

**LOCAL RULES OF CIVIL PROCEDURE  
OF THE  
DISTRICT COURT OF THE VIRGIN ISLANDS**

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*I. Scope of Rules*

**Rule 1.1 Scope of Rules**

(a) TITLE AND CITATION. These Rules shall be known as the Local Rules of Civil Procedure of the District Court of the Virgin Islands of the United States. They shall be cited as "LRCi".

(b) SCOPE OF RULES. These Rules apply in all proceedings in civil actions. Rules 72.1-3 and 73.1-2 govern proceedings before Magistrate Judges.

(c) EFFECTIVE DATE. These Rules become effective on January 25, 2008.

(d) RELATIONSHIP TO PRIOR RULES; ACTIONS PENDING ON EFFECTIVE DATE. These Rules supersede all previous civil rules promulgated by this Court or any Judge of this Court. They govern all applicable proceedings brought in this Court after they take effect. They also apply to all proceedings pending at the time they take effect, except to the extent that in the opinion of the Court the application thereof would not be feasible or would work injustice, in which event the former rules govern.

(e) RULE OF CONSTRUCTION. United States Code, Title 1, Sections 1 through 5, shall, as far as applicable, govern the construction of these Rules.

**Rule 1.2 Availability of the Local Rules**

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

*II. Commencement of Action; Service of Process, Pleadings, Motions, and Orders*

**Rule 3.1 Civil Cover Sheet**

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

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

(c) Persons filing civil cases pro se are exempt from the foregoing requirements.

### **Rule 3.2 Mediation**

(a) "Mediation" means a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decision making authority rests with the parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem-solving and exploring settlement alternatives.

(b) (1) *Certification of Mediators.*

(A) The Court shall certify as many mediators as it determines to be necessary.

(B) Each individual certified as a mediator shall take the oath or affirmation prescribed by Title 28 U.S.C. Section 453 before serving as a mediator.

(C) A list of all persons certified as mediators shall be maintained with the Court.

(D) For certification, a mediator must:

(i) Complete a minimum of twenty (20) hours in a training program approved by the Court; and,

(ii) Observe a minimum of four district or other mediation conferences conducted by a certified mediator and conduct four District Court mediation conferences under the supervision and observation of a Court-certified mediator;

(iii) Meet one of the following requirements:

(a) Be a member in good standing of the Virgin Islands Bar with at least five years of Virgin Islands practice and an active member of the Virgin Islands Bar within one year of application for certification; or,

(b) If approved by the Chief Judge, upon written request setting forth reasonable and sufficient grounds, be a retired judge who was a member of the bar in the state or Territory in which the judge presided. The judge must have been a member in good standing of the bar of another state for at least five years immediately preceding the year certification is sought but need not meet the requirements of subsection (b) (1) (D) (ii); or,

(c) Hold a master's degree and be a member in good standing in his or her professional field with at least five (5) years of practice in the Virgin Islands.

(2) Notwithstanding the foregoing requirements for certification, the Court may, in the absence of available certified mediators, appoint as a mediator a qualified person acceptable to the Court and the parties.

(3) A person certified as a mediator by the American Arbitration Association or any other national organization approved by the Court shall be deemed to qualify under this section as a Court Mediator.

(c) (1) *Referral by Court.* Except as hereinafter provided, the Court may order any contested civil matter or selected issue to be referred to mediation.

(A) Conference or Hearing Date. The first mediation conference shall be held within the deadline ordered by the Court.

(B) Role of Counsel. Unless otherwise ordered by the Court, counsel for the parties shall attend and participate in mediation conferences.

(C) Mediation conferences shall take place on a date, and at a time and location, agreed to by the parties and the mediator unless otherwise ordered by the Court.

(2) *Motion to Dispense with Mediation.* A party may move to dispense with mediation if:

(A) The issue to be considered has been previously mediated between the same parties;

(B) The issue presents a question of law only;

(C) Other good cause is shown.

(d) (1) *Duties of Mediators*. Mediators have a duty to define and describe the process of mediation and its costs at the first mediation conference. The subjects covered should include the following:

(A) Mediation procedures;

(B) The differences between mediation and other forms of conflict resolution;

(C) The circumstances under which the mediator may meet alone with either of the parties or with any other person;

(D) The confidentiality provided for by Title 5, Section 854 of the Virgin Islands Code;

(E) The duties and responsibilities of the mediator and the parties;

(F) The fact that any agreement reached must be reached by mutual consent of the parties;

(G) The information necessary to define the disputed issues.

(2) Mediators have a duty to disclose any fact that would be grounds for disqualification. Mediators have a duty to be impartial and to advise all parties of any circumstances suggesting possible bias, prejudice or lack of impartiality. Persons selected as a mediator shall be disqualified for bias, prejudice or partiality, as provided by Title 28 U.S.C. Section 144, and shall disqualify themselves in any action in which they would be required under Title 28 U.S.C. Section 455 to disqualify themselves if they were a Judge or Magistrate Judge. Any party may move the Court to enter an order disqualifying a mediator for good cause.

(3) Mediators appointed by the Court pursuant to these Rules shall have judicial immunity in the same manner and to the same extent as a judge.

(e) (1) *Completion of Mediation.* Mediation shall be completed within ninety (90) days of the first mediation conference unless extended by order of the Court.

(2) *Exclusions from Mediation.* The following actions shall not be referred to mediation:

(A) Criminal actions;

(B) Forfeitures of seized property;

(C) Habeas corpus and extraordinary writ; or

(D) Any litigation expedited by statute or rule.

(3) *Discovery.* Discovery may continue throughout mediation. Such discovery may be delayed or deferred upon agreement of the parties or by order of the Court.

(4) *Disclosure Privilege.* Each party involved in a Court-ordered mediation conference has a privilege to refuse to disclose, and to prevent any person present at the proceeding from disclosing, communications made during such proceeding.

(5) *Inadmissibility of Mediation Proceedings.* All communications, written or oral, made in the course of a mediation proceeding, other than an executed settlement agreement, shall be inadmissible as evidence in any subsequent legal proceeding, unless all parties agree otherwise.

(f) (1) *Interim or Emergency Relief.* Mediators may apply to the Court for interim or emergency relief at any time, at the initiation of the mediator after consultation with the parties, or at the parties' request. Mediation shall continue while such a motion is pending absent a contrary order of the Court or a decision of the mediator to adjourn pending disposition of the motion. Time for completing mediation shall be tolled during any periods when mediation is interrupted pending resolution of such a motion.

(2) *Sanctions for Failure to Appear.* If a party, without good cause, fails to appear at a duly noticed mediation conference or fails to participate in the mediation in good faith, the Court shall impose sanctions, including an award of mediator and attorney fees and other costs. If, in the opinion of the mediator, a party has not participated in the mediation in good faith, and notwithstanding any other provisions of this



Rule, the mediator shall notify the referring judge in writing who shall conduct such further proceedings as appropriate to resolve the issue. If a party to mediation is a public entity, that party shall be deemed to appear at a mediation conference by the physical presence of a representative with full authority to negotiate on behalf of the entity and to recommend settlement to the appropriate decision-making body of the entity. Otherwise, unless stipulated by the parties, a party is deemed to appear at a mediation conference if the following persons are physically present:

(A) The party or its representative having full authority to settle without further consultation; and,

(B) A representative of the insurance carrier for any insured party who is not such carrier's outside counsel and who has full authority to settle without further consultation.

(3) *Communication with Parties.* The mediator may meet and consult with the parties or their counsel, individually or collectively, on any issue pertaining to the subject matter of the mediation. Should the mediator wish to discuss a matter with parties, the mediator must inform all parties to the mediation.

(4) *Appointment of the Mediator.*

(A) Within ten (10) days of the order of referral, the parties may agree upon a stipulation with the Court designating:

(i) A certified mediator; or

(ii) A mediator who does not meet the certification requirements of these Rules but who, in the opinion of the parties and upon review by the Court, is otherwise qualified by training or experience to mediate all or some of the issues in the particular case.

(B) If the parties cannot agree upon a mediator within ten (10) days of the order of referral, the plaintiff or petitioner shall so notify the Court. The Court shall appoint a certified mediator selected by rotation or by such other procedures as may be adopted by administrative order of the Court.

(5) *Compensation of the Mediator.* The mediator shall be compensated by the parties. The Court may determine the reasonableness of the fees charged by the mediator. In the

absence of a written agreement providing for the mediator's compensation, the mediator shall be compensated at the hourly rate set by the Court in the referral order. Each party shall pay one-half or such other proportionate share of the total charges of the mediator as may be agreed upon, unless the mediator and/or the Court determines that one party has not mediated in good faith.

(g) (1) *No Agreement*. If the parties do not reach any agreement as to any matter as a result of mediation, or if the mediator determines that no settlement is likely to result from the mediation, the mediator shall report the lack of an agreement to the Court without comment or recommendation. With the consent of the parties, the mediator's report may also identify any pending motions or outstanding legal issues, discovery process, or other action by any party which, if resolved or completed, would facilitate the possibility of a settlement.

(2) *Agreement*. If an agreement is reached, it shall be reduced to writing and signed by the parties and their counsel, if any. The agreement shall be filed when required by law or with the parties' consent. If the agreement is not filed, a joint stipulation of dismissal shall be filed. By stipulation of the parties, the agreement may be electronically or stenographically recorded, and any transcript may be filed with the Court.

(3) *Imposition of Sanctions*. In the event of any breach of or failure to perform under the agreement, the Court upon motion may impose sanctions, including costs, attorney fees, or other appropriate remedies including entry of judgment on the agreement.

#### **Rule 5.1 General Format of Papers Presented for Filing**

(a) All pleadings, motions, and other papers presented for filing shall be double-spaced, except for quoted material. Each page shall be numbered consecutively. All documents shall be prepared in an 8-1/2 x 11-inch format and shall be plainly typewritten or printed, on a white background, or prepared by a clearly legible duplication process.

(b) This Rule does not apply to: (1) exhibits submitted for filing or, (2) documents filed in actions prior to removal from the state courts.

#### **Rule 5.2 Appearances; Withdrawal as Counsel**

(a) The attorney for each party in any cause shall promptly file an appearance in the office of the Clerk of the Court, giving the address in the Virgin Islands where all notices and papers may be served upon the attorney.

(b) No attorney may withdraw an appearance except with leave of Court after notice to the attorney's client. All motions for withdrawal as counsel shall include a verified statement as to contact with or attempts to contact the client concerning such withdrawal and an indication of service upon or efforts to serve the client with the moving papers. The proposed order submitted should include the following:

--allowing withdrawal

--providing for stay of a reasonable number of days to allow the client to obtain new counsel

--providing for service on client of order allowing withdrawal by withdrawing counsel and the filing of proof thereof.

### **Rule 5.3 Court Service to Attorneys Through Clerk's Office Boxes**

Attorneys in active practice in the District Court have assigned boxes in the Clerk's office for service by the Court of orders and other communications that are not served electronically. It is the duty of counsel to check their boxes sufficiently often to ensure that they receive timely notice of such orders and other notices.

### **Rule 5.4 Electronic Filing**

#### (a) SCOPE OF ELECTRONIC FILING

(1) Except as provided by these Rules or by order of the Court, all cases are assigned to the Electronic Filing System. Unless otherwise provided by these Rules or by order of the Court, all pleadings and other documents required to be filed with the Court by a Filing User (see LRCi 5.4(b)) in connection with a case assigned to the Electronic Filing System must be electronically filed. All such cases shall be filed in accordance with these Rules and the District Court of the V.I. Electronic Case Files User Manual located on the Court's website: <http://vid.uscourts.gov>. Payment must be made when documents that require payment are filed electronically. Payment can be made by cash, check or money order or by such electronic payment

that may be approved in the User Manual. If payment is not received by the close of business on the next working day after filing, the Court shall take necessary action which may include striking the document or dismissal of the action.

(2) In a case assigned to the Electronic Filing System after it has been opened, parties who are Filing Users, or are represented by Filing Users, must promptly provide the Clerk with electronic copies of all documents previously provided in paper form on which they subsequently rely in electronically filed documents. All documents filed thereafter must be filed by Filing Users electronically except as provided in these Rules or as ordered by the Court.

(3) In cases removed from the Superior Court of the Virgin Islands, the removing party must electronically file all removal documents required by 28 U.S.C. § 1446.

(b) ELIGIBILITY, REGISTRATION, PASSWORDS

(1) Attorneys who intend to practice in this Court, including those regularly admitted or admitted *pro hac vice* to the bar of the Court and attorneys authorized to represent the United States or Government of the U.S. Virgin Islands without being admitted to the bar, must register as Filing Users of the Court's Electronic Filing System in a form prescribed by the Clerk. Attorneys who are unable to register (e.g., because they do not have an Internet e-mail address) must receive specific exemption from the Court in a form prescribed by the Clerk.

(2) If the Court permits, a party to a pending civil action who is eligible to proceed *pro se* may register as a Filing User in the Electronic Filing System solely for purposes of the action in a form prescribed by the Clerk. If, during the course of the action, the party retains an attorney who appears on the party's behalf, the attorney must advise the Clerk to terminate the party's registration as a Filing User upon the attorney's appearance.

(3) Registration as a Filing User constitutes consent to electronic service of all documents as provided in these Rules in accordance with the Federal Rules of Civil Procedure.

(4) Once registration is completed, the Filing User shall receive notification of the user log-in and password. Filing Users must protect the security of their passwords and immediately notify the Clerk if they learn that their password

has been compromised. Filing Users may be subject to sanctions for failure to comply with this provision.

(5) Once registered, a *pro se* Filing User may withdraw from participation in the Electronic Filing System by providing the Clerk's office with written notice of the withdrawal.

(c) CONSEQUENCES OF ELECTRONIC FILING

(1) Electronic transmission of a document to the Electronic Filing System consistent with these Rules, together with the transmission of a Notice of Electronic Filing from the Court, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure and these Rules, and constitutes entry of the document on the docket kept by the Clerk under Federal Rules of Civil Procedure 58 and 79.

(2) Before filing a scanned document with the Court, a Filing User must verify its legibility

(3) When a document has been filed electronically, the official record is the electronic document as stored by the Court, and the filing party is bound by that document. Except in the case of documents first filed in paper form and subsequently submitted electronically, a document filed electronically is deemed filed on the date and at the time stated on the Notice of Electronic Filing from the Court.

(4) Filing a document electronically does not alter the filing deadline for that document. Unless otherwise ordered by the Court a filing must be completed before 11:59 p.m. U.S. Virgin Islands time in order to be considered timely filed that day.

(d) ENTRY OF COURT-ISSUED DOCUMENTS

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

(1) Orders may also be issued as "text-only" entries on the docket, without an attached document. Such orders are official and binding.

(2) The Court may sign, seal and issue a summons electronically, but a summons may not be served electronically.

(3) A Filing User submitting a document electronically that requires a Judge's signature must promptly deliver the document in such form as the Court requires.

(e) ATTACHMENTS AND EXHIBITS

Filing Users must submit in electronic form all documents referenced as exhibits or attachments for which a hyperlink is not available, unless the Court permits conventional filing. A Filing User must submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the Court. Excerpted material must be clearly and prominently identified as such. Filing Users who file excerpts of documents as exhibits or attachments under this Rule do so without prejudice to their right to timely file additional excerpts or the complete document. A Filing User must, however, provide the complete document from which excerpts are made to parties known not to have a copy. Responding parties may timely file additional excerpts or the complete document that they believe are directly germane. The Court may authorize or require parties to file additional excerpts or the complete document.

(f) SEALED DOCUMENTS

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

(g) RETENTION REQUIREMENTS

Documents (excluding depositions) that are electronically filed and require original signatures other than that of the Filing User must be maintained in paper form by the Filing User until five years after all time periods for appeals expire. On

request of the Court, the Filing User must provide original documents for review.

(h) SIGNATURES

(1) The user log-in and password required to submit documents to the Electronic Filing System serve as the Filing User's signature on all electronic documents filed with the Court. They also serve as a signature for purposes of Federal Rule of Civil Procedure 11, other Federal Rules of Civil Procedure, these Rules, and any other purpose for which a signature is required in connection with proceedings before the Court. Electronically filed documents must include a signature block and must set forth the Filing User's name, address (including email address), telephone number and the attorney's U.S. Virgin Islands bar registration number, if applicable. In addition, the name of the Filing User under whose log-in and password the document is submitted must be preceded by an "s/" and typed in the space where the signature would otherwise appear.

(2) No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.

(3) Documents containing the signature of non-Filing Users are to be filed electronically with the signature represented by a "s/" and the name typed in the space where a signature would otherwise appear, or as a scanned image.

(4) Documents requiring signatures of more than one party must be electronically filed either by: (i) submitting a scanned document containing all necessary signatures; (ii) representing the consent of the other parties on the document; (iii) identifying on the document the parties whose signatures are required and by the submission of a notice of endorsement by the other parties no later than three business days after filing; or (iv) in any other manner approved by the Court.

(i) SERVICE OF DOCUMENTS BY ELECTRONIC MEANS

(1) The "Notice of Electronic Filing" that is automatically generated by the Court's Electronic Filing System, except as provided below, constitutes service of the filed document on Filing Users. Parties who are not Filing Users must be served with a copy of any pleading or other document filed electronically, together with the Notice of Electronic Filing, by

an alternate method in accordance with the Federal Rules of Civil Procedure and these Rules.

(2) In the absence of a Notice of Electronic Filing, service of any sealed document by an alternate method, in accordance with the Federal Rules of Civil Procedure and these Rules, is required.

(3) A certificate of service must be included with all documents that are served, including those that are filed electronically, indicating that service was accomplished through the Notice of Electronic Filing for parties and counsel who are Filing Users and indicating how service was accomplished on any party or counsel who is not a Filing User.

(j) NOTICE OF COURT ORDERS AND JUDGMENTS

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

(k) TECHNICAL FAILURES

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

(l) PUBLIC ACCESS

(1) Parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents filed with the Court, including exhibits, whether filed electronically or on paper, unless otherwise ordered by the Court:

(A) Social Security numbers. If an individual's Social Security number must be included, only the last four digits of that number should be used.



(B) Names of minor children. If the involvement of a minor child must be mentioned, only the initials of that child should be used.

(C) Dates of birth. If an individual's date of birth must be included, only the year should be used.

(D) Financial account numbers. If financial account numbers are relevant, only the last four digits should be used.

(2) A party wishing to file a document containing the personal data identifiers listed above may:

(A) file an unredacted version of the document under seal,  
or

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

(3) The unredacted version of the document or the reference list shall be retained by the Court as part of the record. The Court may, however, still require the party to file a redacted copy for the public file.

(4) The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk will not review documents for compliance with this Rule.

(m) HYPERLINKS

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

(A) Hyperlinks to other portions of the same document and/or, where possible, other documents within the CM/ECF system; and

(B) Hyperlinks to a location on the Internet that contains a source document for a citation.

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

of the filed document. Neither a hyperlink, nor any site to which it refers, is part of the record. Hyperlinks are simply convenient mechanisms for accessing material cited in a filed document.

(n) NOTICE OF *LIS PENDENS*

A copy of any recorded *lis pendens* shall be filed with the pleading or other document to which it pertains.

**Rule 6.1 Computation of Time**

As used in Federal Rules of Civil Procedure 6(a) and 77(c) "legal holiday" includes, in addition to the days set forth in those rules, any other day appointed as a holiday by the Territory of the Virgin Islands on which the District Court of the Virgin Islands is closed.

*III. Pleadings and Motions*

**Rule 7.1 Documents Filed with the Court**

(a) MOTION, RESPONSE AND REPLY. Only a motion, a response in opposition, and a reply may be served on counsel and filed with the Court; further response or reply may be made only by leave of Court obtained before filing (counsel will be sanctioned for violation of this limitation).

(b) SUPPORTING DOCUMENTS. When allegations of fact not appearing of record are relied upon in support of a motion, response or reply, all affidavits and other pertinent documents shall be filed before the hearing of the motion.

(c) BRIEFS. Motions, responses and replies shall be accompanied by a brief which shall contain a concise statement of reasons and citation of authorities.

(d) PAGE LIMIT. With the exception of exhibits and other supporting documentation, no document filed with the Court shall exceed twenty (20) pages without leave of Court.

(e) TIME PERIODS.

(1) A party shall file a response within fourteen (14) days after service of the motion. For good cause shown, parties may be required to file a response and supporting documents,

including brief, within such shorter period of time as the Court may specify, or may be given additional time upon request made to the Court.

(2) A party shall file a reply, if any, within fourteen (14) days after service of the response.

(3) Nothing herein shall prohibit the Court from ruling without a response or reply when deemed appropriate.

(4) The time period for any response and reply to a motion filed under Federal Rule of Civil Procedure 12 shall be as provided in LRCi 12.1. The time period for any response and reply to a summary judgment motion filed under Federal Rule of Civil Procedure 56 shall be as provide in LRCi 56.1.

(f) REQUEST FOR ORAL ARGUMENT. A request for oral argument shall be separately stated by the movant or respondent at the conclusion of the motion or response.

- Amended December 1, 2009.

#### **Rule 7.2 Motions *in Limine***

All motions *in limine* shall be filed no later than twenty-one (21) days before the day scheduled for jury selection, absent good cause shown to the Court upon a timely written motion to file out of time.

#### **Rule 7.3 Motions for Reconsideration**

A party may file a motion asking the Court to reconsider its order or decision. Such motion shall be filed within fourteen (14) days after the entry of the order or decision unless the time is extended by the Court. Extensions will only be granted for good cause shown. A motion to reconsider shall be based on:

1. intervening change in controlling law;
2. availability of new evidence, or;
3. the need to correct clear error or prevent manifest injustice.

- Amended December 1, 2009.

#### **Rule 9.1 Social Security Number in Social Security Cases**

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

#### **Rule 11.1 Citation of Authority**

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

(a) the applicable law in this jurisdiction has been cited, including authority for and against the position being advocated by counsel;

(b) the applicable law in this jurisdiction has been presented before law from another jurisdiction is cited. Counsel must file with the document a copy of any foreign law relied upon therein unless that authority is available in the Court's library.

#### **Rule 11.2 Violations of Local Rules**

The Court may sanction for violation of any Rule governing the form of pleadings and other papers filed with the Court only by the imposition of a fine against the attorney or a person proceeding *pro se*. Rules governing the form of pleadings and other papers filed with the Court include, but are not limited to, those Rules requiring a special designation in the caption and, when the Court permits paper filing, those regulating paper size and the number of copies filed.

#### **Rule 12.1 Dispositive Motions Pursuant to Federal Rule of Civil Procedure 12**

The following procedures govern dispositive motions filed pursuant to Federal Rule of Civil Procedure 12.

(a) DOCUMENTS FILED BY MOVANT.

(1) *Motion*. Each motion shall be accompanied by a brief.

(2) *Reply*. Any reply from the movant shall be filed within fourteen (14) days of the filing of an opposition from an adverse party.

(b) DOCUMENTS FILED BY RESPONDENT.

Any party responding to a motion submitted under this Rule may file a response brief within twenty (20) days of the filing of the motion.

(c) EXTENSIONS OF TIME.

(1) No party may amend the deadlines for the filing of motions or responses thereto if the Court has issued an order setting such deadlines. In the absence of such an order, a party may seek an extension from the other party of the deadline otherwise prescribed in this Rule. When a party requests an extension of time from the other party, the parties shall first make a good faith effort to negotiate a reasonable extension, which shall not exceed thirty (30) days from the deadline otherwise prescribed in this Rule. Only one such extension for the motion in question is permitted. The party seeking the extension must file notice of any such negotiated extension before the filing date prescribed in this Rule.

(2) If the parties cannot agree, the party seeking an extension may apply to the Court. If the Court grants the application, the parties may not thereafter alter the deadlines set by the Court without leave of the Court.

(d) PAGE LIMIT.

No brief shall exceed twenty pages without leave of Court. If granted, the same leave shall automatically extend to any responding brief.

- Amended December 1, 2009.

#### **Rule 15.1 Form of a Motion to Amend and its Supporting Documentation**

A party who moves to amend a pleading shall file the amendment with the motion. Except as otherwise ordered by the Court, any amendment to a pleading, whether filed as a matter of course or upon a motion to amend, must reproduce the entire

pleading as amended specifically delineating the changes or additions and may not incorporate any prior pleading by reference. A proffered amended pleading must note prominently on the first page the numbered amendment it represents; i.e., 1st, 2nd, 3rd amendment, etc.

### **Rule 16.1 Pretrial Procedure**

(a) DISCOVERY MEMORANDUM. All parties shall conduct discovery expeditiously and diligently. No less than three business days prior to the initial scheduling conference held pursuant to Federal Rule of Civil Procedure 16, each party shall file with the Court a discovery memorandum which shall include, but need not be limited to, the following items:

(1) a brief statement of the facts underlying the claims or defenses in the action and of the legal issues in the case;

(2) a description of all discovery conducted by the party to date;

(3) a description of all discovery problems encountered to date, the efforts undertaken by the party to remedy these problems, and the party's suggested resolution of the problems;

(4) a description of the party's further discovery needs, including any special needs (e.g., videotape, telephone depositions, or problems with off island witnesses or documents, etc.);

(5) the party's estimate of the time needed to complete discovery;

(6) a statement regarding whether expert testimony will be necessary, and the party's anticipated schedule for retention of experts and submission of their reports;

(7) a statement regarding whether there should be any limitation placed upon use of any discovery device and, if so, the reason the limitation is sought.

(b) JOINT FINAL PRETRIAL ORDER. The proposed Joint Final Pretrial Order shall be prepared through cooperation of counsel within the deadlines and in accordance with instructions given by the Court. After each counsel has submitted the respective portions of the proposed pretrial order to other counsel, plaintiff's counsel shall convene a conference, in person or by telephone, to attempt

to reconcile any matters on which there is a disagreement. After diligent efforts to resolve such disagreements, all areas of agreement or disagreement shall be noted in the proposed Joint Final Pretrial Order. The proposed Order shall be a single document reflecting efforts of all counsel, signed by all counsel of record, and then filed by plaintiff's counsel for review and entry by the Court. The Court may enforce the provisions and requirements of the Joint Final Pretrial Order by sanctions against counsel or the parties.

(c) TRIAL BRIEFS, REQUESTS TO CHARGE, PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW. No later than seven (7) days before the date set for trial or at such time as the Court may direct:

(1) Each party must file a trial brief or memorandum with citations and authorities and arguments in support of the party's position on all disputed issues of law.

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

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

- Amended December 1, 2009.

#### *IV. Parties*

##### **Rule 23.1 Designation of "Class Action" in the Caption**

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

##### **Rule 24.1 Procedure for Notification of Claim of Unconstitutionality**

(a) In any action, suit, or proceeding in which the Territory or any agency, officer, or employee thereof is not a party, and in which the constitutionality of any statute of the Territory affecting the public interest is drawn in question, the party raising the constitutional issue shall notify the Court of

the existence of the question either by checking the appropriate box on the Civil Cover Sheet or by stating on the pleading that alleges the unconstitutionality, immediately following the title of that pleading, "Claim of Unconstitutionality" or the equivalent.

(b) Failure to notify the Court as provided in subsection (a) is not a waiver of any constitutional right otherwise timely asserted.

#### *V. Depositions and Discovery*

##### **Rule 26.1 Document Production; Documents Not Filed**

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

##### **Rule 26.2 Participation Limits; Duplicative Disclosures**

###### (a) DEPOSITIONS - PARTICIPATION LIMITS

No more than one attorney for each party may question the deponent, except as provided by stipulation of the parties or upon order of the Court.

###### (b) STIPULATIONS CONCERNING REQUIRED DISCLOSURES

The parties may, by stipulation, extend the scope of disclosures under Federal Rule of Civil Procedure 26 (a).

###### (c) DUTY OF SELF-EXECUTING DISCLOSURE

In complying with their obligations under Federal Rule of Civil Procedure 26(a)(1)(D), parties shall provide reports or documents received from insurers that bear on reservation of rights or denial of coverage.

###### (d) DUPLICATIVE DISCLOSURE

Duplicative disclosure is not required, and a statement that disclosure has already been made, and where it has been made,



discharges the obligation imposed under Federal Rule of Civil Procedure 26.

### **Rule 26.3 Expert Witness -- Written Report; Video Taping**

#### (a) TESTIMONY AND THE EXPERT'S WRITTEN REPORT/DEPOSITION

The testimony of an expert witness at trial shall be based upon the opinions advanced in the written report disclosed under Federal Rule of Civil Procedure 26(a)(2) and/or the expert's deposition, if any. Experts shall not be permitted to testify on matters beyond the scope of the subjects and the opinions expressed in the referenced written report (or, if elicited on cross-examination, at a deposition).

#### (b) VIDEO TAPING OF EXPERT DISCOVERY

Absent good cause shown, if a trial date has been set at least forty-five (45) days in advance, and the testimony of an expert witness has not been video taped, and the witness is unavailable for the trial, the parties will be required to proceed.

#### (c) PAYMENT FOR EXPERT WITNESS DEPOSITION

(1) Unless the parties have agreed to the contrary in writing, responsibility for compensating experts shall be according to Federal Rule of Civil Procedure 26(b)(4)(C). Unless otherwise provided by the Court, a proposed bill for the expert's charges must be provided to the party seeking discovery twenty (20) days prior to the deposition. If the deposing party objects to the charges, prompt application shall be made to the Court to obtain a ruling on their reasonableness before the deposition.

(2) If an expert demands payment in advance of the deposition date, absent an agreement to the contrary, the party seeking discovery must advance or otherwise secure such sums.

### **Rule 30.1 Filing of Depositions**

If a case is to proceed to trial, the depositions eligible for filing shall be filed three (3) business days before the trial is to begin. In that regard, a party taking the deposition shall be the custodian of the original deposition, and at its own initiative, or upon timely request by another party seeking to use the deposition, shall electronically file a copy of the original.

- Amended December 1, 2009.

### **Rule 33.1 Interrogatories**

Interrogatories shall be prepared so that sufficient space for insertion of the answers is provided after each interrogatory or subsection thereof. The answering party shall insert answers on the original interrogatories served and return the original to counsel for the party that propounded such interrogatories with copies served on counsel for all other parties. If insufficient space exists on the original for insertion of answers, the answering party shall retype the questions and provide answers so as to ensure that each answer follows the question or subsection thereof.

### **Rule 37.1 Pre-Filing Conference of Counsel**

Prior to filing any motion relating to discovery pursuant to Federal Rules of Civil Procedure 26-37, other than a motion relating to depositions under Federal Rule of Civil Procedure 30, counsel for the parties shall confer in a good faith effort to eliminate the necessity for the motion or to eliminate as many of the disputes as possible. It shall be the responsibility of counsel for the moving party to arrange for this conference. To the extent practicable, counsel are encouraged to meet in person at a mutually convenient location. If, in the consideration of time and/or resources, counsel agree that meeting in person is not practicable, the conference may take place telephonically or electronically. Unless otherwise provided by stipulation or by written order of the Court, the conference shall be completed within thirty (30) calendar days after the moving party serves a letter requesting such conference. The moving party's letter shall identify each issue and/or discovery request in dispute, state briefly with respect to each the moving party's position (and provide any legal authority), and specify the terms of the discovery order to be sought.

### **Rule 37.2 Moving Papers**

(a) STIPULATION. If counsel are unable to resolve all of their differences, they shall formulate and sign a written stipulation to that effect, expressly certifying their compliance with LRCi 37.1. The stipulation shall include the moving party's letter requesting a pre-filing conference of counsel and shall be filed and served with the motion.

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

(c) FAILURE TO FILE STIPULATION. The Court will not consider any discovery motion in the absence of (1) the signed stipulation and certification required by LRCi 37.2(a), or (2) a declaration from counsel for the moving party establishing that opposing counsel:

(1) failed to confer in a timely manner after receipt of a letter requesting a conference under LRCi 37.1; or

(2) refused to sign the stipulation and certification required by LRCi 37.2(a).

### **Rule 37.3 Cooperation of Counsel - Sanctions**

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

## *VI. Trials*

### **Rule 38.1 Notation of "Jury Demand" in the Pleading**

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

### **Rule 39.1 Exhibits**

(a) All exhibits received in evidence or offered and rejected during trial or any evidentiary hearing, shall be delivered to the Clerk of the Court through the courtroom deputy, who shall keep the same in custody until it is determined whether an appeal has been taken from a final judgment. In the event of an appeal, exhibits shall be retained by the Clerk until

disposition of the appeal. The Clerk may permit United States Magistrate Judges, Official Court Reporters, and chambers staff to have custody of exhibits when necessary to expedite the business of the Court. No persons other than the United States Magistrate Judges, Official Court Reporters, or chambers staff shall be permitted to remove exhibits from the Clerk's custody, except upon order of the Court in extreme circumstances.

(b) Sensitive exhibits, after submission into evidence, shall remain in the custody of the proponent or the appropriate agency during the trial of the case and for any appeal period thereafter. Such evidence includes, without limitation, narcotics, weapons, currency, and any other evidence designated by the Court as sensitive.

(c) Unless otherwise ordered by the Court, all exhibits in the custody of the Clerk shall be returned to the offering party upon the later of the following: (1) the expiration of the period within which an appeal must be filed, or (2) the completion of the appellate process. The Clerk shall notify the offering party in writing of the requirement to present him/herself to the Clerk's Office to claim such exhibits within thirty days of receipt of the Clerk's written request. Unclaimed exhibits may be destroyed or otherwise disposed of by the Court.

#### **Rule 43.1 Interpreters**

The parties involved in litigation in which there will be a need for an interpreter are responsible for securing and submitting the name(s) of qualified interpreters for approval by the Court at least six (6) days before the interpreter's services are required.

#### **Rule 47.1 Juror Contact**

(a) Before or during the trial of a case, no attorney, party, or witness shall, directly or indirectly, communicate with or cause another to communicate with any prospective or current member of the jury.

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

- Amended October 31, 2008.

### *VII. Judgment*

### **Rule 54.1 Bills of Costs**

(a) Within thirty days after the entry of a final judgment or a judgment allowing costs, the prevailing party shall serve on the adverse party and file with the Clerk of the Court a Bill of Costs, together with a notice of motion when application will be made to the Clerk to tax the same.

(b) Such Bill of Costs shall precisely set forth each item thereof, so that the nature of the charge can be readily understood, and shall be verified by the attorney for the applicant, stating that: (1) the items are correct, (2) the services were actually and necessarily performed, and (3) the disbursements were necessarily incurred in the action or proceeding. Counsel shall append to the verified Bill of Costs copies of all invoices in support of the request for each item.

(c) Upon failure of the prevailing party to comply with this Rule, all costs shall be waived.

(d) A dissatisfied party may seek review by the Court upon written notice of motion served within seven (7) days of the Clerk's action, as provided in Federal Rule of Civil Procedure 54(d).

- Amended December 1, 2009.

### **Rule 56.1 Summary Judgment Motions**

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

#### **(a) DOCUMENTS FILED BY MOVANT**

(1) *Motion.* Each summary judgment motion shall be accompanied by a brief, affidavits and/or other supporting documents, including a separate statement of the material facts about which the movant contends there is no genuine issue. Each fact paragraph shall be serially numbered and shall be supported by specific citation to the record. The movant shall affix to the statement copies of the precise portions of the record relied upon as evidence of each material fact.

(2) *Reply.* Any reply to the respondent shall be filed within fourteen (14) days of the filing of the response. If a respondent has asserted additional facts as provided in

subsection (b), the moving party shall respond to these additional facts by filing a reply in the manner and form specified in subsection (b).

(b) DOCUMENTS FILED BY RESPONDENT

Any party adverse to a motion filed under this rule may file a response, brief, affidavits and other supporting documents within twenty (20) days of the filing of the motion. The respondent must address the facts upon which the movant has relied pursuant to subsection (a)(1), using the corresponding serial numbering and either (i) agreeing that the fact is undisputed; (ii) agreeing that the fact is undisputed for the purpose of ruling on the motion for summary judgment only; or (iii) demonstrating that the fact is disputed. The respondent shall affix to the response copies of, and cite to, the precise portions of the record relied upon as evidence of each material fact. In addition, the respondent may file a concise statement of any additional facts that the respondent contends are material to the motion for summary judgment and as to which the respondent contends there exists a genuine issue to be tried.

(c) EXTENSIONS OF TIME

(1) No party may amend the deadlines for the filing of motions or responses thereto if the Court has issued an order setting such deadlines. In the absence of such an order, a party may seek an extension from the other party of the deadline otherwise prescribed in this Rule. When a party requests an extension of time from the other party, the parties shall first make a good faith effort to negotiate a reasonable extension, which shall not exceed thirty days from the deadline otherwise prescribed in this Rule. Only one such extension for the motion in question is permitted. The party seeking the extension must file notice of any such negotiated extension before the filing date prescribed in this Rule.

(2) If the parties cannot agree, the party seeking an extension may apply to the Court. If the Court grants the application, the parties may not thereafter alter the deadlines set by the Court without leave of the Court.

(d) EFFECT OF FAILURE TO RESPOND

Failure to respond to a movant's statement of material facts, or a respondent's statement of additional facts, as

provided by these Rules may result in a finding that the asserted facts are not disputed for the purposes of summary judgment.

(e) PAGE LIMIT

No brief shall exceed twenty pages without leave of Court. For this purpose, "brief" does not include the separate statement of material facts. If granted, the same leave shall automatically extend to any responding brief.

- Amended December 1, 2009.

*VIII. Provisional and Final Remedies and Special Proceedings*

**Rule 67.1 Monies Paid into Court**

(a) All moneys paid into court or received by an officer thereof, in any case pending or adjudicated in the Court, shall forthwith be deposited in a depository designated by the Court, in the name and to the credit of the Court. Any such money may, however, be paid to the rightful owner upon security, according to the agreement of the parties, under the direction of the Court.

(b) No money deposited shall be withdrawn except by order of the Court. In every case in which the right to withdraw money deposited in court has been adjudicated or is not in dispute and such money has remained so deposited for at least five (5) years unclaimed by the person entitled thereto, the Court shall cause such money to be deposited in the treasury of the Virgin Islands in the name and to the credit of the Government of the Virgin Islands. Any claimant entitled to any such money may, thereafter, on petition to the Court and upon notice to the United States Attorney and full proof of his right thereto, obtain an order directing the Government to pay such money to him/her.

**Rule 67.2 Withdrawal of a Deposit Pursuant to Federal Rule of Civil Procedure 67**

Any person seeking withdrawal of money which was deposited in an interest-bearing account or instrument as required by Federal Rule of Civil Procedure 67, shall provide, on a separate paper attached to the motion seeking withdrawal of the funds, the social security number or tax identification number of the ultimate recipient of the funds. This separate paper shall be forwarded by the Court directly to the institution holding the money.

## **Rule 69.1 Execution**

(a) No attachment or execution shall be made on wages except as provided by Title 5 Virgin Islands Code, chapter 44, and this Rule.

(b) A judgment creditor, upon application and filing an affidavit that contains a description of the judgment and its amount and states that execution has been returned unsatisfied, and after giving mailed notice to the employer-garnishee and the judgment debtor, may obtain an order for the garnishment of the wages of the judgment debtor.

(c) An employer-garnishee or judgment debtor may move at any time to vacate a lien and continuing levy created pursuant to Title 5, Virgin Islands Code, Chapter 44. Upon receiving written notice of any court proceeding attacking the levy or the judgment on which it is based, the employer-garnishee shall make no further payments until receipt of an order of the Court terminating the proceedings.

(d) The judgment creditor shall:

(1) file with the Clerk of the Court every three (3) months after serving the levy upon an employer-garnishee a receipt showing the amount received and the balance due under the levy as of the date of filing, and furnish copies thereof to the employer-garnishee and judgment debtor;

(2) file a final receipt with the Court, and furnish a copy thereof to the employer-garnishee and judgment debtor; and,

(3) move to vacate the levy within twenty (20) days after such levy has been satisfied.

If the judgment creditor fails to file any of the receipts prescribed by 5 V.I.C. § 524(a), any interested party may move the Court to compel the defaulting judgment creditor to appear in court and make an accounting forthwith.

A judgment creditor receiving payments under this rule from an employer-garnishee shall give the Clerk of the Court written notice of the receipt of amounts from any other source that are credited against the judgment.



(e) No discovery under Federal Rules of Civil Procedure 26 to 37 shall be conducted in a proceeding pursuant to this Rule without first obtaining an order of the Court, except that the following questions may be propounded to the employer-garnishee upon written interrogatory:

(1) Were you, at the time of receiving this interrogatory, the employer of the defendant?

(2) State the amount paid the defendant as wages in the most recent pay period.

### *IX. Special Proceedings*

#### **Rule 71A.1 Proceedings to Re-determine Deficiency in Income Tax**

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

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

In applying each rule of the Tax Court incorporated herein, the word "Director" shall be substituted for "Commissioner" and the words "District Court of the Virgin Islands" shall be substituted for "Tax Court." Any provision of the Tax Court Rules incorporated by this rule (1) relating to service of a petition or other papers, (2) describing the number of copies of a paper or pleading to be filed, or (3) relating to the place or manner of filing a petition shall not apply. The Federal Rules of Civil Procedure otherwise apply.

(b) SPECIAL RULE FOR SMALL TAX CASES. For cases in which the income tax deficiency (including any additions to tax, additional amounts and penalties) in dispute is less than \$10,000, Rules 170 (General), 171 (Small tax case defined), 172 (Election of small tax case procedure), 173 (Discontinuance of proceedings), 175(a)(1), (3), (b), and (c) (Pleadings), 176 (Preliminary hearings), 177(b) and(c) (Trial) of the United States Tax Court, as amended from time to time, and Federal Rule of Civil Procedure 73, shall apply to the extent consistent with the Internal Revenue Code as applicable to the Virgin Islands.

(c) OTHER ACTIONS.

All other actions relating to the income tax laws of the Virgin Islands are not affected by this Rule.

### **Rule 72.1 Magistrate Judges - Authority in Pretrial Matters**

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

### **Rule 72.2 Objections to Non-Dispositive Orders**

(a) A party who objects to a Magistrate Judge's order concerning a non-dispositive matter shall file a notice of objection which shall specifically designate the order or part thereof objected to and the basis for the objection. The notice of objection shall include a transcript of that portion of the hearing before the Magistrate Judge wherein findings of fact were made.

(b) The filing of a notice of objection does not operate to stay the order pending a determination by the District Judge. A stay of a Magistrate Judge's order must be sought in the first instance from the Magistrate Judge whose order has been objected to, upon due notice to all interested parties.

### **Rule 72.3 Objections to Magistrate Judge's Proposed Findings, Recommendation or Report**

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

of the specific portions of any evidentiary proceeding to which objection is made.

**Rule 72.4 Procedure for Objecting to a Magistrate Judge's Non-Dispositive Order, Proposed Findings, Recommendation or Report**

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

**Rule 73.1 Magistrate Judges - Trial Matters**

(a) AUTHORITY. The Magistrate Judges are hereby designated to hear and determine in all civil causes any trial matter permitted by 28 U.S.C. § 636 and Federal Rule of Civil Procedure 73.

(b) CONDUCTING CIVIL TRIALS BY CONSENT OF THE PARTIES. A consent form signed by or on behalf of all parties shall be filed promptly. Plaintiff shall be responsible for securing execution and filing of such consent form.

**Rule 73.2 Magistrate Judges - Additional Duties**

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

(a) Conducting proceedings for the collection of civil penalties of not more than \$200 assessed under the Federal Boat Safety Act of 1971, in accordance with 46 U.S.C. § 4311(d).

(b) Conducting examinations of judgment debtors in accordance with Federal Rule of Civil Procedure 69.

(c) Reviewing petitions in civil commitment proceedings under Title III of the Narcotic Addict Rehabilitation Act.

(d) Issuing warrants or entering orders permitting entry into and inspection of premises, and/or seizure of property, in non-criminal proceedings, as authorized by law, when properly requested by the IRS or other Governmental agencies.

(e) Serving as a special master in an appropriate civil action pursuant to 28 U.S.C. § 636(b)(2) and Federal Rule of Civil Procedure 53.

(f) Supervising proceedings conducted pursuant to 28 U.S.C. § 1782 with respect to foreign tribunals and to litigants before such tribunals.

*X. District Courts and Clerks of the Courts*

**Rule 79.1 Books and Records of the Clerk of the Court**

(a) The Clerk of the Court shall:

(1) Have custody of the seal of the Court and affix it when required;

(2) Receive, deposit in depositaries designated by the Court and disburse in accordance with law and the rules and orders of the Court, all fees and other moneys due to the Clerk of the Court or otherwise payable into court;

(3) Take charge of and safely keep or dispose of according to law all books, papers and records which may be filed and deposited in the office of the Clerk of Court;

(4) Supervise and direct the work of deputies and assistants, and act as administrative officer of the Court;

(5) Attend in person or by deputy each session of the Court;

(6) Issue all process and notices required to be issued;

(7) Keep the minutes of all sessions of the Court;

(8) Keep in each judicial division criminal, civil, admiralty, bankruptcy, probate, naturalization and miscellaneous dockets in the form required by the Director of the Administrative Office of the United States Courts, and enter in the appropriate docket the title of each cause or proceeding begun in the judicial division, and a memorandum of every subsequent proceeding therein, with the date thereof, and a record of all fees charged;

(9) Keep such other indexes and records and make such reports as may be necessary in the performance of the duties of the office of the Clerk of the Court and as may be required by law, the Federal Rules of Criminal Procedure, the Federal Rules of Civil Procedure, the Admiralty Rules, the General Orders in Bankruptcy, these Rules or by the Director of the Administrative

Office of the United States Courts, and certify copies of the same whenever requested;

(10) Exercise such other powers and perform such other duties as may be assigned to the Clerk by the Court.

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

### **Rule 80.1 Court Reporting Fees**

A current schedule of transcript fees, as established by the Judicial Conference, is posted in the Clerk of the Court's office and is available from the official court reporters.

## *XI. General Provisions*

### **Rule 82.1 Who May Appear as Counsel; Who May Appear Pro Se**

Only members of the bar of this Court may appear as counsel in civil cases. Only individuals who are parties in civil cases may represent themselves. All other non-attorneys are not permitted to represent a party before this Court. Individuals representing themselves are responsible for performing all duties imposed upon counsel by these Rules and all other applicable federal rules of procedure. All parties other than individuals must be represented by counsel.

- Amended April 29, 2011.

### **Rule 83.1 Admission of Attorneys**

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

(b) REQUIREMENTS

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

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

(3) *Special Admission*.

(A) An attorney may seek special admission to the bar of the Court, if, upon verified application, the Court determines that the applicant meets the qualifications of a regular admission except for having passed the Virgin Islands Bar examination; and (1) the applicant is admitted to practice in the highest court of a state, the District of Columbia or a commonwealth, territory or possession of the United States; (2) the applicant is otherwise professionally, morally and ethically qualified for admission to the bar of the Court; (3) there is

good cause for the admission of such person and the applicant's admission would be in the best interest of the Court; and (4) the applicant is either: an attorney representing the Government of the Virgin Islands, its branches, departments, agencies and instrumentalities; an attorney representing a public interest group; or, an attorney representing a party on a *pro bono* basis.

(B) In every case, the burden shall be upon the person seeking admission pursuant to this Rule to establish to the satisfaction of the Court his or her qualifications for admission. An application must be supported by the applicant's declaration demonstrating his or her qualifications for admission. Additionally, the applicant must provide the Court current certificates of good standing bearing the original seal of the highest court from each jurisdiction to which he or she is admitted. A certificate of good standing from a bar association in and of itself is not sufficient for a Special Admission. An applicant for special admission must satisfy the same fitness requirements as any other applicant seeking permanent regular active admission to the bar of the Court. Good cause may be satisfied by demonstrating that *pro hac vice* admission has been exhausted or is inadequate. The Court may require the submission of such other information as might be deemed necessary to satisfy itself as to the attorney's fitness to practice specially before the Court.

(C) An admission issued pursuant to this Rule shall state its special nature and it shall terminate automatically when the person fails to remain in good standing in each jurisdiction of admission. Special admission also may be terminated if the good cause upon which special admission was predicated no longer exists. While admitted under this Rule, a person shall be treated as a regular member of the bar of the Court with all responsibilities and privileges thereof.

(D) The special admission provided by this Rule shall expire after three (3) years, unless, for good cause shown, the Court extends that period.

(4) *Adherence to Schedules; Sanctions.* All members of the bar of the Court and those specially permitted to participate in a particular action shall strictly observe the dates fixed for scheduling conferences, motions, pretrial conferences, trials or any other proceedings. Failure of counsel for any party, or of a party appearing *pro se*, to comply with this Rule may result in the imposition of sanctions, including the withdrawal of the

permission granted under subsection (b) (2) of this Rule to participate in the particular action. All motions for continuance shall be made promptly.

(5) *Appearance by Patent Attorneys.* Any attorney who is a member in good standing of the bar of any United States court or the highest court of a state, the District of Columbia or a commonwealth, territory, or possession of the United States may be qualified for admission to the bar of this District, subject to the limitations hereinafter set forth, on motion of a member of the Court and upon taking the prescribed oath and signing the roll, provided such applicant has filed with the Clerk of the Court a verified application for admission as an attorney of the Court establishing that the applicant:

(A) is a member in good standing of the bar of any United States court or admitted to practice in the highest court of a state, the District of Columbia or a commonwealth, territory or possession of the United States for at least five (5) years;

(B) has been admitted to practice as an attorney before the United States Patent Office and is listed on its Register of attorneys;

(C) has been continuously engaged in the practice of patent law as a principal occupation in an established place of business and office located in the Territory of the Virgin Islands for at least two (2) years prior to date of application; and

(D) has sufficient qualifications both as to pre-legal and legal training to satisfy the Court. No member admitted under this subdivision shall designate himself or herself other than as a patent attorney or patent lawyer, and that person's admission to practice before the Court shall be limited to cases solely arising under patent laws of the United States or elsewhere. Failure to continue to maintain an established place of business or office within the Territory for the practice of patent law shall, upon proof thereof to the Court and after notice and an opportunity to be heard, justify the striking of such attorney's name from the roll of patent attorneys established under this Rule. In any litigation, any patent attorney admitted under this subdivision shall be associated of record with a member of the bar of the Court admitted under subsection (b) (1) of this Rule. Nothing herein contained shall preclude any patent attorney from being admitted under subsections (b) (1) - (b) (3) of this Rule.



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

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

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

(A) The attorney who supervises a student shall:

(i) be a member of the bar of the Court who maintains a bona fide office in this district;

(ii) personally assume professional responsibility for the student's work;

(iii) assist the student to the extent necessary;

(iv) appear with the student in all proceedings before the Court; and

(v) file written agreement to supervise the student.

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

(i) be enrolled in a law school approved by the American Bar Association;

(ii) have successfully completed legal studies amounting to at least two-thirds of the credits needed for graduation or the equivalent;

(iii) be certified by either the dean or a faculty member of that law school as qualified to provide the legal representation permitted by these Rules (This certification may be withdrawn by the person so certifying at any time by mailing a notice to the Clerk of the Court, or upon termination by the Judge presiding in the case in which the student appears without notice or hearing and without a showing of cause. The loss of certification by action of a judge shall not be considered a reflection on the character or ability of the student.);

(iv) be introduced to the Court by an attorney admitted to practice in this District;

(v) neither ask for nor receive from the client represented any compensation or remuneration of any kind for services rendered; but this limitation shall not prevent an attorney, legal aid bureau, law school, public defender agency, a state, Territory, or the United States from paying compensation to the eligible law student, nor shall it prevent any agency from making proper charges for its services;

(vi) certify in writing that he or she is familiar and will comply with the Disciplinary Rules;

(vii) certify in writing that he or she is familiar with the federal procedural and evidentiary rules relevant to the action in which he or she is appearing.

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

(i) appear as counsel in court or at other proceedings when the written consent of the client (or of the United States Attorney when the client is the United States) and the written agreement of the supervising attorney have been filed, and when the Court has approved the student's request to appear in the particular case to the extent that the Judge presiding at the hearing or trial permits;

(ii) prepare and sign motions, petitions, answers, briefs, and other documents in connection with any matter in which the student has met the conditions of (2) above; each such document shall also be signed by the supervising attorney.

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

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

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

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

(C) PROCEDURE

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

(2) *Renewal Applications.* Each member of the bar of the Court shall submit an application to renew his or her membership no later than February 4 of each calendar year, unless otherwise

directed by the Court. The application shall be on a form prescribed by the Court. Notice shall be sent by the Clerk to each member of the bar of the Court at least thirty (30) days prior to the date on which the application is due. An application for renewal shall also include the payment of the renewal fee set by the Court in its admission fee schedule. A timely renewal application shall be granted if the applicant meets all of the qualifications for admission to the bar of the Court and if he or she pays the renewal fee. Failure to submit a timely renewal application or to pay the renewal fee will cause the attorney's membership in the bar of the Court to be changed to inactive status.

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

Editor's Note: Members of the bar submitted comments suggesting that any provision regarding the admission to the bar of this Court by non-Virgin Islands Bar Members be configured in a manner closer to that outlined in V.I. S.C.T.R. 202. The final version of Rule 83.1(b)(3) herein reflects those comments. It also reflects the considerable counsel of the Lawyer's Advisory Committee.

- Amended April 29, 2011.

## **Rule 83.2 Professional Discipline**

### (a) JUDICIAL ETHICS AND PROFESSIONAL RESPONSIBILITY

(1) The Code of Judicial Conduct of the American Bar Association shall govern the conduct of the judges of the Court, subject to such modifications as may be required by federal statute, regulation, court rule or decision.

(2) The Model Rules of Professional Conduct of the American Bar Association shall govern the conduct of the members of the bar admitted to practice in the Court, subject to such modifications as may be required by federal statute, regulation, court rule or decision.

(b) DISCIPLINE OF ATTORNEYS. The following Rules of Disciplinary Enforcement govern the conduct of attorneys who are admitted to practice before the Court or admitted for the purpose of a particular proceeding (*pro hac vice*).

(1) *Attorneys Convicted of Crimes.*

(A) Upon the filing with the Court of a certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before the Court has been convicted in any court of the United States, or the District of Columbia, or of any state, territory, commonwealth or possession of the United States, of a serious crime as hereinafter defined, the Court shall enter an order immediately suspending that attorney, whether the conviction resulted from a plea of guilty or nolo contendere, or from a verdict after trial or otherwise, and regardless of the pendency of any appeal, until final disposition of a disciplinary proceeding to be commenced upon such conviction. A copy of such order shall immediately be served upon the attorney. Upon good cause shown, the Court may set aside such order when the interest of justice requires.

(B) The term "serious crime" shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt, conspiracy or solicitation of another to commit a "serious crime."

(C) A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based upon the conviction.

(D) Upon the filing of a certified copy of a judgment of conviction of an attorney for a serious crime, the Court shall, in addition to suspending that attorney in accordance with the provisions of this Rule, also refer the matter to counsel for the institution of a disciplinary proceeding before the Court in which the sole issue to be determined shall be

the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted will not be brought to final hearing until all direct appeals from the conviction are concluded.

(E) Upon the filing of a certified copy of a judgment of conviction of an attorney for a crime not constituting a serious crime, the Court may refer the matter to counsel for a recommendation as to what action, if any, should be taken, including the institution of a disciplinary proceeding before the Court; provided, however, that the Court may in its discretion make no reference with respect to convictions for minor offenses.

(F) An attorney suspended under the provisions of this Rule will be reinstated immediately upon the filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed, but the reinstatement will not terminate any disciplinary proceeding then pending against the attorney, the disposition of which shall be determined by the Court on the basis of all available evidence pertaining to both guilt and the extent of discipline to be imposed.

(2) *Discipline Imposed by Other Courts.*

(A) Any attorney admitted to practice before the Court shall, upon being subjected to public discipline by any other court of the United States or the District of Columbia, or by a court of any state, territory, commonwealth or possession of the United States, promptly inform the clerk of the Court of such action.

(B) Upon the filing of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted to practice before the Court has been disciplined by another court, the Court shall forthwith issue a notice directed to the attorney containing:

(i) a copy of the judgment or order from the other court; and,

(ii) an order to show cause directing that the attorney inform the Court within thirty (30)

days after service of that order upon the attorney, personally or by mail, of any claim by the attorney predicated upon the grounds set forth in subsection (2) (D) below, that the imposition of the identical discipline by the Court would be unwarranted and the reasons therefore.

(C) In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in the Court shall be deferred until such stay expires.

(D) Upon the expiration of thirty (30) days from service of the notice issued pursuant to the provisions of subsection (2) (B) above, the Court shall impose the identical discipline unless the respondent-attorney demonstrates or the Court finds that, upon the face of the record upon which the discipline in another jurisdiction is predicated, it clearly appears:

(i) that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or,

(ii) that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that the Court should not accept as final the conclusion on that subject; or,

(iii) that the imposition of the same discipline by the Court would result in grave injustice; or,

(iv) that the misconduct established is deemed by the Court to warrant substantially different discipline.

Where the Court determines that any of these elements exists, it shall enter such other order as it deems appropriate.

(E) In all other respects, a final adjudication in another court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for the purposes of a disciplinary proceeding in the Court.

(F) The Court may at any stage appoint counsel to prosecute the disciplinary proceedings.

(3) *Disbarment on Consent or Resignation in Other Courts.*

(A) Any attorney admitted to practice before the Court who shall be disbarred on consent or resign from the bar of any other court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth or possession of the United States, while an investigation into allegations of misconduct is pending, shall, upon the filing with the Court of a certified or exemplified copy of the judgment or order accepting such disbarment on consent or resignation, cease to be permitted to practice before the Court.

(B) Any attorney admitted to practice before the Court shall, upon being disbarred on consent or resigning from the bar of any other court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, promptly inform the clerk of the Court of such disbarment on consent or resignation.

(4) *Standards for Professional Conduct.*

(A) For misconduct defined in these Rules and for good cause shown, and after notice and opportunity to be heard, any attorney admitted to practice before the Court may be disbarred, suspended from practice before the Court, reprimanded or subject to such other disciplinary action as the circumstances may warrant.

(B) An act or omission by an attorney admitted to practice before the Court, individually or in concert with any other person or persons, which violates the applicable Rules of Professional Conduct referred to in Rule (a) (2) shall constitute misconduct and be grounds for discipline whether or not the act or omission occurred in the course of an attorney-client relationship.

(5) *Disciplinary Proceedings.*



(A) When misconduct or allegations or misconduct which, if substantiated, would warrant discipline of an attorney admitted to practice before the Court shall come to the attention of a Judge of the Court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these Rules, the Chief Judge, if he or she deems it appropriate, shall refer the matter to the Clerk of the Court, who shall refer it to counsel for investigation and the prosecution of a formal disciplinary proceeding or the formulation of such other recommendation as may be appropriate. The order of reference to counsel and all further proceedings until the issuance of an order to show cause under subsection (5) (C) below, if any, shall be placed under seal until further order of the Court.

(B) Should counsel conclude after investigation and review that a formal disciplinary proceeding should not be initiated against the respondent-attorney because sufficient evidence is not present, or because there is pending another proceeding against the respondent-attorney the disposition of which in the judgment of the counsel should be awaited before further action by the Court is considered, or for any other valid reason, counsel shall file with the Court a recommendation for disposition of the matter, whether by dismissal, admonition, deferral or otherwise, setting forth the reasons therefor.

(C) To initiate formal disciplinary proceedings, counsel shall obtain an order of the Court upon a showing of probable cause requiring the respondent-attorney to show cause within thirty (30) days after service of that order upon that attorney, personally or by mail, why the attorney should not be disciplined.

(D) Upon the respondent-attorney's answer to the order to show cause, if any issue of fact is raised or the respondent attorney wishes to be heard in mitigation, the Court shall set the matter for prompt hearing before a Judge; provided, however, that if the disciplinary proceeding is predicated upon the complaint of a Judge of the Court the hearing shall be conducted before a different Judge appointed by the Chief Judge or, if the Chief Judge is the complainant, by the next active Judge senior in commission. Upon completing the proceeding, the Judge assigned to the

matter shall submit his or her findings of fact, conclusions of law and recommendation, if any, to the full Court for action.

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

(A) Any attorney admitted to practice before the Court who is the subject of an investigation into or a pending proceeding involving allegations of misconduct may consent to disbarment by delivering to the Court an affidavit stating that the attorney desires to consent to disbarment and that:

(i) the attorney's consent is freely and voluntarily rendered; the attorney is not being subjected to coercion or duress; the attorney is fully aware of the implications of such consent;

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

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

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

(B) Upon receipt of the required affidavit, the Court shall enter an order disbarring the attorney signed by the Chief Judge, or if the Chief Judge is unavailable, the next active Judge senior in commission.

(C) The order disbarring the attorney on consent shall be a matter of public record; however, the affidavit required by this Rule shall not be publicly disclosed or made available for use in any other proceeding except upon order of the Court.

*(7) Reinstatement After Suspension, Disbarment, Withdrawal or Resignation.*

(A) Time of Application Following Suspension. An attorney suspended for three (3) months or less shall be automatically reinstated at the end of the period of suspension upon filing with the Court an affidavit of compliance with the provisions of the order. An attorney suspended for more than three (3) months or disbarred may not resume practice until reinstated by order of the Court.

(B) Time of Application Following Disbarment. A person who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five (5) years from the effective date of the disbarment.

(C) Time of Application Following Resignation or Withdrawal. A person who has withdrawn or resigned from practice before the Court may apply for reinstatement at any time.

(D) Hearing on Application. Petitions for reinstatement under this Rule by an attorney who has been suspended or disbarred, or who has resigned or withdrawn from practice of law as an attorney shall be filed with the Clerk of the Court. Upon receipt of the petition, the Clerk of the Court shall refer the petition to counsel and shall assign the matter for prompt hearing before a Judge; provided, however, that if the disciplinary proceeding was predicated upon the complaint of a Judge of the Court the hearing shall be conducted before a different Judge appointed by the Chief Judge, or if the Chief Judge was the complainant, by the next active Judge senior in commission. The application for reinstatement shall include a review and report by the Professional Ethics and Grievance Committee of the Virgin Islands Bar Association. The Judge assigned to the matter shall, within thirty (30) days after receipt of the bar committee report, schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that he or she has the moral qualifications, competency and learning in the law required for admission to practice law before the Court and that his or her resumption of the practice of law will not be

detrimental to the integrity and standing of the bar or to the administration of justice, or subversive of the public interest.

(E) Conditions of Reinstatement. If the petitioner is found unfit to resume the practice of law, the petition shall be dismissed. If the petitioner is found fit to resume the practice of law, the judgment shall reinstate that person, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings, and upon the making of partial or complete restitution to parties harmed by the petitioner whose conduct led to the suspension or disbarment. If the petitioner has been suspended or disbarred for five (5) years or more, reinstatement may be conditioned, in the discretion of the Judge before whom the matter is heard, upon the furnishing of proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment.

(F) Successive Petitions. No petition for reinstatement under this Rule shall be filed within one (1) year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

(8) *Attorneys Specially Admitted.* Whenever an attorney applies to be admitted or is admitted to practice before the Court for purposes of a particular proceeding (*pro hac vice*), the attorney shall be deemed thereby to have conferred disciplinary jurisdiction upon the Court for any alleged misconduct of that attorney arising in the course of or in the preparation for such proceeding.

(9) *Service of Papers and Other Notices.* Service of an order to show cause instituting a formal disciplinary proceeding shall be made by personal service or by registered or certified mail addressed to the respondent-attorney at the address shown in the roll of attorneys of the Court or the most recent edition of the Virgin Islands Bar Association Membership Directory. Service of any other papers or notices required by these Rules shall be deemed to have been made if such paper or notice is addressed to the

respondent-attorney at the address shown on the roll of attorneys of the Court or the most recent edition of the Virgin Islands Bar Association Membership Directory, or to the respondent's attorney at the address indicated in the most recent pleading or other document filed in the course of any proceeding.

(10) *Appointment of Counsel.* Whenever counsel is to be appointed pursuant to these Rules to investigate allegations of misconduct or prosecute disciplinary proceedings or in conjunction with a reinstatement petition filed by a disciplined attorney, the Court may appoint as counsel the disciplinary agency of the Supreme Court of the Virgin Islands, or other disciplinary agency having jurisdiction. If no such disciplinary agency exists or such disciplinary agency declines appointment, or such appointment is clearly inappropriate, the Court shall appoint as counsel one or more members of the bar of the Court to investigate allegations of misconduct or to prosecute disciplinary proceedings under these Rules; provided, however, that the respondent-attorney may move to disqualify an attorney so appointed who is or has been engaged as an adversary of the respondent-attorney in any matter. Counsel, once appointed, may not resign without permission from the Court.

(11) *Payment of Fees and Costs.* At the conclusion of any disciplinary investigation or proceeding under these Rules, counsel appointed by the Court may apply to the Court for an order awarding reasonable fees and reimbursing costs expended in the course of such disciplinary investigation or proceeding.

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

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

(B) Upon being informed that an attorney admitted to practice before the Court has been subjected to discipline by another court, the Clerk of the Court shall determine whether a certified or exemplified copy

of the disciplinary judgment or order has been filed with the Court, and if not, the Clerk of the Court shall promptly obtain a certified or exemplified copy of the disciplinary judgment or order and file it with the Court.

(C) Whenever it appears that any person convicted of any crime, or disbarred, or suspended, or censured, or disbarred on consent by the Court, is admitted to practice law in any other jurisdiction or before any other court, the Clerk of the Court shall, within fourteen (14) days of that conviction, disbarment, suspension, censure, or disbarment on consent, transmit to the disciplinary authority in such other jurisdiction, or for such other court, a certificate of the conviction or a certified copy of the judgment or order of disbarment, suspension, censure or disbarment on consent, as well as the last known office and residence addresses of the defendant or respondent.

(D) The Clerk of the Court shall also promptly notify the National Discipline Data Bank operated by the American Bar Association of any order imposing public discipline upon any attorney admitted to practice before the Court.

(13) *Jurisdiction.* Nothing contained in these Rules shall be construed to deny to the Court such powers as are necessary for the Court to maintain control over proceedings conducted before it, such as proceedings for contempt under Title 18 of the United States Code or under Rule 42 of the Federal Rules of Criminal Procedure.

- Amended December 1, 2009.