

Rule 5.1 FILING WITH THE COURT

(a) Pleading Format. Pleadings shall be typed, either double-spaced or one and one-half (1½) spaced on white paper of standard weight and eight and one-half (8½) x eleven (11) inches in size. They shall be filed without backing.

Attachments or exhibits shall be tabbed at the bottom. As used in these Rules, "pleadings" means all papers, including briefs, filed in a case. A sufficient space shall be reserved on the first page, in proximity to the title of the case and on the right hand side, for the filing stamp of the Clerk of Court and the case number. The first line of every page shall commence not less than two (2) inches from the top of the page to accommodate filing by the Clerk of Court.

When counsel is ordered to prepare proposed orders, each proposed order shall state what the order is concerning, e.g., order granting motion to compel.

(b) *Number of Copies.* All pleadings, motions, applications and briefs tendered to the Clerk of Court for filing shall consist of an original plus one copy.

(c) *Identification of Counsel in Pleadings.* The caption of every pleading shall conform with Fed. R. Civ. P. 10(a) and the front page on all pleadings shall contain the name, firm name (if any), address and telephone and facsimilie number (if any) of the attorney(s) in active charge of the case, which shall be placed in the upper left hand corner four (4) spaces above name of Court.

(d) *Identification of Complex Cases.* (See Local Rule 16.4.)

(e) *Prepayment of Fees.* Prepayment of all fees collectible by the Clerk of Court and prescribed by statute or by the Judicial Conference may be required by the Clerk of Court before furnishing the service therefor.

(f) *Failure to Pay Fees.* Except for notices of appeal and prisoner petition matters, the Clerk of Court is authorized to refuse to docket or file any suit or proceeding, writ or other process, or any paper or papers in any suit or proceeding until the filing fees are paid.

Rule 6.1 TIME

(a) Computation of Time Limits. All time limits imposed by the Local Rules of this Court shall be computed in accordance with the applicable Federal Rules of Civil Procedure.

(b) Extensions of Time. All parties shall strictly comply with all time limits as provided by the Local Rules and the Federal Rules of Civil Procedure. Motions for extensions of time of not more than fifteen (15) days within which to:

(1) answer or move to dismiss the complaint;

(2) answer or object to interrogatories under Fed. R. Civ. P. 31 or Fed. R. Civ. P. 33;

(3) respond to requests for production or for inspection under Fed. R. Civ. P. 34;

(4) respond to requests for admissions under Fed. R. Civ. P. 36;

may be granted where serious circumstances demonstrate that an extension should be granted. **After consultation with and approval by opposing counsel,** counsel seeking an extension of time for the first time shall, upon oral motion, request an immediate ruling from the Magistrate Judge. The hearing may be by telephone conference call or in person. The Magistrate Judge shall cause the Clerk of Court to enter the decision on the docket sheet as a minute order and no further order shall be entered on the motion.

(c) All **other** requests for continuances or extensions of time under these rules or the Fed. R. Civ. P. shall be presented to the Court by written motion.

Rule 16.1 PRETRIAL CONFERENCES

The Court recognizes that the commencement of an action transforms a private dispute into public business, which necessitates judicial regulation through calendar control and explicit rules regarding discovery matters and pretrial conferences, in order to avoid unnecessary delays and to accommodate the public's interest in swift administration of justice consistent with high standards of judicial quality. Pretrial conferences are fundamental to that process. The Court will fully implement Fed. R. Civ. P. 16 in scheduling and managing all complex and non-complex cases, except appeals from the bankruptcy court, appeals from decisions of administrative agencies and other cases where the action of the Court is limited to review of a previously prepared record, *habeas corpus* proceedings and *pro se* prisoner cases. Scheduling orders shall comply with Fed. R. Civ. P. 16(b).

(a) **Rule 26(f) Conference and** Pretrial Scheduling Conference in Non-Complex Cases. The Court, in its discretion and upon its own initiative, shall **set** a pretrial scheduling conference with the attorneys for the parties **before** a magistrate judge or a district judge of the Court.

(1) The Court will **set** an initial pretrial conference no sooner than thirty-five (35) days after the last pleading pursuant to Fed.R.Civ.P. 7 or a dispositive motion is filed with the court. Counsel must meet and confer together in accordance with Fed.R.Civ.P. 26(f) no later than twenty (20) days after the last pleading pursuant to Fed.R.Civ.P. 7 or a dispositive motion is filed with the court. (See Appendix D)

(2) Counsel shall comply with Fed.R.Civ.P.26(a)(1) and shall submit a written or oral discovery plan at the initial pretrial conference.

(b) *Initial Pretrial Conference Preparation.* Counsel shall be prepared to present and discuss the following matters at the initial pretrial conference:

(1) Counsel must report to the Court the results of the Fed.R.Civ.P. 26(f) conference in accordance with Local Rule 26.1(c)(2).

(2) Counsel shall discuss their respective factual and

Rule 16.2 FINAL PRETRIAL CONFERENCE

(a) Final Pretrial Conference. A final pretrial conference shall be held when ordered by the Court. Counsel who will try the case shall attend, unless excused by the Court, shall submit a pretrial conference memorandum, as herein required, and shall be prepared on all of the items covered by the pretrial notice and check list approved by the Circuit Committee on Pretrial of the Judicial Conference of the Tenth Circuit. (See Appendix A). The pretrial order shall be prepared by the Court or the Magistrate Judge, except when otherwise directed by the Court (in a form similar to Appendix B).

(b) Final Pretrial Conference Preparation. Five (5) days prior to the date fixed for the final pretrial conference, counsel for the parties herein shall:

(1) submit to the Court, with a copy to the opposing counsel, a pretrial conference memorandum containing a brief statement of the issues, legal theories and positions of the parties; a list of the names and addresses of the witnesses whom the parties intend to call to testify at the trial, together with a complete and specific statement of the testimony intended to be elicited from each witness in the trial; a list of all the exhibits which that party proposes to use in the trial of the case and further reporting on all other matters referred to in the approved form of pretrial order. **(See Appendices A and B)** If depositions have been taken of a witness listed, counsel may refer to the deposition rather than to repeat a summary of that witness's testimony.

(2) be prepared to specify which of the listed witnesses *may* be called, and which of such witness *will* definitely be present for the trial. The opposing party shall not be required to subpoena witnesses who will be produced by an opponent.

(3) list and mark each exhibit intended to be offered at the pretrial conference. Counsel for the plaintiff(s) shall list and mark each exhibit with numerals and the number of the case, and counsel for the defendant(s) shall list and mark each exhibit intended to be offered at the pretrial conference with letters and the number of the case, e.g., Civil No. _____, Plaintiff's Exhibit 1; Civil No. _____,

(a) Voluntary Dispute Resolution. The Court urges the parties to strongly consider voluntary alternative dispute resolution (ADR) in all non-exempt civil cases as a means of expeditiously resolving a dispute prior to trial. ADR procedures include settlement conferences, summary jury trials, court annexed arbitration, early neutral evaluation, and other dispute resolution techniques.

(1) Stipulated Agreement and Motion for Referral to ADR. The parties may request from the Clerk of Court a form for a Stipulated Agreement and Motion for Referral to ADR for a voluntary ADR procedure in all non-exempt civil actions. The parties shall file the Stipulated Agreement and Motion for Referral to ADR with the Clerk of Court indicating, therein, the ADR procedure selected and the neutral selected to conduct the ADR procedure. The Clerk of Court shall forward a copy of the Stipulated Motion and Agreement for Referral to the ADR Administrator for processing.

(2) Notification of Neutral and Acceptance or Rejection. The ADR Administrator shall notify the selected neutral that litigants are requesting to conduct the ADR procedure. The ADR Administrator shall also provide to the selected neutral copies of the Stipulated Agreement and Motion for Referral to ADR and the case docket sheet. The neutral shall check for conflicts of interest and notify the ADR Administrator within five (5) days from the date of notice, whether the referral will be accepted or rejected. If the referral is accepted by the neutral, the neutral shall immediately notify the ADR Administrator of such and the ADR Administrator shall seek an order from the trial judge approving the same. Once an order of approval is filed with the Clerk of Court, the neutral shall be responsible to contact the parties and make all necessary arrangements to conduct the ADR procedure.

(3) Notice by Neutral of ADR Procedure Outcome. Immediately after the conclusion of an ADR procedure, the neutral shall contact the Clerk of Court and advise of the outcome of the proceeding. The Clerk of Court shall then likewise notify the trial Judge and the ADR Administrator.

(a) Applicability. This Rule is applicable to all cases filed in this District except where modified by Court order.

(b) Stay of Discovery. Formal discovery, including oral depositions, service of interrogatories, requests for production of documents and things, and requests for admissions, shall not commence until the parties have complied with **Fed.R.Civ.P. 26(a)(1)**.

(c) **Initial Disclosure** (Self-Executing Routine Discovery Exchange). It is the policy of this District that discovery shall be open, full and complete within the parameters of the Federal Rules of Civil Procedure.

(1) **Initial Disclosures**. [Excerpted from **Fed.R.Civ.P. 26(a)(1)(A)-(O)**] Except in categories of proceedings specified in **Fed.R.Civ.P. 26(a)(1)(E)**, or to the extent otherwise stipulated or directed by order, a party must, without awaiting a discovery request, provide to other parties:

(A) the name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment identifying the subjects of the information;

(B) a copy of, or a description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment. In cases where it is impractical due to the volume or nature of the documents to provide such copies, parties shall provide a complete description by category and location in lieu thereof;

(C) a computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries

Rule 30.1 DEPOSITIONS

(a) Reasonable Notice. Unless otherwise ordered by the Court, "reasonable notice" for the taking of depositions under Fed. R. Civ. P. 30(b)(1) shall be not less than five (5) days. Fed. R. Civ. P. 6 governs the computation of time.

(b) Telephonic Depositions. The motion of a party to take the deposition of an adverse party by telephone will presumptively be granted. Where the opposing party is a corporation, the term "adverse party" means an officer, director, managing agent or corporate designee, pursuant to Fed. R. Civ. P. 30(b)(6).

(c) Depositions of Witnesses Who Have No Knowledge of the Facts. Where an officer, director or managing agent of a corporation or a government official is served with a notice of deposition or subpoena regarding a matter about which he has no knowledge, he shall submit, reasonably before the date noticed for the deposition, an affidavit so stating and identifying a person with the corporation or government entity having knowledge of the subject matter involved in the pending action.

The noticing party may, notwithstanding such affidavit of the noticed witness, proceed with the deposition, subject to the witness's right to seek a protective order.

(d) Directions Not to Answer. Repeated directions to a witness not to answer questions calling for non-privileged answers are symptomatic that the deposition is not proceeding as it should. When direction is given to a witness not to answer, it should be made only on the ground of privilege.

Where a direction not to answer such a question is given and honored by the witness, either party may seek an immediate ruling from the Magistrate Judge as to the validity of such direction. If the witness refuses to answer questions calling for non-privileged answers and the attorney giving such direction does not withdraw such direction, the Court may require the attorney to pay all costs associated with retaking the deposition.

Rule 45.1 SUBPOENAS

(a) Issuance of Subpoena. Each litigant or his counsel desiring the issuance of a subpoena or a subpoena *duces tecum*, shall complete the subpoena in accordance with Fed. R. Civ. P. 45. Subpoena *duces tecum* shall specify clearly and concisely the documents required to be produced. (See Local Rule 34.1.) Counsel shall provide all parties **with copies of all subpoenas *duces tecum* at the same time they are issued.**

Rule 51.1 INSTRUCTIONS

The parties shall tender to the Court and exchange with each other proposed jury instructions with citations to authorities in support thereof, together with proposed verdict forms **and a 3 ½ inch diskette formatted for Wordperfect**, five (5) days prior to trial in both civil and criminal cases.

Rule 54.2 TAXATION OF COSTS

(a) *Filing of Certificate of Costs.* After entry of the final judgment allowing costs to the prevailing party, said party shall prepare and file a certificate of costs within twenty (20) days which shall contain an itemized schedule of costs incurred and a statement that such schedule is correct and that the charges were actually and necessarily incurred. The original certificate shall be filed with the Clerk of Court and a copy served upon opposing counsel.

(b) *Objections to Cost Bill.* If no objections are filed within twenty (20) days after service of the cost bill, the Clerk of Court shall tax the costs which appear properly claimed. If objections are filed, the Clerk of Court shall consider the objections and shall tax costs subject to review by the Court, as provided by Fed. R. Civ. P. 54(d).

(c) *Witnesses and Experts.* Where witnesses, both fact and expert, appear voluntarily or are subpoenaed by the regular service of subpoena within the District, or outside the District as allowed by law, they shall be entitled to fees provided by statute to be taxed as costs in the case. In all civil cases, witness fees shall be taxed only upon the certificate of counsel for the prevailing party requesting the same. Said certificate shall contain the following information:

(1) the name of the witness;

(2) the place of residence or the place where subpoenaed, or the place from which the witness voluntarily traveled without a subpoena to attend upon said case;

(3) the number of days the witness actually testified in Court;

(4) the number of days the witness traveled to and from the place of trial or hearings and the exact number of miles traveled; and

(5) the manner of travel, that is, whether by air, railroad, bus or private automobile.

(d) *Clerk of Court Taxing Witness Fees.* The Clerk of

RULE 58.1 DUTIES OF MAGISTRATE JUDGES

Full time and part-time magistrate judges shall have or may be assigned the following duties and responsibilities:

(a) All misdemeanor cases shall be assigned, upon the filing of an information, complaint, or violation notice, or the return of an indictment, to a magistrate judge, who shall proceed in accordance with the provisions of 18 U.S.C. Sec. 3401 and Fed. R. Crim. P. 58, Procedure for Misdemeanors and other Petty Offenses.

(b) Accept petit criminal verdicts in the absence of a district judge.

(c) Accept returns of grand juries in the absence of a district judge.

(d) Conduct necessary proceedings leading to the potential revocation of probation.

(e) Conduct hearings to modify, revoke, or terminate supervised release, including evidentiary hearings, and to submit to the District Judge proposed findings of fact and recommendations for such modification, revocation, or termination by the District Judge, including, in the case of revocation, a recommended disposition under 18 U.S.C. 3583(e) in accordance with 18 U.S.C. 3401(I).

(f) Accept not guilty pleas in felony cases in the absence of a district judge.

(g) Conduct pretrial/post trial motions in accordance with 28 U.S.C. Sec. 636(b)(1)(A)(B) and (C).

(h) Conduct pretrial conferences in accordance with Fed. R. Crim. P. 17.1.

(i) Conduct proceedings for initial commitment of narcotic addicts under Title III of the Narcotic Addict Rehabilitation Act, and

(j) Perform any additional duty **consistent** with the Constitution and laws of the United States.

(a) Files. No record or paper filed with the Court shall be taken from the office or custody of the Clerk of Court, except by attorneys admitted to the bar of this Court upon the special order of the Court or permission of the Clerk of Court for good and sufficient reasons shown. The person removing any Court file shall sign a receipt which identifies the record or paper removed and states the date when it is to be returned. Under no circumstances shall an attorney place a court file in the mail for return to the Clerk of Court.

(b) Transcripts, Depositions and Administrative Records. Transcripts, depositions and administrative records shall not be checked out by the Clerk of Court to any person except court personnel.

(c) Depositions. Sealed depositions shall not be reproduced by the Clerk's office unless ordered by the Court. **Sealed depositions** which have been filed with the Court may be opened by the Clerk of Court for examination by attorneys of record in the case **and read in the office of the Clerk of Court**. Upon the conclusion of the examination, the deposition shall be resealed. In the event an attorney not of record in the case wishes to examine a sealed deposition filed with the court, said counsel must seek written permission from the Court to do so before the Clerk of Court will allow such examination.

(d) Court Transcripts. Attorneys are advised that a court transcript filed with the Clerk of Court is the *prima facie* transcript of the testimony filed by the reporter, pursuant to 28 U.S.C. § 753 covering the duties of the court reporter, and it is a part of the Clerk of Court's files. Any copies of transcripts, or parts thereof which are a part of the public domain and not sealed by the Court may, upon request, be reproduced for ordering parties by the Clerk's office, under the same terms and conditions as any other official public document in the case file.

(e) *Administrative Records*. An Administrative Record which has been filed in a case and not sealed by the Court may, upon request, be reproduced for ordering parties by the Clerk's office, under the same terms and conditions as any other official public document in the case file.

Rule 83.7.2 REVIEW OF ACTION OF ADMINISTRATIVE AGENCIES, BOARDS, COMMISSIONS, AND OFFICERS (INCLUDING SOCIAL SECURITY APPEALS)

(a) Review of Agency Action--How obtained.

(1) Petition for review of agency action. Review of action of an administrative agency, board, commission, or officer must be obtained by filing a petition for review or, if specified by the applicable statute, a notice of appeal. (As used in this rule, the term "agency" includes any federal agency, board, commission, or officer--including the Commissioner of Social Security under Title 42 of the United States Code.) The caption of the petition or notice must name each party seeking review. The petition or notice must name the petitioner(s) and the respondent(s), and identify the action, order, or part thereof, to be reviewed. The petition or notice shall also contain a citation of the statute by which jurisdiction is claimed. (Form 3 in the Appendix to the Federal Rules of Appellate Procedure is a suggested form of petition or notice.) The petition or notice shall not contain factual allegations in the nature of a complaint. Factual allegations in the petition or notice shall be stricken. The respondent is not required to file a response to the petition or notice unless required by statute. If two or more persons are entitled to seek judicial review of the same action and their interests are such as to make joinder proper, they may file a joint petition or notice.

(2) Service of process. Service of process shall be in the manner provided by Fed. R. Civ. P. 4, unless a different manner of service is prescribed by an applicable statute.

(b) *The record on review.*

(1) Composition of the record. The written action or order sought to be reviewed, the findings or report on which it is based, and the pleadings, evidence and proceedings before the agency shall constitute the record on review in proceedings to review agency action, unless otherwise provided by the applicable statute.

(2) Supplementation of the record. Any party may seek leave of court to supplement the record or may oppose a

party's request for such supplementation. Local Rule 7.1(b), which pertains to briefing of non-dispositive motions, shall apply.

(c) *Filing of the record.* In review proceedings, the agency shall file the record with the clerk within sixty days of proper service of the petition or notice unless a different time is provided by statute, or as otherwise ordered by the court.

(d) *Filing and service of briefs.* The court, in its discretion and upon its own initiative, shall schedule a briefing conference. At the briefing conference, the court will set a briefing schedule. The time for filing and serving briefs may be extended or shortened by order of the court. Parties shall not file motions to affirm, motions for summary judgment, or affidavits in support thereof. **The length of briefs shall be governed by the applicable Federal Rules of Appellate Procedure of the Tenth Circuit Court of Appeals.**

(e) *Applicability of other rules.* The parties to any proceedings governed by this rule shall give the same notice of the filing of pleadings, records and other documents as is required by Fed. R. Civ. P. 5.

Rule 83.12.3 APPEARANCES AND WITHDRAWALS

(a) Appearances, Civil Case. **Each and every** An attorney making an appearance in a civil case shall cause the Clerk of Court's records to clearly reflect the firm name (if any), office address, telephone and facsimile number (if any) of the attorney, and the party for whom appearance is made, by filing a **separate** written appearance **identifying the specific party(s) represented.**

(b) Withdrawal of Appearance. An attorney who has appeared of record in a case may, with Court permission, withdraw for good cause shown. An attorney seeking withdrawal shall be relieved of his duties to the Court, the client and opposing counsel, only after the completion of the following procedures:

(1) filing of a motion seeking leave to withdraw, specifying the reasons therefor, unless to do so would violate the Code of Professional Responsibility, and service of a notice of withdrawal on his client and other counsel. Notice to the attorney's client must contain the admonition that the client is personally responsible for complying with all orders of the Court and time limitations of the Local Rules and Federal Rules of Civil Procedure;

(2) the filing with the Clerk of Court of a notice of withdrawal, proof of service thereof and the written consent of the client to the withdrawal; and

(3) the filing of an entry of appearance or a commitment to represent the client by a substitute attorney. After such procedure has been completed, the Court shall enter an order authorizing such a withdrawal. If the client has not consented in writing to such a withdrawal, the motion shall be set down for hearing before the Court.

party's request for such supplementation. Local Rule 7.1(b), which pertains to briefing of non-dispositive motions, shall apply.

(c) *Filing of the record.* In review proceedings, the agency shall file the record with the clerk within sixty days of proper service of the petition or notice unless a different time is provided by statute, or as otherwise ordered by the court.

(d) *Filing and service of briefs.* The court, in its discretion and upon its own initiative, shall schedule a briefing conference. At the briefing conference, the court will set a briefing schedule. The time for filing and serving briefs may be extended or shortened by order of the court. Parties shall not file motions to affirm, motions for summary judgment, or affidavits in support thereof. **The length of briefs shall be governed by the applicable Federal Rules of Appellate Procedure of the Tenth Circuit Court of Appeals.**

(e) *Applicability of other rules.* The parties to any proceedings governed by this rule shall give the same notice of the filing of pleadings, records and other documents as is required by Fed. R. Civ. P. 5.

Court shall tax the witness fees after the certificate is filed, provided the information contained therein corresponds with the facts upon the records of the Court. If, however, there is a discrepancy between said certificate and the Court records, the Clerk of Court shall tax the witness fees in accordance with the official records.

(e) *Costs in Removed Cases.* In cases removed from state courts, the costs incurred in the state courts shall be taxed in favor of the prevailing party upon the filing with the Clerk of Court of a certificate of counsel or other documentary evidence in support of such costs.

(f) *Items Taxable as Costs.* It shall be the policy of the Court to allow certain items of costs and disallow other items, as specified in any special order of the Court.

(1) *Fees of the Clerk of Court and United States Marshal.* The filing fees paid to the Clerk of Court either, for an original filing or for removal, shall be taxable.

Fees of the United States Marshal, as set forth in 28 U.S.C. § 1921, shall be taxable. The costs for service by a sheriff or other authorized person shall be taxable, except that counsel have the duty to mitigate costs by having process served by a person located as closely as possible to the person to be served, in order to minimize mileage fees.

(2) *Fees of Court Reporter.*

(A) When a transcript is obtained for purposes of appeal the cost of the original is taxable if the appeal is successful.

(B) Transcripts of trial proceedings obtained for the purposes of preparing proposed findings of fact and conclusions of law, when directed by the Court in trials to the Court, shall be taxable as a matter of course to the successful party.

(C) Daily transcripts of trial proceedings obtained for the convenience of counsel are not taxable as costs unless advance authority has been sought and obtained from the Court.

(D) Costs of depositions are taxable if the depositions or portions thereof were read into evidence at trial in lieu of the appearance of the deponent; or if the deposition is used at trial to impeach a witness on the witness stand with his/her prior testimony; or it is necessary during the course of the trial that a witness's recollection be refreshed from his/her deposition testimony; **or the deposition is used in support of or in opposition to any dispositive motion.** Costs of the taxing party's copies of depositions taken by the opponent and utilized or read into evidence at trial in lieu of the appearance of a witness are taxable. This Court has entered an order setting the transcript rates which are allowed for official transcripts in this Court. Those fees are hereby adopted as the maximum taxable transcription fees notwithstanding what fee may have been charged to the party by the shorthand reporter. A copy of the order setting the transcription rates may be obtained from the Clerk of Court.

The attendance fee of the reporter is taxable. Extra fees charged by reporters for attendance, mileage, per diem, expeditious handling, etc., shall not be taxable unless advance authorization was sought and received from the Court.

(3) *Witness Fees.* Witness fees are allowed, pursuant to statute, per each day of testimony and necessary attendance at trial and for each day of necessary travel. Counsel shall be expected to justify the witness fee for any days which the courtroom minutes do not reveal that a particular witness testified. In addition, a subsistence fee may be allowed for each day that the witness is so far removed from his residence as to prohibit return thereto from day-to-day. Such subsistence shall be determined pursuant to the governmental rate in effect at the time.

Taxation may be made for the cost of each day the witness is necessarily in attendance and is not limited only to those costs incurred for the actual day upon which the witness testified. Fees shall be limited, however, to the days of actual testimony and the days required for travel if no showing is made that the witness necessarily attended for a longer time. Witness fees are taxable whether or not a subpoena was issued.

(A) Witnesses attending in this Court or before

any person authorized to take their depositions, if within the jurisdiction of this Court, are entitled to a mileage fee for going to and from their place of residence. The mileage fee shall be equal to the mileage fee which government employees would be entitled to at the time the expense was incurred by the witness.

(B) Witnesses attending from outside the jurisdiction shall be allowed the same mileage fee as set forth in (6)(C) above, up to the maximum amount of five hundred (500) miles, one way, which is the approximate maximum mileage which may be assessed within the jurisdiction.

(C) Provided, however, that witnesses shall be allowed the cost of common carrier transportation if such mode of travel does not exceed the maximum amount which could be allowed for mileage.

(4) *Exemplification and Copies of Papers.* Fees for exemplification and copies of papers necessarily obtained for use in the case shall be limited to those documents used at the trial and received in evidence. Consequently, it will be incumbent upon counsel to assure that all documents necessarily obtained for use in the case are offered and received in evidence. Should an objection be made to the Clerk of Court's bill of costs, the Court will entertain evidence of necessity at the resultant hearing. The costs of copies of an exhibit are taxable when copies are admitted into evidence in lieu of originals which are not available for introduction into evidence. The costs of copies submitted in lieu of originals because of convenience of offering counsel are not taxable. The costs of copies obtained for counsels' own use are not taxable. The fee of an official for certification or proof of non-existence of a document is taxable.

(5) *Maps, Charts, Models, Photographs, Summaries, Computations and Statistical Summaries.* The cost of photographs, eight (8) x ten (10) inches in size or less, is taxable, if the photographs are admitted into evidence. Enlargements greater than eight (8) x ten (10) inches are not taxable except by order of the Court. Costs of models are not taxable except by order of the Court. The cost of compiling summaries, computations and statistical comparisons is not taxable.

(6) *Docket Fees to Attorneys.* The statutory docket fees for counsel are taxable costs. (See 28 U.S.C. § 1923.) Attorney costs are not taxable except by order of the Court. If attorney fees are allowable in an amount greater than Twenty Dollars (\$20.00), as set forth in 28 U.S.C. § 1923(a), it is incumbent upon the prevailing attorney to bring this fact to the Clerk of Court's attention by including the proper citation in the verification of costs incurred.

(7) *Fees to Masters, Receivers and Commissioners.* Fees to masters, receivers and commissioners are taxable as costs, unless otherwise ordered by the Court. When costs are sought for items not listed in 28 U.S.C. § 1920, the procedure best followed is an application to the Court in advance of trial for an approving order.

(g) Costs Taxed by Appeals Court [Fed. R. App. P. 39(d)]. Any costs taxed in the mandate of the Circuit Court shall be forthwith entered by the Clerk of Court.

(h) Costs on Appeal in District Court [Fed. R. App. P. 39(e)]. All costs taxable under Fed. R. App. P. 39(e) shall be deemed waived unless the party entitled thereto files a bill of costs, in accordance with paragraph (a)(1) of this Local Rule, within twenty (20) days of the issuance of the mandate by the Circuit Court.

If a prompt ruling cannot be obtained, the direction not to answer made on grounds of privilege may stand pending a ruling and the deposition shall continue until (1) a ruling is obtained or (2) the problem resolves itself. A direction not to answer on any ground except privilege shall not stand and the witness shall answer.

(e) Suggestive Deposition Objections. Objections in the presence of the witness which are used to suggest an answer to the witness are presumptively improper. If the objection to a deposition question is one that can be obviated or removed if presented at the time, the proper objection is "objection to the form of the question," and the problem with the form shall be identified. If the objection is on the ground of privilege, the privilege shall be stated and established.

(f) Conferences Between Non-Party Deponent and Defending Attorney. An attorney defending at a deposition of a non-party deponent shall not engage in a private conference with the deponent during the actual taking of a deposition, except for the purpose of determining whether a privilege should be asserted.

(g) Assertion of a Privilege or Qualified Immunity From Discovery. Where a claim of privilege or qualified immunity from discovery is asserted during a deposition, the attorney asserting the privilege or qualified immunity from discovery shall identify during the deposition the nature of the privilege or qualified immunity from discovery which is being claimed.

(h) Establishment of Privilege or Qualified Immunity From Discovery. After a claim of privilege or qualified immunity from discovery has been asserted, the attorney seeking disclosure shall have reasonable latitude during the deposition to question the witness to establish other relevant information concerning the assertion of the privilege or qualified immunity from discovery, including:

(1) the applicability of the particular privilege or qualified immunity being asserted;

(2) circumstances which may constitute an exception

to the assertion of the privilege or qualified immunity;

(3) circumstances which may result in the privilege or qualified immunity having been waived; and

(4) circumstances which may overcome a claim of qualified privilege or qualified immunity from discovery.

(i) Number of Depositions. Absent good cause shown, there shall be no limit on the number of depositions.

(j) Filing of Depositions. Deposition transcripts shall not be filed with the Clerk of Court until such time as they are published during a hearing or trial.

(k) Return of Depositions. At the time that files are retired to the Federal Records Center, the Clerk shall deliver any depositions filed in said case to the counsel representing the party taking said deposition.

suffered; and

(D) for inspection and copying as under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

(d) Rule 26(f) Meeting of Counsel; Initial Disclosure Exchange. The Court will set an initial pretrial conference no sooner than thirty-five (35) days after the last pleading pursuant to Fed.R.Civ.P. 7 or a dispositive motion is filed with the Court.

(1) Counsel must meet and confer in person or by telephone in accordance with Fed.R.Civ.P.26(f) no later than twenty (20) days after the last pleading pursuant to Fed.R.Civ.P. 7 or a dispositive motion is filed with the Court. (See Appendix D)

(2) Counsel on behalf of the parties must exchange the initial disclosures (self-executing routine discovery) pursuant to Local Rule 26.1(c)(1) above, no later than thirty (30) days after the last pleading filed pursuant to Fed.R.Civ.P. 7 or a dispositive motion is filed with the Court.

(3) Prior to a Fed.R.Civ.P. 26(f) conference, counsel should carefully investigate their client's information management system so that they are knowledgeable as to its operation, including how information is stored and how it can be retrieved. Likewise, counsel shall reasonably review the client's computer files to ascertain the contents thereof, including archival and legacy data (outdated formats or media), and disclose in initial discovery (self-executing routine discovery) the computer based evidence which may be used to support claims or defenses.

(A) Duty to Notify. A party seeking discovery of computer-based information shall notify the opposing party immediately, but no later than the Fed.R.Civ.P. 26(f) conference of that fact and identify as clearly as possible the categories of information which may be sought.

(B) Duty to Meet and Confer. The parties shall meet and confer regarding the following matters during the Fed.R.Civ.P. 26(f) conference:

(i) Computer-based information (in general). Counsel shall attempt to agree on steps the parties will take to segregate and preserve computer-based information in order to avoid accusations of spoliation;

(ii) E-mail information. Counsel shall attempt to agree as to the scope of e-mail discovery and attempt to agree upon an e-mail search protocol. This should include an agreement regarding inadvertent production of privileged e-mail messages.

(iii) Deleted information. Counsel shall confer and attempt to agree whether or not restoration of deleted information may be necessary, the extent to which restoration of deleted information is needed, and who will bear the costs of restoration; and

(iv) Back-up data. Counsel shall attempt to agree whether or not back-up data may be necessary, the extent to which back-up data is needed and who will bear the cost of obtaining back-up data.

(4) Counsel may either submit a written report or report orally on their discovery plan at the initial pretrial conference.

(e) Filing of Discovery Pleadings. **Initial disclosures (self-executing routine discovery exchange pursuant to Local Rule 26.1 c), interrogatories under Fed. R. Civ. P. 33, and answers thereto, requests for production or inspection under Fed. R. Civ. P. 34, requests for admissions under Fed. R. Civ. P. 36, and responses thereto shall be served upon other counsel or parties, but shall not be filed with the Court. Certificates or notices of compliance are not required and shall not be filed with the Court.** If relief is sought under Fed. R. Civ. P. 26(c) or 37 concerning any interrogatories, requests for production or inspection, requests for admissions, answers to interrogatories or responses to requests for admissions, copies of the portions of the interrogatories, requests, answers or responses in dispute shall be filed with the Court contemporaneously with any

motion filed under Fed. R. Civ. P.26(c) or 37. If interrogatories, requests, answers or responses are to be used at trial, the portions to be used shall be filed with the Clerk of Court at the outset of the trial, insofar as their use reasonably can be anticipated.

(f) Discovery of Expert Testimony.

(1) The parties are limited to the designation of one expert witness to testify for each particular field of expertise.

(2) A party may depose any person who has been identified and designated as an expert whose opinions may be presented at trial. An expert witness is one who may be used at trial to present evidence under Fed. R. Evid. 702, 703 or 705 including, but not limited to, expert witnesses who have knowledge of facts and hold opinions which were acquired or developed in anticipation of litigation or for trial.

(3) At the time of the initial pretrial conference, the presiding judicial officer shall, unless good cause appears to the contrary:

(A) establish deadlines by which any party shall designate all of their expert witnesses and provide opposing counsel with a complete written designation of the testimony of each witness;

(B) require the party designating the expert witnesses to indicate in reasonable detail the areas and fields of expertise and the qualifications of the witness as an expert in said areas and fields;

(4) The written designation of expert witness opinions shall include a comprehensive statement of each of the opinions of such witness and the factual basis for each opinion **and shall be filed with the Court**. See *Smith v. Ford Motor Company*, 626 F.2d. 784 (10th Cir. 1980). The written designation **shall include the following:**

(A) A written report prepared and signed by the expert witness as set forth in Fed. R. Civ. P. 26(a)(2)(B); or a written report prepared and signed by counsel for the party.

(B) The party designating the expert shall provide a current resume or curriculum vitae including a list of all publications authored by the witness within the preceding ten years and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years; [Fed. R. Civ. P. 26(a)(2)(B)].

(C) require the party designating the expert witness to set forth all special conditions or requirements which the designating party or the expert witnesses will insist upon with respect to the taking of their depositions, including the amount of compensation the expert witness will require and the rate per unit of time at which said compensation will be payable. In the event counsel is unable to obtain such information to include in the designation, the efforts to obtain the same and the inability to obtain such information shall be set forth in the designation;

(5) In the event a designation of an expert witness fails to set forth the compensation to be paid by a party for the deposition of the expert, or fails to set forth the efforts to obtain such information for designation, any adverse party shall be entitled to depose such witness at the fee provided by the Federal Rules of Civil Procedure.

(6) In the event the amount and rate of the compensation is designated for the expert witness, and the deposition of that expert witness is taken without further action, discussion or agreement between counsel, then the amount described in the designation shall be paid by the party or parties taking the deposition.

(7) Nothing herein contained shall prevent the parties involved from agreeing to other terms and conditions and amount of compensation following the designation.

(8) In all cases where there is a dispute as to the proper compensation or other conditions relative to the taking of an expert discovery deposition, or an inability to obtain information concerning compensation, a party may file a motion with the Court pursuant to Fed. R. Civ. P. 26(b)(4) and (c) or Fed. R. Civ. P. 45(c), as the case may be. The Court will, thereafter, issue its order setting forth the terms, conditions, protections, limitations and amounts of compensation to be paid by the party taking the deposition.

(g) Discovery Time Limit. Whenever possible, discovery proceedings in all civil actions filed in this Court shall be completed within ninety (90) days after joinder of issue or after such issues may have been determined at the initial pretrial conference. Exceptions hereto may be granted, upon good cause shown and upon timely application, and the time for completion of such discovery proceedings therein extended by order of this Court.

(h) Stay of Self-Executing Routine Discovery Exchange. The filing of pretrial dispositive and non-dispositive motions, including motions for protective order, shall not stay the requirement that the parties exchange routine discovery as prescribed by U.S.D.C.L.R. 26.1(c), absent an order of the Court granting a stay of self-executing routine discovery.

(4) Report of Neutral. *The neutral, within ten (10) days after the conclusion of the ADR proceeding, shall fill out and return to the ADR Administrator, the Neutral ADR Report previously provided.*

(5) Referral to ADR Neutrals. The parties may request the referral of a case to a specific neutral listed below, or the Court, within its discretion, may refer a case to a specific neutral listed below:

- (i) Court-Connected Judicial Officer;
- (ii) Panel Neutral;
- (iii) Other Neutrals Approved by the Court.

The parties may request the Clerk of Court to provide a current list of neutral panel members, qualified and approved by the Court to conduct ADR.

(b) Mandatory Dispute Resolution. The Court may, in its discretion, require the parties to engage in non-binding ADR procedures. The Court may require the parties to participate in such proceedings at any time after all the parties have appeared in the action.

(c) Additional Criteria and Procedures Pertaining to Settlement Conferences.

(1) Attendance and Authority to Settle.

(i) Attendance by Counsel. Except with leave of court, counsel who will try the case shall be present at the settlement conference. A person possessing full settlement authority shall also be present.

(ii) Attendance of Parties. The parties to the litigation shall be present in person or through an authorized corporate/governmental representative.

(iii) Plaintiff's Authority to Settle. A plaintiff, or authorized representative, shall have full and final authority to authorize dismissal of the case with prejudice, or to accept a settlement amount down to the amount of the defendant's last offer.

(iv) Defendant's Authority to Settle. A defendant, or authorized representative, shall have full and final settlement authority to pay a settlement amount up to the amount of the plaintiff's prayer (excluding punitive damage prayers in excess of \$100,000.00) or up to the plaintiff's last demand, whichever is lower. The purpose of these requirements is to have parties or representatives present who can settle the case during the course of the conference without consulting a superior who is not in attendance.

(v) Board/Committee Approval. If board/committee approval may be required to authorize settlement, the approval of the board/committee must be obtained in advance of the conference, and the attendance of at least one sitting member of the board/committee having the full authority of the board/committee to settle (preferably the Chairman) is required.

(vi) Failure to Appear. Counsel appearing without their clients (whether or not counsel has been given settlement authority) will cause the conference to be canceled and rescheduled. The noncomplying party, attorney, or both may be assessed the costs and expenses incurred by other parties and the Court, as a result of such cancellation. Additional sanctions may be imposed as deemed appropriate by the judge to whom the case is assigned.

(vii) Insurance Representatives. Any insurance company that may be a party or is contractually required to defend or to pay damages, if any, must have an authorized settlement representative present at the conference. Such representative shall have final settlement authority to commit the company to pay, in the representative's discretion, any amount up to the policy limits. The purpose of this requirement is to have an insurance representative present who can settle the outstanding claim or claims during the course of the conference without consulting a superior who is not in attendance. An insurance representative authorized to pay, in his/her discretion, up to the plaintiff's last demand will also satisfy this requirement. Failure to fully comply with this requirement may result in the imposition of appropriate sanctions by the district judge assigned to the case.

(viii) Attendance by Telephone. No participant shall appear and participate by telephone without prior permission of the neutral. Participation by telephone will be allowed only when exigent circumstances exist.

(2) Confidentiality.

(i) Confidential Settlement Conference Memoranda. The parties are required to submit to the neutral memoranda or position papers prior to the settlement conference. The parties will be advised by the neutral of the information to be included in the memoranda and when it is to be submitted. The memoranda shall be submitted to the neutral and not filed with the Court. The neutral will treat settlement conference memoranda as strictly confidential and will destroy all settlement conference memoranda after the conclusion of the conference.

(ii) Confidentiality of Settlement Conference. All communications, representations, evidence and transcripts regarding negotiations and agreements made during a settlement conference shall be held to be strictly confidential and are not subject to disclosure, pursuant to Rule 408 of the Federal Rules of Evidence or as otherwise provided by law. Disputes between parties concerning the terms or enforcement of the terms of a settlement agreement may be excepted from above.

(3) Reporting of Settlement Conference Negotiations. No transcript shall be made of any settlement conference negotiations.

(4) Reporting of Settlement Conference Agreement. A neutral may require at the conclusion of a settlement conference, that a court reporter report the outcome of the conference and the terms of any settlement reached by the parties. No transcript of the Court Reporter's notes shall be made without the prior written permission of the Court.

(d) Referral to Arbitration. A district court will allow referral to arbitration of any civil action, including any adversary proceeding in bankruptcy, when the parties consent, except in cases alleging violation of a constitutional right, when jurisdiction is based in whole or

part on 28 U.S.C. § 1343, or when the relief sought consists of money damages greater than \$150,000.

(e) Cases Exempt from ADR. The following cases are hereby exempt from ADR:

- (1) *Pro se* cases;
- (2) Preliminary injunctions/TRO's;
- (3) Cases challenging the constitutionality of statute;
- a
- (4) Social security cases;
- (5) Freedom of Information Act cases;
- (6) Privacy Act cases;
- (7) Immigration cases;
- (8) Prisoner 1983 cases, post conviction §2255 cases, and *habeas* proceedings.

(f) Private ADR. Parties are free, at any time, to engage in private ADR proceedings independent of or in addition to ADR with a court-connected Judicial Officer or panel neutral.

(g) Notice to Court of Private ADR. The parties shall give notice to the Court of an agreement to engage in private ADR proceedings in order to assist the Court in managing its docket.

(h) ADR Neutrals

(1) Panel of Neutrals. The Court shall maintain a panel of individuals qualified and approved by the Court to conduct ADR.

(2) Qualifications of Neutrals. To be eligible for listing on the panel of neutrals, the following minimum qualifications must be met:

(i) Member in good standing of the bar of the United States District Court for the District of Wyoming and the State of Wyoming;

(ii) Fifteen (15) years experience practicing law;

(iii) Completion of at least ten (10) hours of training in ADR technique courses approved by the Wyoming State Bar Board of Continuing Legal Education;

(iv) Conduct at least one ADR proceeding every calendar year to remain qualified. Failing this, a neutral will be required to again complete ten (10) hours of training as required in (2)(iii) above by the end of March of the following year to remain on the panel of neutrals. Any neutral removed from the panel must reapply and meet the qualifications set forth above;

(v) All neutrals will remain on the panel for five (5) years if the above-qualifications are met every year. After five (5) years, neutrals must reapply for inclusion on the panel.

(3) ADR Advisory Neutral Selection Panel. The Chief Judge of the Court shall appoint a minimum of three members to the ADR Advisory Neutral Selection Panel. At least one member of the panel shall be a district judge or a magistrate judge.

(i) Panel Duties. Duties of the ADR Advisory Neutral Selection Panel shall include the review of all neutral application forms to determine eligibility, qualifications, training and experience of each applicant. The panel shall recommend qualified applicants to the Chief Judge for final approval of membership on the list of neutrals.

(4) Disqualification of Neutrals. All neutrals are subject to disqualification pursuant to 28 USC § 455.

(5) Applications. Applications for inclusion on the list of panel neutrals shall contain the following information:

(i) The areas of the law in which the neutral asserts to have expertise, together with a comprehensive description of that expertise;

(ii) The ADR methods the neutral agrees to conduct;

(iii) A summary of training, experience and qualifications for the ADR method(s) the neutral seeks to conduct;

(iv) The neutral's fee schedule;

(v) A commitment to accept cases for a reduced fee or *pro bono*;

(6) Fees. The neutrals and the parties may determine for themselves the fees to be paid for ADR services. The Court reserves the right to review the reasonableness of the fees.

(i) ADR Administrator. The Court shall select an individual in the Court system to act as ADR Administrator.

(1) Duties. The ADR Administrator shall assist the Court in the implementation, administration and evaluation of the ADR Plan.

(2) Annual Report. The ADR Administrator shall report to the Chief Judge and the Clerk of Court annually, on or before March 1, the number of cases referred to ADR, the methods of ADR employed and the percentage of cases resolved by referral to ADR.

Defendant's Exhibit A. In the event there are multiple parties, plaintiff or defendant, the surname or abbreviated names of the parties shall precede the word "Exhibit," e.g., Defendant Jones Exhibit A, Defendant Smith Exhibit A, etc. In cases where defendant's exhibits are numerous, the defendant may use a combination of letters and numerals to designate such exhibits. Although exhibits are marked and numbered at a pretrial conference, they shall again be offered in the course of the trial.

If such exhibits have been shown to opposing counsel prior to the pretrial conference and no objection will be made thereto, it shall not be necessary to exhibit such documentary evidence at the pretrial conference.

Absent good cause shown, no exhibit shall be received in evidence at the trial which was not marked and exhibited as required herein, nor shall any witness be permitted to testify unless his name and address appear on the witness list, together with a complete and specific statement of all of his testimony, as required by *Smith v. Ford Motor Company*, 626 F.2d. 784 (10th Cir. 1980).

(4) notify the court reporter immediately upon receipt of the notice setting the conference, if counsel wish to have the pretrial conference reported. If no such request is received, it will be understood that the parties agree that the pretrial conference will be conducted without the presence of the court reporter.

In all cases to be tried before a jury, the Court, in consultation with counsel during the final pretrial conference, will determine the number of jurors to be empaneled and the number of peremptory challenges the Court will allow. The Court will set forth its determination in its final pretrial order.

(c) Telephone Conference Calls. Out of town counsel may participate in any pretrial conference by telephone conference call, but shall first notify the Court, and shall deliver to the Court and opposing counsel any documents required to be presented at such conference, e.g., the pretrial conference memorandum, photocopies of exhibits, briefs, instructions, etc. It is the responsibility of the attorneys to coordinate with one another and arrange for a telephone conference call

to the Court and to place the call at the time set for hearing. (See Local Rule No. 83.5)

legal contentions which they believe are material to the case.

(3) Counsel shall exchange initial disclosures (self-executing routine discovery) in accordance with Local Rule 26.1(d)(2).

(4) Counsel shall name all witnesses then known to be called **to testify** at trial, to the extent that counsel at that stage of the case are able to do so. Additional witnesses and summaries of testimony shall be submitted by each party to the opposing party as their names and addresses are ascertained, and at the final pretrial conference.

(5) Counsel shall list the exhibits to be used at trial and display to each other all exhibits (other than those to be used for rebuttal or impeachment) tentatively intended to be offered in evidence at trial, to the extent that counsel are able to do so at that stage of the case. Additional exhibits shall be listed and tendered to opposing counsel when discovered and at the final pretrial conference.

(6) Counsel shall discuss with the Court a proposed plan and schedule for discovery, including dates for completion of discovery, depositions, the filing of interrogatories and answers thereto, and the production and inspection of documents.

(7) Counsel shall exchange proposals for stipulations and agreement upon facts to avoid discovery.

(8) Counsel shall discuss a **schedule for** taking of expert depositions. (See Local Rule 26.1(f)).

(9) The Court will schedule a date for a final pretrial conference and a date for trial of the case.

(c) Cases Exempt from Scheduling Conferences. The following categories or proceedings are exempt from scheduling conferences:

- (1) Bankruptcy appeals and withdrawals;
- (2) Deportation actions;
- (3) Equal access to justice actions;

- (4) Food stamp denials;
- (5) Forfeiture and statutory penalty actions;
- (6) IRS third party and customer actions;
- (7) Prisoner actions for violation of civil rights, to vacate sentence, for habeas corpus, or for mandamus;
- (8) Selective service actions;
- (9) Social security reviews; and
- (10) Summons/subpoenas--proceedings to enforce/contest government summons and private party depositions;

(d) Additional Pretrial Conferences. The Court, or any party at any time, may request the Court to schedule one or more additional scheduling conferences in any case in which it is necessary to expedite the case, to assist the Court in identifying the issues or to prevent unnecessary delay or costs.

(e) Treatment of Complex Cases. When the Magistrate Judge determines that a case is complex, the case shall be placed on the calendar for complex cases. Trials shall be set in complex cases after consultation with the parties, allowing sufficient time for pretrial discovery, presentation of legal issues and such scheduling conferences as may be reasonably required to allow time for adequate development of the case for presentation at trial.

The Magistrate Judge may establish any of the following procedures which in the discretion of the Court may be necessary to allow proper management of the case:

- (1) multiple scheduling conferences;
- (2) phased discovery;
- (3) joint discovery;
- (4) bifurcation of legal or factual issues;
- (5) early alternative dispute resolution efforts, including a settlement conference, or other methods as may be agreed upon by the parties;

(6) involvement of the trial judge assigned to the case;

(7) use of the Manual for Complex Litigation.

When, upon motion of a party, or in the discretion of the presiding judicial officer, it is determined by the Court that the case no longer need be treated as a complex case, the trial judge shall be notified and the case shall be moved to the non-complex calendar and assigned the earliest available trial date, in accordance with Local Rule 40.1.

(f) Magistrate Judge. The District Court may designate a United States Magistrate Judge to hold scheduling or discovery conferences or any pretrial conference, but the District Court will conduct the final pretrial conference in all contested cases, unless unforeseen circumstances prevent it from doing so. The United States Magistrate Judge located in Cheyenne, Wyoming is hereby granted authority to conduct initial and final pretrial conferences as set by the Court.

(g) *Proof of Service.* Except as otherwise provided in the Federal Rules of Civil Procedure, or by order of the Court, proof of service of any pleading, motion or other paper required to be served shall be made by a certificate of service in accordance with Fed. R. Civ. P. 5(d). Such certificate or affidavit shall be served with the pleading or paper served, or shall be endorsed upon the pleading or papers served. The proof of service shall show the date, place and manner of service. (See Local Rule 26.1(d) re: filing of discovery pleadings.)

(h) *Facsimile Filing.* All papers shall be filed with the Clerk of Court as originals, signed in accordance with the Federal Rules of Civil Procedure. Papers transmitted by facsimile shall not be accepted for filing.

(i) *Facsimile Service.* Service upon an attorney or upon a party may be made by facsimile transmission in addition to but not in lieu of the procedures set forth in Fed. R. Civ. P. 5(b). The procedures required by Fed. R. Civ. P. 5(b) shall control the time of service.

(j) *Failure to Comply.* Documents which fail to comply with the provisions of this Rule shall be filed but may be subject to being stricken by the Court.

(k) *Place of Filing.* The City of Cheyenne in the District of Wyoming is hereby designated as the place where the records for this District Court shall be maintained. All suits and proceedings commenced in this Court, together with all pleadings, motions and other papers shall be filed with the Clerk of Court in the Cheyenne or Casper offices of the Clerk. However, when the Court is in session elsewhere in the District, such documents may then be filed with the Clerk of Court or the Court at the place where court is being held.