the parties, but at the same time eliminating the practice of routinely filing perfunctory and duplicative discovery motions.

(a) Initial Disclosures:

(1) Disclosure by the Government. At arraignment, or on a date otherwise set by the court for good cause shown, the government shall tender to defendant the following:

(A) Fed. R. Crim. P. 16(a) Information. All discoverable information within the scope of Rule 16(a) of the Federal Rules of Criminal Procedure.

(B) Brady Material. All information and material known to the government which may be favorable to the defendant on the issues of guilt or punishment, without regard to materiality, within the scope of Brady v. Maryland, 373 U.S. 83 (1963).

(C) Giglio Material. The existence and substance of any payments, promises of immunity, leniency, preferential treatment, or other inducements made to prospective witnesses, within the scope of United States v. Giglio, 405 U.S. 150 (1972).

(D) Testifying informant's convictions. A record of prior convictions of any alleged informant who will testify for the government at trial.

(E) Defendant's identification. If a line-up, show-up, photo spread or similar, procedure was used in attempting to identify the defendant, the exact procedure and participants shall be described and the results, together with any pictures, and photographs, shall be disclosed.

(F) Inspection of vehicles, vessels, or aircraft. If any vehicle, vessel, or aircraft, was allegedly utilized in the commission of any offenses charged, the government shall permit the defendant's counsel and any expert selected by the defense to inspect it, if it is in the custody of any governmental authority.

(G) Defendant's latent prints. If latent fingerprints, or prints of any type, have been, identified by a government expert as those of the defendant, copies thereof shall be provided.

(H) Fed. R. Evid. 404(b). The government shall advise the defendant of its intention to introduce evidence in its case in chief at trial, pursuant to Rule 404(b) of the Federal Rules of Evidence.

(I) Electronic Surveillance Information. If the defendant was an aggrieved person as defined in 18 U.S.C. § 2510(11), the government shall so advise the defendant and set forth the detailed circumstances thereof.

(2) Obligations of the Government.

(A) The government shall anticipate the need for, and arrange for the transcription of the grand jury testimony of all witnesses who will testify in the government's case in chief, if subject to Fed. R. Crim. P. 26.2 and 18 U.S. C. § 3500. Jencks Act materials and witnesses' statements shall be

provided as required by Fed. R. CRIM. P. 26.2 and 18 U.S.C. § 3500. However, the government, and where applicable, the defendant, are requested to make such materials and statements available to the other party sufficiently in advance as to avoid any delays or interruptions at trial. The court suggests an early disclosure of Jencks Act materials.

(B) The government shall advise all government agents and officers involved in the case to preserve all rough notes.

(C) The identification and production of all discoverable evidence or information is the personal responsibility of the Assistant United States Attorney assigned to the case and may not be delegated without the express permission of the court.

(3) Disclosures to U.S. Probation.

At arraignment, or on a date otherwise designated by the court upon good cause shown, the government shall tender to the U.S. Probation Office all essential information needed by U.S. Probation to accurately calculate the sentencing guideline range for the defendant, including, but not limited to, information regarding the nature of the offense (offense level), the nature of the victim and the injury sustained by the victim, defendant's role in the offense, whether defendant obstructed justice in the commission of the crime, defendant's criminal history, and any information regarding defendant's status as a career offender/armed career criminal. In addition, in order to comply with the requirements of the Anti-Terrorism Act, the government shall produce to the U.S. Probation Office information regarding the victims of defendant's alleged criminal activity, including, but not limited to, the identity of the victim by name, address, and phone number, and the nature and extent of the victim's loss or injury.

(4) Disclosures by the Defendant.

If defendant accepts or requests disclosure of discoverable information pursuant to Fed. R. CRIM. P. 16(a)(1)(c), (D), or (E), defendant, on or before a date set by the court, shall provide to the government all discoverable information within the scope of Fed. R. Crim. P. 16(b).

(b) Supplementation.

The provisions of Fed. R. Crim. P. 16(c) are applicable. It shall be the duty of counsel for all parties to immediately reveal to opposing counsel all newly discovered information, evidence, or other material within the scope of this Rule, and there is a continuing duty upon each attorney to disclose expeditiously.

(c) Motions for Discovery.

(1) No attorney shall file a discovery motion without first conferring with opposing counsel, and no motion will be considered by the court unless it is accompanied by a certification of such conference and a statement of the moving party's good faith efforts to resolve the subject matter of the motion by agreement with opposing counsel.

(2) No discovery motions shall be filed for information or material within the scope of this Rule unless it is a motion to compel, a motion for protective

order or a motion for an order modifying discovery. See Fed. R. Crim. P. 16(d).

(3) Discovery requests made pursuant to Fed. R. Crim. P. 16 and this Order require no action on the part of this court and shall not be filed with the court, unless the party making the request desires to preserve the discovery matter for appeal.

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**Local Criminal Rule 32.1
Disclosure of Presentence Reports or Probation Records.**

- (a) No confidential record of this Court maintained by the Probation Office, including presentence and supervision records, shall be disclosed except as provided by Fed. R. Crim. P. 32, and as provided by this local rule.
- (b) The probation officer shall not disclose the officer's sentencing recommendation, if any, unless otherwise ordered by the Court. When disclosure is so ordered, such recommendation shall be disclosed at the sentencing hearing and no earlier than the date of sentencing. The recommendation will be available to the parties, however, at the U. S. Probation Office on the date of sentencing.
- (c) When a demand for disclosure of presentence and probation records is made, by way of subpoena or other judicial process, to a probation officer of this Court, the probation officer may file a petition seeking instruction from the Court with respect to responding to the subpoena.
- (d) Whenever a probation officer is subpoenaed for such records, he or she shall petition this Court in writing for authority to release documentary records or produce testimony with respect to such confidential Court information. In either event, no disclosure shall be made except upon an order issued by this Court.
- (e) The Probation Office shall provide to the United States Sentencing Commission, the United States Parole Commission, and the United States Bureau of Prisons presentence reports as requested for the discharge of their official duties.
- (f) The Probation Office may make available to officers of the Alabama Board of Pardons and Paroles presentence reports and supervision records for review in their investigation and supervision of Alabama Circuit Court defendants, probationers and parolees.

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**Local Criminal Rule 44.1
Appointed Counsel.**

The following guidelines for counsel appointed under the Criminal Justice Act, 18 U.S.C. § 3006A, shall be followed:

(a) Duties of Appointed Counsel.

- (1) Counsel who participate in this plan do so in fulfillment of their professional responsibilities as officers of the Court, and the limited

amount of compensation accruing in no respect diminishes that responsibility.

(2) Appointed counsel shall report to the Court any change in his/her client's financial status indicating that the client is able to finance all or a part of his/her representation. No appointed counsel shall accept a payment from or on behalf of the person represented without prior authorization of the Court.

(b) Termination of Appointment of Counsel. Representation by appointed counsel shall terminate when the purpose of the appointment is accomplished or when terminated by Court order.

(c) Guidelines as to Maximum Compensation. The Clerk shall maintain a schedule of guidelines for maximum compensation to be allowed by the Court, not to exceed that provided in 18 U.S.C. § 3006A.

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Local Criminal Rule 44.2 Notice of Appearance Required for Retained Counsel.

Any attorney who is retained in a criminal action in this Court shall file his/her notice of appearance with the Clerk immediately upon being retained in that action.

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Local Criminal Rule 57.1 Challenges to Admissibility of Drug-Test Results

In all criminal revocation proceedings in which the defendant seeks to challenge the admissibility of drug-test results, the parties shall follow the discovery procedure set forth in this rule.

(1) If the defendant desires to challenge a drug test or report of a drug test, he shall so notify the court in writing, with service on the government, fourteen days before the hearing at which he plans to raise the challenge.

(2) If the defendant files a notice challenging a drug test or report of a drug test, the government shall file with the court, with service on the defendant, at least seven days before the hearing, computed in accordance with Fed. R. Crim. P. 45, the following materials, all of which shall be made a part of the record in each revocation hearing:

(A) A copy of the report of each relevant laboratory test.

(B) A copy of the report on the chain of custody of each sample, including the date of collection, name of person(s) collecting and labeling same, and a description of the label.

(C) A copy of an affidavit by a responsible laboratory employee attesting to laboratory procedures, including laboratory chain of custody routines, whether all required procedures were followed regarding the subject sample(s), and the result(s) of the testing.

(3) If the defendant is unable to timely file the motion described herein, the defendant shall file a motion with the court requesting permission to file the motion out of time and set forth the reasons for the delay in filing. If possible, the motion challenging the admissibility of the drug test results should be filed at the same time. If it is not possible to file the motion challenging the drug test results at the same time as the motion requesting permission to file the motion out of time, it should be filed as soon as practical.

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**Local Criminal Rule 58.1
Forfeiture of Collateral in Lieu of Appearance.**

(a) Forfeiture of collateral in lieu of appearance. For certain scheduled offenses, as listed in this district's collateral forfeiture schedule ("Forfeiture of Collateral in Lieu of Appearance of Certain Petty and Minor Offense Cases"), committed within the territorial and subject matter jurisdiction of a United States Magistrate Judge for the Middle District of Alabama, collateral may be posted in the scheduled amount in lieu of an accused's appearance before the Magistrate Judge.

(b) Collateral Forfeiture Schedule. The collateral forfeiture schedule ("Forfeiture of Collateral in Lieu of Appearance of Certain Petty and Minor Offense Cases") will be in full force and effect on any location within the Middle District of Alabama where the United States has concurrent or exclusive jurisdiction, including but not limited to those lands, buildings, places or other areas regulated and controlled by the United States of America and its agencies as set out in the collateral forfeiture schedule. The most recent Collateral Forfeiture Schedule may be obtained from the Court's website at <http://www.almd.usCourts.gov> or by calling the clerk's office at 334-954-3600

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