UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF WYOMING

LOCAL CRIMINAL RULES

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I SCOPE OF LOCAL CRIMINAL RULES

RULE 1.1 TITLE, CITATION AND SCOPE OF RULES

(a) Citation. These Rules shall be known as the Local **Criminal** Rules of the United States District Court for the District of Wyoming. They may be cited as **"L.Cr.R. _____."**

(b) Applicability. These Rules shall apply in all proceedings in criminal actions, **and juvenile proceedings as appropriate.**

(c) Title of Court. This Court is known as the "United States District Court for the District of Wyoming."

(d) Seal of Court. The Seal shall contain the words "United States District Court for the District of Wyoming" in a circular design with an eagle in the center thereof.

RULE 1.2 APPLICABILITY OF CIVIL RULES

When appropriate in a criminal context, the Local Rules of Civil Procedure are also deemed applicable to criminal cases.

II PRELIMINARY PROCEEDINGS

RULE 5.1 MAXIMUM AND MINIMUM PENALTIES AND RESTITUTION ADVICE

At the time of initial appearance and arraignment before a judicial officer in connection with the filing of an information or indictment, the United States Attorney or an assistant shall advise the judicial officer of his determination of the maximum possible penalty provided by law in connection with each charge, any mandatory minimum penalty required by law, including mandatory terms of supervised release, and the dollar amount of total restitution.

III INDICTMENT AND INFORMATION

RULE 6.1 GRAND JURY

A grand jury shall be summoned by the Court on the third Monday of the months of January, March, May, July, September and November of each calendar year.

RULE 6.2 SEALING OF CRIMINAL CASES

(a) Charging Documents. Unless otherwise ordered by the Court, upon a filing of a criminal complaint, a criminal information or an indictment (hereafter called the charging document), by the United States Attorney, the case shall be sealed by the Clerk of the Court and not made public.

(b) Search Warrant. Any documents filed in connection with a search warrant shall be sealed by the Clerk of the Court. The sealing shall not prevent release of necessary information to Court agencies or law enforcement agencies who shall be supplied such information in connection with the performance of their official duties.

(c) First Appearance. Upon the first appearance of the defendant named in the charging document before a Judicial Officer in the District of Wyoming, the case shall be unsealed by the Clerk of the Court, and made public, unless an order of the Court prevents the unsealing of the case.

IV ARRAIGNMENTS AND PREPARATION FOR TRIAL

RULE 12.1 LIST OF WITNESSES AND EXHIBITS

In order to assist the trial judge and court personnel during trial, the parties shall submit the following information to the Court at the commencement of the trial:

(a) List of Witnesses. To the extent reasonably possible counsel shall submit to the trial judge, the courtroom deputy and the court reporter a written list of all witnesses (identifying those who will testify as experts) they expect to call.

(b) List of Exhibits. To the extent reasonably possible, counsel shall submit to the trial judge, the courtroom deputy and the court reporter a written list of all exhibits they expect to introduce into evidence. Counsel for the United States shall mark and list each exhibit with numerals. Counsel for the defendant(s) shall mark and list each exhibit with letters. In the event there are multiple defendants, 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 mark such exhibits.

RULE 16.1 DISCLOSURE IN CRIMINAL CASES

Unless otherwise ordered by the Court in ruling on a motion filed by the Government **pursuant to** Fed. R. Crim. P. 16(d)(1), information available to a defendant **pursuant to** Fed. R. Crim. P. 16(a) shall be routinely **provided to the defendant** by the Government **or be made available for inspection and copying** at the offices of the United States Attorney within seven (7) days after arraignment. If such information is accepted by a defendant, Fed. R. Crim. P. 16(b) **regarding reciprocal discovery shall apply and both the United States and a defendant shall be subject to a continuing duty to disclose discoverable materials pursuant to Fed. R. Crim. P. 16(c) and such disclosure by the parties shall occur at such time as either party first becomes aware of such information. At such time as a party becomes aware of the existence of information subject to disclosure, that party shall immediately notify the other party of the existence of such information whether or not such information is then in the possession of the party providing disclosure.** Motions **pursuant** to Fed. R. Crim. P. 12 and 14 shall be filed within **fifteen (15)** days after arraignment, unless otherwise ordered by the Court.

V VENUE

RULE 18.1 SESSIONS OF COURT

The Court shall be in continuous session for transacting judicial business in Cheyenne and Casper, Wyoming, on all business days throughout the year, and shall hold special sessions of court in Sheridan, Lander, Evanston and Jackson, Wyoming, at such times as the judicial workload of the court may warrant. The Court will consider holding sessions of Court in other Wyoming cities for the convenience of litigants and their witnesses, where counsel have arranged for the temporary use of an appropriate State courtroom.

VI TRIAL

RULE 24.1 COMMUNICATIONS WITH TRIAL JURORS

(a) Before or During Trial. Absent an order of court and, except in the course of in-court proceedings, no party, or any party's attorney, or their agents or employees, shall communicate with or cause another to communicate with a juror, a prospective juror, or his family before or during trial.

(b) After Trial. No juror has any obligation to speak to any person about any case and may refuse all interviews and comments. No person may make repeated requests for interviews or comments after a juror has expressed a desire not to be interviewed or questioned. If any person violates this prohibition against repeated requests of a juror for interviews or comments after the juror's refusal, the juror or jurors involved shall promptly advise the Court of the facts and circumstances. The Court shall take such action as it deems appropriate, which may include a contempt citation to the offending party or parties.

(c) Voluntary Interviews or Comments. If any juror consents to be interviewed after trial, under no circumstances shall such juror disclose or be asked to disclose any information with respect to the specific vote of any juror, other than the juror being interviewed or with respect to the deliberations of the jury.

(d) Conduct of Counsel. Following the rendition of a verdict by a jury, counsel in the case shall not thank the jury for their verdict.

(e) Court's Advice to Jurors. At the time that a jury is discharged from further consideration of a case upon return of a verdict or the declaration of a mistrial or otherwise, and when jurors are excused or discharged after commencement of a trial, the Court shall advise all jurors so discharged or excused of the provision of this Rule.

RULE 30.1 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 1/2 inch diskette formatted for WordPerfect, five (5) **business** days prior to trial.

VII JUDGMENT

RULE 32.1 PRESENTENCE AND POSTSENTENCE INVESTIGATION REPORTS

(a) Sentencing. The sentencing hearing shall be set no less than seventy (70) days following the verdict or change of plea. Pursuant to 18 U.S.C. 3364(d)(1), the attorney for the government shall provide the probation officer with a listing of the amounts subject to restitution after having made reasonable attempts to consult with all identified victims, but not later than sixty (60) days prior to the date initially set for sentencing.

(b) Victim's Restitution. The presentence report shall include a complete accounting of the losses to each victim. If the victim's losses are not ascertainable earlier than ten (10) days prior to sentencing, the attorney for the government or the probation officer must notify the Court, and the Court will set a date for final determination of the victim's losses, not to exceed ninety (90) days after sentencing. The burden is on the government to demonstrate the amount of restitution owed to a victim.

(c) Financial Resources. Each defendant is required to provide the probation officer with an affidavit fully describing the financial resources of the defendant, including a complete listing of all assets in which the defendant has any interest as of the date on which the defendant was arrested as provided in 18 U.S.C. 3664(d)(3).

(d) Presentence Interview; Attendance of Counsel. Rule 32(b)(2), Federal Rules of Criminal Procedure (Fed. R. Crim. P.), requires defense counsel, upon request, to receive notice and an opportunity to attend any interview of the defendant by the probation officer. Defense counsel has the burden of responding as to the desire and availability to attend as promptly as possible to enable timely completion of the presentence report. Any undue delay caused by counsel's unavailability may result in the probation officer being directed by the Court to proceed with the interview without counsel. For purposes of this Rule, "undue delay" is defined as more than five (5) working days after notice.

(e) Disclosure of Presentence Report; Written Objections. The Probation Office shall disclose the report to the defendant and his counsel and to counsel for the United States no later than thirty-five (35) days before the sentencing hearing, unless the minimum period is waived by defendant. The presentence report shall be deemed to have been disclosed when a copy of the report is physically delivered or three (3) days after a copy of the report or notice of its availability is mailed by the probation officer. Within fourteen (14) days after disclosure, counsel for the defendant and the United States shall communicate in writing to the probation officer who prepared the report and to each other any objections they may have as to any material information, sentencing classifications, sentencing guideline ranges and policy statements contained in or omitted from the report. Objections to material in the report must show the exact paragraph disputed together with specific reasons therefor. Material believed to have been omitted from the report must have specific application to the sentencing guidelines. Objections to the presentence report shall not be filed with the Clerk of Court. The original presentence report, addenda thereto, and all letters of objection shall be returned to the probation officer after the sentencing hearing.

(f) Accuracy of Presentence Report. If counsel for the defendant and the United States believe material contained in the presentence report to be accurate, they must so communicate in writing to the probation officer who prepared the report within fourteen (14) days after disclosure of the report.

(g) Resolution of Objections to Presentence Report. As soon as possible after receiving any objections to the report, the probation officer shall conduct any further investigation necessary and make appropriate revisions to the presentence report. The probation officer may require counsel for the parties to meet with the officer to discuss unresolved factual and legal issues.

(h) Notice to Victim. Prior to submitting the presentence report to the Court, the probation officer shall provide notice to all identified victims as provided in 18 U.S.C. 3664(d)(2).

(i) Submission of Presentence Report to Sentencing Judge. Not later than seven (7) days before the sentencing hearing, the probation officer shall submit the presentence report to the

sentencing judge, together with an addendum setting forth any unresolved objections, the ground for those objections and the probation officer's comments on the objections. The probation officer shall certify that the contents of the report, including any revisions thereof, have been disclosed to the defendant, his counsel and counsel for the United States, that the content of the addendum has been communicated to counsel, and that the addendum fairly states any remaining objections.

(j) Sentencing Recommendations. As provided by Fed. R. Crim. P. 32(b)(6)(A), the probation officer's sentencing recommendation shall not be disclosed other than to the Court.

(k) Court Determination of Disputed Issues; Failure to Resolve Objections. Except with regard to any objection that has not been resolved, the presentence report may be accepted by the Court as its findings of fact. The Court shall rule on any unresolved disputed issues prior to imposing sentence. Objections **not** previously raised through written communication to the probation officer may be raised at the sentencing hearing only for good cause shown.

(l) Time Limits. Time limits governing this Rule are set forth in Fed. R. Crim. P. 32(b)(6). Time limits prescribed in subsection (b)(6) may either be shortened or lengthened for good cause and may be waived by the defendant.

(m) Confidentiality of Presentence Report. The presentence report is a confidential document. It shall not be reproduced or copied by anyone other than a judge or probation officer of this Court. The report shall not be distributed to other agencies or individuals, unless special permission is granted by the Court. Nothing in this Rule requires the disclosure of any portion of the presentence report that is not to be disclosed under Fed. R. Crim. P. 32. The presentence report furnished to defendant, his counsel, and counsel for government shall not be copied or duplicated in any manner. All counsel shall assure the confidentiality of the material contained in the report.

(n) Determination of Guideline Prior to Establishment of Guilt. A probation officer shall not determine sentencing guideline factors before guilt is established by the Court.

(o) Rule Not to Supersede or Void Provisions of Fed. R. Crim. P. 32. Nothing in this Rule shall be construed to supersede or void the provisions of Fed. R. Crim. P. 32.

RULE 33.1 MOTION FOR NEW TRIAL

In the event any party or attorney for a party or parties has good cause to question the propriety of the jury's actions or deliberations, the provisions of Fed. R. Crim. P. 33 shall be followed.

VIII APPEALS

RULE 37.1 APPEAL PROCEDURES

A notice of appeal in a criminal case shall be accompanied by the required filing fee and docket fee, except that no such fee is required in those cases where the Court has appointed counsel for an indigent defendant.

Parties shall comply with the Federal Rules of Appellate Procedure and the Rules of the United States Court of Appeals for the Tenth Circuit as to transcript orders and certificates of designations.

IX SUPPLEMENTAL AND SPECIAL PROCEEDING

RESERVED

X GENERAL PROVISIONS

RULE 44.1 DUTIES AND RESPONSIBILITIES OF APPOINTED COUNSEL AND FEE SCHEDULE

(a) Appointed Counsel in Criminal Cases.

(1) *Appointment of Public Defender*. When a person who is subject to misdemeanor or felony criminal investigation or charges requests and qualifies for court-appointed counsel, the Federal Public Defender of the District of Wyoming shall be immediately contacted by the Clerk of Court to represent the defendant.

(2) *Appointment of Private Attorneys*.

(A) In the event a conflict in the representation of a defendant by the Federal Public Defender exists, the Federal Public Defender may appoint private counsel, in accordance with this Court's Amended Plan Pursuant to the Criminal Justice Act of 1964 (CJA), to represent the defendant.

(B) The Federal Public Defender shall maintain a list of private attorneys as members of the CJA Panel. The Federal Public Defender shall submit the list of names to the Court for approval and shall thereafter make appointments from such list as provided for herein.

(b) Duties of Appointed Counsel.

(1) Counsel who participate do so in fulfillment of their professional responsibility as officers of the Court. The limited amount of accrued compensation in no respect diminishes such responsibility.

(2) Counsel appointed by a magistrate judge shall continue to serve until representation is terminated, as provided by the Plan or by Court order.

(3) Appointed counsel shall report to the Court or magistrate judge any change in the defendant's financial status coming to counsel's attention where the defendant appears to be able to finance all or part of his representation.

(c) Termination of Appointment of Counsel.

(1) In the event that a defendant in a criminal case is convicted following trial **or a plea**, counsel appointed hereunder shall advise the defendant of his right of appeal and his right to counsel on appeal. If requested to do so by the defendant, counsel shall file a timely notice of appeal and shall continue to represent the defendant unless or until he is relieved by the Court of Appeals.

(2) Representation by appointed counsel in other proceedings shall terminate when the purpose of the appointment is accomplished or when terminated by Court order.

(d) Compensation. Appointed counsel shall be compensated at the rates provided in 18 U.S.C. § 3006A(d)(1), as amended by the Criminal Justice Act Revision of 1984.

(e) Authorization for Expert or Other Services.

(1) Prior Court authorization is required before obtaining services or incurring any expense such as reporter's transcript, interpreter, investigator, psychiatrist or other expert services. Title 18 U.S.C. § 3006A(e)(3) provides a maximum of Three Hundred Dollars ($300.00).

(2) Form CJA 21 can be obtained from, and shall be submitted to, the Clerk of Court's office upon completion.

(f) Forms Available in the Clerk of Court's office.

(1) Motion and Affidavit of Defendant in *Forma Pauperis* for Issuance of Subpoena.

(2) Order of Issuance and Service of Subpoenas and the Payment of Witness Fees on Motion of Forma Pauperis.

(g) Appointment and Voucher for Counseling Services of Appointed Counsel (CJA Form 20).

(1) CJA Form 20 is initiated by the Clerk of Court's office and forwarded to counsel at the time of the appointment. All copies, except copy 4, shall be returned to the Clerk of Court's office for payment no later than forty-five (45) days from the termination of the case in this Court.

(2) In the voucher, counsel shall not claim more than the maximum provided in 18 U.S.C. § 3006A as amended, since this will delay processing of the voucher. Claims for expenses over Fifty Dollars ($50.00) shall be supported by documentation.

RULE 47.1 MOTIONS

(a) Briefs and Responses. A party who files a motion shall serve and file with the motion a written brief containing a short, concise statement of the arguments and authorities in support of the motion. Affidavits and other supportive papers shall be filed together with the motion and brief. Each party opposing the motion shall, within ten (10) days (excluding weekends and holidays) after service of said motion, serve upon all parties a written brief containing a short, concise statement of the argument and authorities in opposition to the motion. Failure of a responding party to serve a response within the ten (10) days time limit may be deemed by the Court in its discretion as a confession of the motion.

(b) Page Limitation. Briefs in support of and in opposition to all motions are limited to a maximum of twenty-five (25) pages. Motions seeking permission to file briefs containing more than twenty-five (25) pages will be granted only when complex or numerous legal issues justify such relief. The motion and proposed order shall state how many pages the brief will contain.

(c) Reply Briefs. Parties shall not file reply briefs for any motion set for oral hearing. Reply briefs may be filed for motions to be determine without oral argument if the reply brief is filed five (5) days within service of the response brief.

RULE 49.1 PLEADINGS

(a) Facsimiles. 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.

(b) 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. All pleadings shall be stapled at the upper left hand corner. They shall be filed without backing. 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.

(c) 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.

(d) 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 facsimile** number 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.

(e) 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.

RULE 49.2 FILING

(a) 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.

(b) Hours and Days of Business. Unless otherwise ordered by the Court, the Office of the Clerk of Court shall be open to the public between the hours of 8:30 A.M. and 5:00 P.M. on all days except Saturdays, Sundays, and legal holidays. In addition, a slot in the entrance to the Clerk of Court's office shall be open from 8:00 A.M. to 8:30 A.M. on said days for the deposit of pleadings and papers.

RULE 53.1 COURTROOM DECORUM

(a) Conduct of Counsel. Counsel shall conduct and demean themselves in the courtroom with dignity and propriety. All statements and communications to the Court shall be clearly and audibly made from the counsel table or, if the Court is equipped with an attorney's lectern, from a standing position behind the lectern facing the Court. Counsel shall not approach the bench unless requested to do so by the Court or unless permission is granted upon the request of counsel.

(b) Examination of Witnesses. Examination of witnesses shall be conducted from the lectern in the courtroom, except when it shall be necessary to approach the witness, Clerk of Court or reporter's table for the purpose of presenting or examining exhibits.

(c) Number of Participating Counsel. Only one attorney for each party may examine or cross-examine a witness. Not more than two attorneys for each party may argue the merits of the action unless the Court otherwise permits.

(d) Courtroom Standards. To maintain decorum in the courtroom when Court is in session, counsel shall abide strictly by the following rules:

(1) Counsel shall appear in appropriate professional attire.

(2) Counsel shall stand when addressing the Court and when examining and cross-examining witnesses.

(3) Counsel shall not address questions or remarks to opposing counsel without first obtaining permission from the Court to do so. Appropriate and quiet informal consultations among counsel off the record are not precluded so long as this does not delay or disrupt the progress of the proceedings.

(4) The examination and cross-examination of witnesses shall be limited to questions addressed to the witnesses. Counsel shall refrain from making statements, comments or remarks prior to asking a question or after a question has been answered.

(5) In making an objection, counsel shall state plainly and briefly the specific ground of objection and shall not engage in argument, unless requested or permitted by the Court to do so.

(6) Only one attorney for each party shall make objections to the testimony of a witness when being questioned by an opposing party. The objection shall be made by the attorney who has conducted or is to conduct the examination of the witness.

(e) Conduct and Attire of Parties and Witnesses. **To maintain appropriate decorum before the Court, counsel shall advise and supervise their respective parties and witnesses and shall instruct that they conduct themselves in a manner befitting respect for the judicial process. Counsel shall further instruct their respective parties and witnesses that they shall appear at proceedings in appropriate attire. T-shirts, sweat shirts, sweat pants, sandals and similar casual clothing is not considered appropriate attire for either a party or witness to a proceeding.**

RULE 53.2 SECURITY

(a) Inspection. All persons and all items carried by them, entering any U.S. Courthouse in the District of Wyoming or any facility wherein said Court is being held, shall be subject to appropriate screening and checking by the U.S. Marshal or his designated representative. This may include the use of metal detecting devices. Any person who refuses to cooperate in such screening or checking may be denied entry to the U.S. Courthouse by the U.S. Marshal or his designated representative.

(b) Use Of Cameras And Recording Devices.

(1) **The taking of photographs within the courtrooms and court buildings and radio and television coverage of court proceedings within the courtrooms and court buildings of the United States District Court for the District of Wyoming is prohibited.**

(2) **The presiding judicial officer may authorize the taking of photographs within the courtroom and court building for ceremonial proceedings, inter alia, naturalization ceremonies, investiture proceedings, bar admittance ceremonies, and public recognition proceedings.**

(3) **As part of the court's participation in education programs, such as moot trial competitions, continuing legal education programs, student court visits, and other programs of a similar nature, the presiding judicial officer may order exceptions to the general rule prohibiting photographs and radio and television coverage of court proceedings.**

(4) **The presiding judicial officer may order the taking of photographs and broadcasts of court proceedings as a means of preserving the record of the court proceedings as may be authorized by law of these Local Rules.**

(5) The use or operation of any camera, recording device or any mechanical means for the visual reproduction of the likeness of an individual, object, or for the auditory reproduction of a voice or sound is prohibited in any courtroom of this Court or any premises under the direct control of the Court. This includes, but is not limited to, the Clerk of Court's office, Probation Office and the U.S. Marshal's Office or in the hallways so close to any such area as to disturb the order

and decorum thereof, either while the Court is in session or at recesses between sessions when Court officials, litigants, attorneys, jurors, witnesses or other persons connected with the proceedings pending therein are present. These devices cannot be brought into any building where the Court's business is being conducted without the express consent of the Chief Judge of this District, except for other regular tenants in the same building. Specific items to be excluded are recorders, cameras, pagers, cellular phones, and any other electronic devices, except portable computers.

RULE 57.1 ASSIGNMENT OF CASES

(a) Assignment Of Cases. It is the policy of this Court, insofar as practicable and efficient, to provide for the assignment of cases among the Judges of this District by random selection. It is the further policy of the Court to provide for parity of work among the active judges of this District.

(b) Filing and Assignment of Criminal Cases.

(1) **The Clerk of Court shall maintain a separate computerized Case Assignment Card Deck program for the random selection and assignment of criminal cases to District Judges in an equal apportionment for each judge, except as otherwise may be determined by the Chief Judge.**

(2) A criminal case shall be publicly drawn by the Clerk of Court or designate **by means of the computerized program** and assigned to a judge at the time of the filing of any indictment, information or complaint. Reassignments shall be made, in accordance with Local Civil Rule 40.2(a)(2), except that the Clerk of Court or designate shall perform the redrawing in public.

(3) If, at the time of filing, the U.S. Attorney or defense counsel shall advise the Clerk of Court that the case is related to any other pending case or one terminated within the previous twelve (12) months, the Clerk of Court or designate shall determine whether the case is related. The Clerk of Court shall consult with the judge or judges involved. Criminal cases are deemed related when the case filed involves the same defendants or the same occurrence as another case pending within the previous twelve (12) months.

(4) The transfer of probation and a term of supervised release jurisdiction is accepted by the Chief Judge when Probation Form 22 is signed by him. Transfer of probation and a term of supervised release jurisdiction may be accepted by a magistrate judge when the offense for which the probationer was convicted is a misdemeanor and the probationer in the district of prosecution consented to a magistrate judge's jurisdiction.

(c) Assignment Register and Reports.

(1) The Clerk of Court shall maintain an assignment register, in a form as approved by the Court, containing an account of all civil, criminal and appeal cases assigned to each of the judges of the Court or to any visiting judge, and containing all reassignments among judges.

(2) At the end of each month, the Clerk of Court shall prepare a report showing the number of cases assigned to and pending before each judge, and such other information as the Chief Judge may direct.

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.

RULE 58.2 REVIEW OF MAGISTRATE JUDGE'S ACTION

Appeal from Judgments in Misdemeanor Cases [18 U.S.C. § 3402]. A defendant may appeal a judgment of conviction by a magistrate judge in a misdemeanor case by filing a notice of appeal to the District Court within ten (10) days after entry of the judgment, and by serving a copy of the notice upon the United States Attorney. The scope of appeal shall be the same as on an appeal from a judgment of the District Court to the Court of Appeals. When appealing a judgment of conviction, the appellant shall pay a Twenty-Five Dollar ($25.00) filing fee.

RULE 58.3 DISPOSITION OF MISDEMEANOR CASES (18 U.S.C. § 3401)

Authority of Magistrate Judge. A magistrate judge may:

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

(b) Direct the probation service of the District Court to conduct a presentence investigation in any misdemeanor case;

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

RULE 58.4 PETTY OFFENSE FORFEITURE OF COLLATERAL IN LIEU OF APPEARANCE

This Rule shall apply to petty offenses, whether originating under the applicable federal statutes or regulations, or applicable state statute by virtue of the Assimilated Crimes Act (18 U.S.C. § 13), occurring within the territorial jurisdiction of the United States District Court for the District of Wyoming, including areas within the exterior boundaries of United States military installations, bases, institutions, government reservations located on lands under the exclusive or concurrent jurisdiction of the United States, including Yellowstone National Park, Grand Teton National Park and the National Elk Refuge. Collateral may be posted in lieu of the offender's appearance before a magistrate judge. If the person charged fails to appear before a magistrate judge after posting collateral, the collateral shall be forfeited to the United States and such forfeiture shall signify that the offender does not contest the charge nor request a hearing before a magistrate judge. No forfeiture shall be permitted for the following:

The offenses, for which collateral may not be posted in lieu of appearance by the person charged, shall be set forth in schedules approved by the Chief Judge of the District Court and published and distributed by the Central Violations Bureau (CVB) located in **San Antonio, Texas.**

The list of offenses contained therein, either for which collateral may be posted and forfeited or for which the offender must appear before a magistrate judge is not intended to be exhaustive or all inclusive. A magistrate judge may use his own discretion whether to allow forfeiture of collateral or require an appearance for offenses which are not listed.

Nothing contained in this Rule shall prohibit a law enforcement officer from arresting a person for the commission of any offense, including those for which collateral may be posted and forfeited, and requiring the person charged to appear before a magistrate judge or, upon arrest, taking him immediately before a magistrate judge.

If a person charged with an offense for which collateral may be posted fails to post and forfeit collateral, any punishment, including fine, imprisonment, or probation, may be imposed within

the limits established by law upon conviction by plea or after trial.

Nothing in this Rule is intended to prohibit any magistrate judge for this District from instituting his own schedule of fines for his particular area of responsibility. However, should any magistrate judge desire to put into effect a fine schedule, a copy of such schedule shall be immediately furnished to the Court for its approval before such schedule may be put into effect. Absent such a fine schedule, the amount set forth in the CVB schedule shall govern.

Rule 61.1 ADMISSION TO PRACTICE

(a) General Admissions. Attorneys who are regularly admitted and licensed to practice before the Supreme Court of Wyoming may be admitted to practice in the United States District Court for the District of Wyoming upon motion made in open court by an attorney admitted to this Court. Said motion shall contain a satisfactory showing of the good moral character and the qualifications of the applicant, and the moving attorney shall vouch for him. Upon the granting of said motion for admission, the applicant shall take the oath, which shall be administered by the Court or the Clerk of Court. After signing the roll of attorneys in the Clerk of Court's office and paying the appropriate fee to the Clerk of Court, a certificate of admission shall be furnished to each admitted attorney.

(b) Admission *Pro Hac Vic*e. All attorneys who have not been admitted to practice in the courts of the State of Wyoming must seek admission *pro hac vice* based upon a motion made by a member of the Bar**s** of the State of Wyoming **and of this Court and an affidavit of the attorney seeking *pro hac vice* admission** in order to appear in any matter before this Court. A proposed order shall be submitted with the motion. (**See Appendix A for the required contents of the motion and affidavit.)**

Unless otherwise ordered by this Court, a motion to appear *pro hac vice* shall be granted only if the applicant associates with a currently licensed member of the Bars of the State of Wyoming **and of this Court** who shall participate in the preparation and trial of the case to the extent required by the Court. The applicant must also be a member in good standing of the bar of another state **and the bar of another federal court in order to be eligible for *pro hac vice* admission in any matter before this Court.**

An attorney who applies for admission *pro hac vice* consents to the exercise of disciplinary jurisdiction by this Court over any alleged misconduct which occurs during the progress of the case in which the attorney so admitted participates. Prior to the filing of any pleadings or other documents, there shall be filed in the Clerk of Court's office an entry of appearance by a currently licensed member of the Bar of the State of Wyoming with whom the applicant has become associated. The Wyoming member of the Bar shall move the applicant's admission at the commencement of the first hearing to be held before the Court.

The Wyoming attorney shall sign the first pleading filed and shall continue in the case unless other resident counsel be substituted. The Wyoming attorney shall be present in Court during all proceedings in connection with the case, unless excused, and shall have full authority to act for and on behalf of the client in all matters including pretrial conferences, as well as trial or any other hearings. Any notice, pleading or other paper shall be served upon all counsel of record, including resident counsel, whenever possible, but it shall be sufficient for purposes of notice if service of any motion, pleading, order, notice or any other paper is served only upon Wyoming counsel, who shall assume responsibility for advising the non-resident associate of any such service. For good cause shown, the Court may direct the Clerk of Court to accept for filing a complaint signed only by a non-resident attorney, upon the condition that such non-resident attorney shall associate with resident counsel within ten (10) days after the filing of the complaint.

(c) Motion to appear pro hac vice. Every motion to appear *pro hac vice* must contain the firm name (if any) address, telephone and facsimile number (if any) for said attorney, otherwise the attorney's name will not be added to the case docket. A proposed order shall be submitted with the motion.

(d) Pro Se Representation. Any party proceeding on his or her own behalf without an attorney shall be expected to read and be familiar with both the Local Rules of this Court and with the Federal Rules of Civil Procedure, the Rules of Bankruptcy Procedure, the Federal Rules of Evidence, or Federal Rules of Appellate Procedure, whichever may be appropriate in the case, and to proceed in accordance therewith. Copies of such Rules shall be available for review at the Office of the Clerk of Court.

(e) Government Attorneys. Any attorney representing the United States Government, or any agency thereof, and who has been admitted to practice in the highest court of any state, but who is not otherwise qualified under this Rule to practice in this Court, may appear and participate in a case in his official capacity, as hereinafter provided. If the Government representative is not a member of the Bar of this Court, the United States Attorney for this District or one of his assistants shall move the admission of the non-resident Government representative, shall sign all pleadings before their

filing and shall be present in Court during all proceedings in connection with the case, unless excused by the Court. Said United States Attorney shall also be designated by the Government attorney for the purpose of receiving service of notices, and such service shall constitute service upon said Government attorney.

(f) Law Students. Any law student who has complied with the terms and conditions of Rule 12, Rules of the Supreme Court of Wyoming, providing for the organization and government of the Bar Association and attorneys at law of the State of Wyoming, shall be permitted to practice before this Court upon proof of compliance, and upon motion duly made pursuant to subsection (a) of this Rule. No such law student shall be permitted to practice unless accompanied by an attorney otherwise duly admitted to practice before this Court.

RULE 61.2 APPEARANCES AND WITHDRAWALS

(a) Appearances, Criminal Case. An attorney appearing for a defendant in a criminal case, except when appointed by the Court, shall promptly file a written appearance with the Clerk of Court and serve a copy thereof upon the United States Attorney. The appearance shall show the office address and telephone **and facsimile** number of the attorney.

(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 Criminal Procedure;

(2) The filing with the Clerk of Court of a notice of withdrawal and proof of service thereof. **In cases of retained counsel, retained counsel shall file** 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 of **retained counsel** has not consented in writing to such a withdrawal, the motion **may** be set down for hearing before the Court.

RULE 61.3 EXCLUSION OF WITNESSES

At the request of a party, the Court shall order witnesses excluded from the courtroom so that they cannot hear the testimony of other witnesses. The Court may make the order on its own motion. This Rule does not authorize exclusion of: a party who is a natural person; an officer or employee of a party that is not a natural person but who is designated as its representative by its attorney; or persons whose presence is shown by a party to be essential to the presentation of the cause, including expert witnesses. The excluded witnesses need not be sworn in advance, but may be ordered not to discuss their testimony with anyone except counsel during the progress of the case. Upon motion of counsel, witnesses once examined and permitted to step down from the stand shall be deemed excused. By reason of the inconvenience of exclusion and delays that are encountered thereby, counsel are encouraged not to make requests for exclusion routinely, but only when a valid purpose may be thereby served. (See Fed. R. Evid. 615.)

RULE 61.4 EXHIBITS

(a) Custody of Exhibits. The Clerk of Court or courtroom deputy clerk shall mark and have safekeeping responsibility for all exhibits marked and offered at trial or hearing. All rejected exhibits (exhibits tendered, but not admitted) shall also be retained by the Clerk of Court. The Clerk of Court **may** continue to have custody of the exhibits during the period after trial until the expiration of the time for appeal or termination of appeal proceedings.

(b) Return of Exhibits. After the expiration of the time for appeal, the Clerk of Court shall deliver to counsel of record their respective exhibits. However, the Clerk of Court shall notify counsel to pick up any exhibits that are too cumbersome for mailing and, if counsel shall fail to do so within ten (10) days after receipt of such notice, the Clerk of Court shall destroy or otherwise dispose of said exhibits.

(c) Sensitive and Bulky Exhibits. Sensitive exhibits such as money, drugs and firearms and documents of unusual bulk or weight and physical exhibits, other than documents, shall remain in the custody of the attorney producing them. The attorney shall permit inspection of the exhibits by any party for the purpose of preparing the record on appeal, and shall be charged with the responsibility for their safekeeping and transportation to the appellate court.

RULE 61.5 RELEASE OF INFORMATION BY ATTORNEYS IN CRIMINAL CASES

(a) Duty of Attorney. It is the duty of the attorney not to release or authorize the release of information or opinion for dissemination by any means of public communication, in connection with pending or imminent criminal litigation with which he is associated, if there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

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

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

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

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

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

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

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

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

The foregoing shall not be construed to preclude the attorney during this period, in the proper discharge of his official or professional obligations, from announcing the facts and circumstances of arrest (including time and place of arrest, resistance, pursuit and use of weapons), the identity of the investigative and arresting officer or agency and the length of the investigation; from announcing, at the time of seizure, any physical evidence other than a confession, admission or statement, which is limited to a description of the evidence seized; from disclosing the nature, substance or the text of the charge, including a brief description of the offense charged; from quoting or referring, without comment, to public records of the Court in the case; from announcing the scheduling or result of any stage in the judicial process; from requesting assistance in obtaining evidence or from announcing, without further comment, that the accused denies the charges made against him.

(d) Release of Information During Trial. During the trial of any criminal matter, including the period of jury selection, no attorney associated with the prosecution or the defense shall give or authorize any extrajudicial statement or interview, relating to the trial, the parties or issues in the trial, for dissemination by any means of public communication, except that the attorney may quote from or refer, without comment, to public records of the Court in the case.

(e) Release of Information After Trial. After the completion of a trial or disposition without trial of any criminal matter, and prior to the imposition of sentence, an attorney associated with the prosecution or defense shall refrain from making or authorizing any extrajudicial statement for dissemination by any means of public communication, if there is a reasonable likelihood that such dissemination will affect the imposition of sentence.

(f) Additional Rules. Nothing in this Rule is intended to preclude the formulation or application of more restrictive rules relating to the release of information about juvenile or other offenders, to preclude the holding of hearings or the lawful issuance of reports by legislative, administrative or investigative bodies, or to preclude any attorney from replying to charges of misconduct that are publicly made against him.

RULE 61.6 RELEASE OF INFORMATION BY COURT PERSONNEL IN CRIMINAL CASES

All Court personnel, including among others, marshals, deputy marshals, court clerks, bailiffs and court reporters, are prohibited from disclosing to any person, without authorization by the Court, information relating to a pending case that is not part of the public records of this Court. This Rule specifically forbids the divulgence of information concerning arguments and hearings held in chambers or otherwise outside the presence of the public.

RULE 61.7 SPECIAL ORDERS IN WIDELY PUBLICIZED AND SENSATIONAL CASES

In a widely publicized or sensational case, the Court, on motion of either party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties and witnesses likely to interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses and any other matters which the Court may deem appropriate for inclusion in such an order.

RULE 61.8 JURY SELECTION PLAN, CRIMINAL JUSTICE ACT PLAN, AND PLAN FOR PROMPT DISPOSITION OF CRIMINAL CASES

This District has published, and adopts herein by reference, a Civil Justice Reform Act Plan, a Jury Selection Plan, a Criminal Justice Act Plan setting forth procedures and guidelines for the appointment of counsel in criminal cases, a Plan for Prompt Disposition of Criminal Cases to insure compliance with the Speedy Trial Act, and a Court Reporter Plan.

APPENDIX A

MOTION AND AFFIDAVIT FOR ADMISSION *PRO HAC VICE*
PURSUANT TO U.S.D.C.L.R. 61.1

All *pro hac vice* affidavits shall contain the following information:

- Name, address, telephone number and name of firm of attorney seeking *pro hac vice* admission;
- When and where admitted (each court/bar);
- List of all pending disciplinary proceedings and all past public sanctions of *pro hac vice* counsel;
- Affirmation by *pro hac vice* counsel that said counsel will comply with and be bound by the Local Rules of the United States District Court for the District of Wyoming;
- Acknowledgment by attorney seeking *pro hac vice* admission that local counsel is required to be fully prepared to represent the client at any time, in any capacity;
- Acknowledgment of *pro hac vice* counsel that said counsel submits to and is subject to disciplinary jurisdiction of the Court for any alleged misconduct arising in the course of preparation and representation in the proceedings.

All *pro hac vice* motions shall contain the following information:

- Local counsel shall represent that local counsel is a member in good standing of the Bar of the State of Wyoming and the Bar of this Court;
- A statement that local counsel shall vouch for the good moral character and veracity of the *pro hac vice* attorney;
- A statement that local counsel shall be fully prepared to represent the client at any time, in any capacity

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

FILED
DISTRICT OF WYOMING
JUN 24 1997
BETTY A. GRIESS
CLERK

IN THE MATTER OF ADOPTION OF)
: SS
CRIMINAL RULES OF COURT)

The matter of the adoption of amendments to the rules for this Court having come on this day regularly to be heard, and a set of amended local rules for criminal cases having been considered, and the Court being fully advised in the premises; it is

HEREBY ORDERED that local rules 1, 7, 73, 74, 77, 103, 105, 201, 202, 217, 301, 302, 308, 309, 400, and 503, be amended in accordance with the copy attached hereto. It is

FURTHER ORDERED that local criminal rules 6.2, 12.1, and 47.1 be adopted as part of the Local Criminal Rules attached hereto. It is

FURTHER ORDERED that pursuant to the amendments of the Federal Rules of Criminal Procedure requiring all local rules of court to conform to a uniform numbering system prescribed by the Judicial Conference, the renumbering of said criminal rules be adopted as attached hereto. It is

FURTHER ORDERED that the local criminal rules attached hereto, shall be adopted as of July 1, 1997.

FURTHER ORDERED that the Clerk of Court shall cause notice

of the local criminal rules to be published to the Bar and public.

Dated this 24th day of June, 1997.

/s/ Alan B. Johnson
ALAN B. JOHNSON
Chief Judge

/s/ Clarence A. Brimmer
CLARENCE A. BRIMMER
United States District Judge

/s/ William F. Downes
WILLIAM F. DOWNES
United States District Judge

/s/ William C. Beaman
WILLIAM C. BEAMAN
United States Magistrate Judge

U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF WYOMING

IN THE MATTER OF ADOPTION OF)
) ss
AMENDED RULES OF COURT)

The matter of the adoption of amendments to the rules for this Court having come on regularly to be heard, and a set of amended local rules having been considered, and the Court being fully advised in the premises; it is

HEREBY ORDERED that local civil rules 51.1 and 83.12.2, be amended in accordance with the copy attached hereto. It is

FURTHER ORDERED that said rules relating to jury instructions and admission to practice are a part of the local criminal rules, and said criminal rules 30.1 and 61.1 be amended in accordance with the copy attached hereto. It is

FURTHER ORDERED that Appendix E relating to a Motion for Admission *Pro Hac Vice* as attached hereto, be adopted as part of the Local Civil Rules and Appendix A relating to a Motion for Admission *Pro Hac Vice* as attached hereto, be adopted as part of the Local Criminal Rules. It is

FURTHER ORDERED that the said amended local rules and the new Appendix E to the Civil Rules and the new Appendix A to the Criminal Rules shall be adopted, and become effective August 20, 2003. It is

FURTHER ORDERED that the Clerk of Court shall cause notice of the attached amendments to the local rules and the new Appendix E of the Civil Rules and Appendix A of the Criminal Rules to be published to the Bar and public.

Dated this 15th day of August, 2003.

/s/ WILLIAM F. DOWNES
Chief Judge

/s/ CLARENCE A. BRIMMER
United States District Judge

/s/ ALAN B. JOHNSON
United States District Judge

/s/ WILLIAM C. BEAMAN
United States Magistrate Judge

ACKNOWLEDGMENT

The United States District Court would like to acknowledge the following noncourt members of the Local Criminal Rules Committee and the Local Rules Standing Committee for the time, effort and expertise they dedicated to helping draft and review these Local Criminal Rules:

James Barrett, Esquire
John Barksdale, Esquire
David Freudenthal, Esquire
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Edward P. Moriarity, Esquire
P. Michael Mullikin, Esquire
Thomas Nicholas, Esquire
Jack D. Palma, Esquire
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