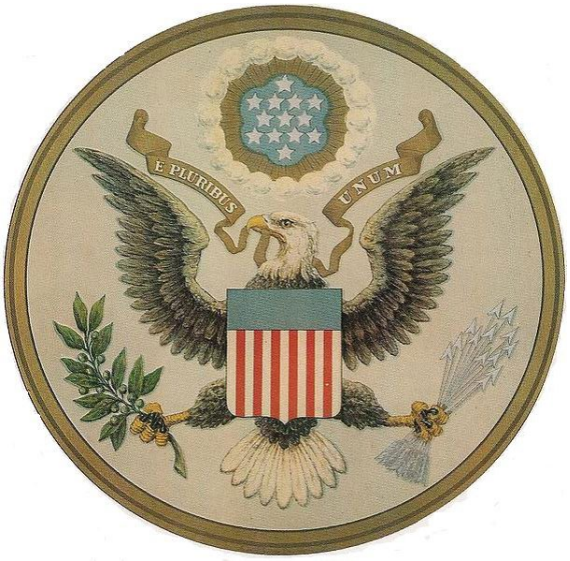
LOCAL RULES
OF THE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE

PROPOSED

AS OF

OCTOBER 18, 2024



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Preamble

These District of Maine Local Rules supplement the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure and apply to all actions in the District of Maine. If they conflict with a federal rule of procedure or with any statute of the United States, the federal rule or statute governs. All practitioners and self-represented parties must be familiar with, and follow, the District's local rules as well as the federal rules.

Most filings in this District must be made electronically via CM/ECF, the Case Management/Electronic Case File system. Instructions and rules for electronic filing, which should be consulted and followed, can be found in Appendix B.

In Appendix A, there is a glossary that provides a list of frequently used terms as well as several other appendices that provide additional guidance and requirements. This includes the District's standard form confidentiality orders in Appendix F. In addition, the Court's website includes a variety of litigation forms which practitioners and self-represented parties may use. Visit https://www.med.uscourts.gov/form.

Many resources can be found on the district's website, www.med.uscourts.gov. Parties representing themselves should refer to the guidance for self-represented parties found on the district's website at https://www.med.uscourts.gov/representing-yourself-pro-se.

Civil Rules

Rule 1 Scope and Organization

(a) Authority

These rules are authorized by Federal Rule of Civil Procedure 83 and Federal Rule of Criminal Procedure 57.

(b) Organization

These rules govern practice in the federal courts in Maine and supplement the Federal Rules of Civil and Criminal Procedure.

(1) **Civil Rules.** Local Rules 1–83 relate to, and track, the corresponding Federal Rules of Civil Procedure.

(2) **Criminal Rules.** The rules relating to criminal practice start with Local Rule 101. Each rule after that corresponds with the respective Federal Rules of Criminal Procedure. For example, Local Rule 101 corresponds with Federal Rule of Criminal Procedure 1.

(c) Relaxation of Rules

The Court may relax these rules when justice so requires.

(d) Court Website

The website for the United States District Court of Maine contains additional information about practicing in federal court in Maine, including forms that can be used. Visit https://www.med.uscourts.gov/forms.

Rule 3 Commencement of Action

The District of Maine is one federal judicial district with courthouses in Bangor and Portland. Cases filed in this district should comply with the following rules:

(a) Electronic Filing

Case opening documents must be filed electronically by emailing them to the Court at MaineECFIntake@med.uscourts.gov, unless the filing party is exempt. Parties must follow the rules for electronic filing in Appendix B.

(b) Filing Fee

The filing fee must be paid to the Clerk upon filing the complaint. To determine the amount of the fee, check the Court's website. A party seeking to file *in forma pauperis* under 28 U.S.C. § 1915 must file with the complaint a motion for leave to proceed *in forma pauperis* accompanied by an affidavit explaining in detail why the party is not able to pay the filing fees.

(c) Civil Cover Sheet

All complaints must be accompanied by a completed civil cover sheet form, which is available on the Court's website, https://www.med.uscourts.gov/forms.

(d) Requests for Immediate Relief

If the complaint, motion, or other filing seeks immediate relief, the title of the document must state "Request for Immediate Relief."

(e) Corporate Disclosure Statement

All non-governmental entities must file a notice of corporate disclosure that complies with Local Rule 7.1 with their first appearance in a case.

(f) Notice of Constitutional Question

If the complaint or pleading seeks a ruling that an Act of Congress or a state statute is unconstitutional, the filer must notify the Court by filing a separate pleading under Local Rule 5.1 entitled "Notice of Constitutional Question."

(g) Judicial Assignments

New cases will be assigned randomly to an available judge who is not recused from hearing the case. Appeals from the decisions of the U.S. Bankruptcy Court and cases referred from the courts in New Hampshire and Rhode Island will also be assigned randomly to the available judges.

(h) Venue

Cases generally will be tried in Portland or Bangor depending on which location venue is proper. Cases in which venue is proper in the counties of Aroostook, Franklin, Hancock, Kennebec, Penobscot, Piscataquis, Somerset, Waldo, and Washington will ordinarily be tried in Bangor. Cases in which venue is proper in the counties of Androscoggin, Cumberland, Knox, Lincoln, Oxford, Sagadahoc, and York will ordinarily be tried in Portland. Knox County cases brought by inmates at the Maine State Prison in Warren will ordinarily be tried in Bangor.

(i) Complaints in Social Security Cases

Complaints filed in civil cases under Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), for benefits under the Social Security Act must use the form provided in Appendix C.

Rule 4 Special Service of Process

(a) Agreement between the Maine Attorney General and the Court

For the following types of actions, service of process will follow the procedures set forth in the agreement between the Maine Attorney General and the Court, reproduced in Appendix D:

(1) a civil case against the State of Maine, its agencies, or its employees in which the Court has granted a plaintiff *in forma pauperis* status; and

(2) a habeas corpus petition under 28 U.S.C. § 2254, regardless of whether the filing fee has been paid.

(b) Foreclosure of Owner-Occupied Residential Property

In cases involving foreclosure of a mortgage on an owner-occupied residential property of no more than 4 units that is the primary residence of the owner-occupant, the plaintiff must serve with the Summons and Complaint, a notice to the homeowner that explains that:

(1) failure to file an answer to the complaint within 21 days of being served could result in foreclosure of the property; and

(2) the defendant has the right to request mediation in the State Foreclosure Diversion Program under 14 M.R.S. § 6321-A, using the Court's form to request mediation or by otherwise requesting mediation in writing.

The Court's form notice to homeowner and form request for mediation are available on the Court's website https://www.med.uscourts.gov/forms.

Rule 5 Service and Filing of Pleadings and Other Papers

(a) Electronic Filing and Service

Filings in a civil case must satisfy the requirements in the Court's Administrative Procedures Governing the Filing and Service by Electronic Means, reproduced in Appendix B, unless exempt.

(b) Filing of Discovery

(1) All discovery must be served on other parties but should not be filed with the Court. That includes all initial disclosures, expert disclosures, subpoenas, interrogatories, document requests, requests for admissions, deposition notices, as well as all objections and responses.

(2) The party who served the discovery is responsible for preserving the original transcripts and discovery papers for use by the Court.

(c) Highly Sensitive Documents

The handling, filing, service, and management of documents that qualify as Highly Sensitive Documents, as defined in Local Rule 5.3, is subject to the procedures and requirements of that rule.

Rule 5.1 Notice of Constitutional Question

(a) Cases that Challenge the Constitutionality of a Federal Statute

In any case challenging the constitutionality of an Act of Congress that affects the public interest in which the United States and its representatives are not parties, the filing party must file a separate pleading with the Court captioned "Notice of Constitutional Question – Federal Statute." The notice must contain the title of the action, the docket number if any, and the Act of Congress in question.

(b) Cases that Challenge the Constitutionality of a State Statute

In any case challenging the constitutionality of a state statute that affects the public interest in which the state and its representatives are not parties, the filing party must file a separate pleading with the Court captioned "Notice of Constitutional Question – State Statute." The notice must contain the title of the action, the docket number if any, and the state statute in question.

Rule 5.2 Filing Materials Under Seal

Materials may be filed under seal only on order of the Court, in accordance with the following procedures:

(a) Motion to Seal

To obtain an order allowing materials to be sealed, a party must electronically file a motion to seal, in accordance with Local Rule 7, together with the materials sought to be sealed. The motion must state the grounds as to the need for sealing, the duration the materials should be sealed, and whether the parties agree that the materials should be sealed. The ECF system will generate and send a Notice of Electronic Filing to the parties of record notifying them of the filing, but the parties will be unable to view the document. If service is required, all parties must be served in a manner other than through ECF.

(b) Response and Reply

Any response or reply to a motion filed under seal must be filed electronically under seal and in accordance with Local Rule 7.

(c) Order

In making specific findings as to the need for sealing and the duration the materials will be sealed, the Court may incorporate by reference any proposed findings in the motion to seal. If the Court denies the motion to seal, the motion to seal and any supporting documents will remain in the ECF system, sealed unless the Court orders otherwise. The Court's order on the motion to seal will not be filed under seal and will be publicly available.

(d) Public Notice

Materials, documents, and pleadings filed under this rule will only be available to the Court, but the docket entries reflecting their filing will be publicly available.

(e) Exceptions

(1) **Redaction of Personal Identifiers.** No motion or order is required for the filing of a document that has been redacted solely to remove personal identifiers under Federal Rule of Civil Procedure 5.2 or that is included

within a category of pleadings and documents deemed sealed or authorized to be filed ex parte under a federal statute or rule. Any filing of a redacted document should reference the authority for such redaction.

(2) **Confidentiality Orders.** Documents marked confidential under an existing confidentiality order are not automatically entitled to be filed under seal. The parties must confer and attempt to redact the exhibit in order to remove confidential material that is not essential for the Court's use in rendering a decision. If the exhibit cannot be redacted by agreement to remove confidential information, the party claiming that the document should be under seal must file a motion in compliance with subsection (a).

(3) **Materials that Cannot Be Filed Electronically.** Sealed materials that cannot be filed electronically, such as video and audio files or bulky exhibits, must be filed in accordance with the provisions of the ECF User Manual.

(f) Motions for Highly Sensitive Document Status

Motions seeking to designate a document as a highly sensitive document must be made in accordance with Local Rule 5.3.

Rule 5.3 Highly Sensitive Documents (HSDs)

(a) Highly Sensitive Documents Defined

(1) A Highly Sensitive Document (HSD) is a document or other material that contains sensitive, but unclassified, information that warrants exceptional handling and storage procedures to prevent significant consequences that could result if such information were obtained or disclosed in an unauthorized manner. Although frequently related to law enforcement materials, especially sensitive information in a civil case could also qualify for HSD treatment. Examples of HSDs include ex parte sealed filings relating to national security investigations, cyber investigations, and especially sensitive public corruption investigations; and documents containing a highly exploitable trade secret, financial information, or computer source code belonging to a private entity, the disclosure of which could have significant national or international repercussions.

(2) Most materials currently filed under seal do not meet the definition of an HSD and do not merit the heightened protections afforded to HSDs. The form or nature of the document, by itself, does not determine whether HSD treatment is warranted. Instead, the focus is on the severity of the consequences for the parties or the public should the document be accessed without authorization. Most presentence investigation reports, pretrial release reports, pleadings related to cooperation in criminal cases, social security records, administrative immigration records, applications for search warrants, interception of wire, oral, or electronic communications under 18 U.S.C. § 2518, and applications for pen registers or trap and trace devices would not meet the HSD definition. This rule does not apply to classified information, which should be handled according to the Classified Information Procedures Act (CIPA) and the Chief Justice's Security Procedures related thereto, 18 U.S.C. app. 3 §§ 1, 9. The Chief Justice's Security Procedures (criminal prosecutions) and the Department of Justice regulation, 28 C.F.R. § 17.17(c) (civil actions), govern classified information in any form in the custody of a court.

(b) Format

Any motion or document involving highly sensitive information must be filed with the Clerk in paper format and will be maintained in paper.

(c) Motion Seeking HSD Designation

(1) Before filing an HSD, the party seeking to file an HSD must file a motion that includes the following information:

(A) a certification of the movant's good-faith belief that the material meets the HSD definition;

(B) an explanation of why HSD treatment is warranted, including:

(i) the contents of the document;

(ii) the nature of the investigation or litigation; and

(iii) the potential consequences to the parties, the public, or national interests, in the event the information contained in the document is accessed or disseminated without authorization; and

(C) a proposed order that provides the information stated in subsection (e).

(2) The motion and the proposed HSD material must be submitted to the Clerk in a sealed envelope marked "Highly Sensitive Document." The outside of the envelope must include the case's caption (with any confidential information redacted).

(d) Service

The moving party must serve the proposed HSD on the other parties as follows:

(1) civil cases: by any manner specified in Federal Rule of Civil Procedure 5(b)(2), except for service via the ECF system;

(2) criminal cases: by any manner specified in Federal Rule of Criminal Procedure 49(a)(3)(B) or (a)(4).

(e) Order Granting HSD Designation

An order granting a motion seeking HSD designation or directing the filing of a document as an HSD will:

(1) identify the persons allowed to access to the documents without further court order; and

(2) set forth instructions for the duration of HSD treatment. HSDs are stored temporarily or permanently in paper as the situation requires. When designating a document as an HSD, the order will indicate when the designation will automatically lapse or when the designation should be revisited by a judge. HSDs may be migrated as sealed documents to the ECF system and unsealed, as appropriate, as soon as the situation allows.

(f) Handling Highly Sensitive Documents

The following procedures apply to filing documents authorized by the Court as HSDs.

(1) A copy of the order granting HSD designation must be included with any document filed as an HSD.

(2) The Clerk will maintain the HSD in a secure paper filing system.

(3) A decision, order, or other document entered by the Court related to an HSD may itself be an HSD if it reveals sensitive information. If the Court determines that a court order qualifies as an HSD, the Clerk will file and maintain the order as an HSD and will serve paper copies on the parties.

(g) Appellate Record

An HSD in the District Court's record will ordinarily be treated as an HSD for purposes of the District Court's record on appeal.

(h) Termination of HSD Designation

When the HSD designation expires, or is terminated by court order, the documents formerly designated as HSDs will be uploaded to the ECF system.

(i) Further Guidance

Appendix E contains further guidance concerning HSDs.

Rule 7 Motions and Memoranda of Law

(a) Submissions of Motions and Supporting Memoranda

Every motion must incorporate a memorandum of law. Any affidavits and other documents supporting the motion must be filed with the motion. Written discovery motions cannot be filed without the prior approval of a judge under Local Rule 26(c).

(b) Objections and Responses to Motions

(1) Any objection or other response to a motion must be filed within 21 days after the motion is filed and must incorporate a memorandum of law. Any affidavits and other documents supporting the objection or response must be filed with the objection or response.

(2) If a timely objection or response is not filed, it is waived. This waiver does not apply to motions filed during trial.

(c) Reply Memoranda

No later than 14 days of the filing of any objection or response to a motion, the moving party may file a reply memorandum confined to replying to new matter raised in the objection or response.

(d) Page Limits

(1) A memorandum of law in support of or in opposition to a nondispositive motion cannot exceed 10 pages. A memorandum of law in support of or in opposition to a motion to dismiss, a motion for judgment on the pleadings, a motion for summary judgment or a motion for injunctive relief cannot exceed 20 pages. A reply memorandum cannot exceed 7 pages.

(2) A motion to exceed the page limits of this rule must be filed no later than 3 business days before the deadline for filing the memorandum.

(e) Oral Argument

Unless otherwise required by rule or statute, all motions may be decided by the Court without oral argument. Any party may request oral argument in the caption of the motion, objection or response, or reply, or by filing the form

requesting oral argument available on the Court's website, https://www.med.uscourts.gov/forms, within 5 days of the filing of the reply.

(f) Motions for Reconsideration

(1) A motion to reconsider an interlocutory order of the Court, meaning a motion other than one governed by Federal Rule of Civil Procedure 59 or 60, must demonstrate that the order was based on a manifest error of fact or law. The motion must be filed within 14 days from the date of the order unless the party seeking reconsideration shows cause for not filing within that time. Cause for not filing within 14 days from the date of the order includes newly available material evidence or an intervening change in the governing legal standard.

(2) When a party files a motion to reconsider a magistrate judge's ruling or recommendation, the deadline for filing an objection to that ruling or recommendation under Federal Rule of Civil Procedure 72 or 28 U.S.C. § 636(b) is extended to 14 days after the magistrate judge rules on the motion to reconsider.

Rule 7.1 Disclosure Statement

(a) Who Must File; Contents

(1) **Non-Governmental Corporations.** A non-governmental corporate party or non-governmental corporate party that seeks to intervene must file a disclosure statement.

(A) **Definition**. A non-governmental corporate party is any non-governmental entity that is not an individual, including but not limited to a corporation, limited liability company, sole proprietorship, partnership, firm, joint venture, trust, or similar entity.

(B) **Contents.** The disclosure statement of a non-governmental corporate party must identify any parent corporation, publicly held corporation, affiliated corporation, limited liability company, partnership, firm, joint venture, trust, or other entity, or any individual owning 10% more of the stock or having 10% or more ownership interest in the non-governmental corporate party, or state that there is no such entity or individual.

(2) **Parties or Intervenors in a Diversity Case.** In an action based on diversity under 28 U.S.C. § 1332(a), all parties or intervenors, whether governmental, corporate, or individual, must file a disclosure statement setting forth the information required by Federal Rule of Civil Procedure 7.1(a)(2).

(b) Time to File; Obligation to Supplement

A party or intervenor must file the disclosure statement required by subsection (a) with its first appearance, pleading, petition, application, motion, notice, response, or other request addressed to the Court.

(c) Obligation to Supplement

A party or intervenor must promptly file a supplemental disclosure statement identifying:

(1) any change of ownership of a non-governmental corporate party or intervenor resulting in a previously undisclosed entity or individual owning 10% or more of the stock or having 10% or more ownership interest in the non-governmental corporate party; or

(2) any change of citizenship of an individual or entity whose citizenship is attributed to a party or intervenor.

Rule 9 Request for Three-Judge District Court

In any action or proceeding that a party believes must be heard by a three-judge district court under 28 U.S.C. § 2284, the words "Three-Judge District Court Requested" must be included in the caption.

Rule 10 Form of Pleadings, Motions, and Other Papers

(a) Caption and Title

All pleadings, motions, and other papers filed with the Court, except exhibits, must include a caption containing the case number on the first page. The title of the filing and the party filing the document must be placed immediately under the caption.

(b) Form and Font Size

All documents described in subsection (a) must conform to the following requirements:

(1) documents must be typewritten in 12-point font or larger, except that footnotes may be in 10-point font or larger;

(2) text must be double-spaced, except that block quotations, headings, and footnotes may be single-spaced;

(3) each page must measure 8 1/2 x 11 inches;

(4) each page must be numbered at the bottom;

(5) each page must have margins of 1 inch on the top, bottom, and each side of the page; and

(6) any supporting documents must be attached to the main document using the ECF attachment function or, in the case of a paper filing, at the end of the main document.

(c) Documents Signed Under Oath

(1) Affidavits, declarations, verified complaints, or any other document signed under oath must be filed electronically, including any document signed under 28 U.S.C. § 1746. The electronically filed version must contain the typed name of the signatory, preceded by a "/s/" in the space where the signature would otherwise appear indicating that the paper document bears an original signature.

(2) The filing attorney must retain the original for future production, if necessary, for a period of not less than 2 years after the expiration of the

time for filing a timely appeal. Any party may request a copy of the original document on which the electronic document is based.

(d) Pseudonyms

A party who commences a civil action using a pseudonym instead of an actual name as required by Federal Rule of Civil Procedure 10(a) must:

(1) contemporaneously with the first filing using a pseudonym, file under seal a document identifying the actual name of the person using the pseudonym; and

(2) within 21 days of service of the complaint, file and serve a motion seeking permission to proceed using a pseudonym.

Rule 16.1 Case Management Tracks

(a) Civil Case Tracks

The Clerk will assign each civil case to one track listed in subsections (b)(1)–(6) based on the initial pleading. The Court may on its own, or on good cause shown by a party, change the track assignment of any case.

(b) Definitions

(1) **Standard Track.** All civil cases, unless otherwise provided for in this rule, will be assigned to the Standard Track.

(2) **Complex Track.** Complex Track cases are those that require special attention because of the number of parties, complexity of the issues, scope of discovery, or other comparable factors. Cases transferred or returned to Maine by the Multi-District Litigation Panel will be placed on the Complex Track.

(3) **Administrative Track.** Administrative Track cases are those in which discovery is prohibited unless specific approval is obtained from a judge. This track includes:

(A) post-conviction challenges filed under 28 U.S.C. §§ 2254 or 2255;

(B) social security disability cases;

(C) government collections of student loans and Veterans Affairs (VA) benefits;

(D) government foreclosures; and

(E) bankruptcy appeals.

(4) **Prisoner Civil Rights Track.** This track is for cases filed by prisoners under 42 U.S.C. § 1983.

(5) **Individuals with Disabilities Education Act (IDEA) Track.** This track is for cases filed under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq.

(6) **Employee Retirement Income Security Act (ERISA) Track.** This track is for cases filed under § 502(a)(1)(B) of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1132(a)(1)(B).

Rule 16.2 Scheduling Order

(a) Issuance

The Court will issue a proposed scheduling order in all cases except social security disability cases, habeas corpus petitions, bankruptcy appeals, and any other case or category of cases as the Court may order.

(b) Contents

(1) The proposed scheduling order will identify the case management track to which the case is assigned.

(2) In Standard Track cases, the proposed scheduling order will set deadlines to: serve initial disclosures under Federal Rule of Civil Procedure 26(a)(1); join other parties and amend the pleadings; file motions; disclose experts and complete discovery; and complete other pretrial preparation. The order will also set dates for the parties to exchange written settlement demands and responses and will identify the month in which the case should be ready for trial.

(3) In Standard Track cases, the proposed scheduling order will limit discovery per separately represented party to: 30 interrogatories (subparts not permitted); 30 requests for admission; 2 sets of requests for the production of documents; and 5 depositions.

(4) In Complex Track cases, after discussion with the parties, the Court will enter a scheduling order that addresses discovery, motion practice, alternative dispute resolution (ADR), and any other matters discussed.

(5) In Administrative Track cases, the proposed scheduling order will establish deadlines to join other parties, amend the pleadings, and file motions. The order will also direct the parties to exchange written settlement demands and responses by dates and will identify the month in which the case should be ready for trial.

(6) In Prisoner Civil Rights Track cases, the proposed scheduling order will set deadlines to: join other parties and amend the pleadings; file motions; complete discovery; and complete other pretrial preparation. This order will also set dates for the parties to exchange written

settlement demands and responses and will identify the month in which the case should be ready for trial.

(7) In IDEA Track cases, after discussion with the parties, the Court will enter an order that addresses the administrative record, additional-evidence motion practice, and other matters.

(8) In ERISA Track cases, the proposed scheduling order will set deadlines to: file the administrative record; file motions to modify the administrative record, or for discovery, or both; amend the pleadings and join parties; and file motions for judgment on the record for judicial review.

(c) Timing

The proposed scheduling order in Standard Track, Administrative Track, Prisoner Civil Rights Track, and ERISA Track cases will issue as soon as practicable but not later than 90 days after all defendants have been served with the complaint or 60 days after all defendants have appeared unless the Court finds good cause for delay. The scheduling order in Complex Track cases will issue after a conference with the Court at which discovery, motion practice, ADR, and other matters will be discussed. The scheduling order in IDEA Track cases will issue after a conference with the Court at which the administrative record, additional evidence motion practice, and other matters will be discussed.

(d) Objections

Unless a party files an objection to the proposed scheduling order within 21 days of its filing, or within 14 days of its filing in ERISA Track cases, the proposed order will become the scheduling order required by Federal Rule of Civil Procedure 16(b). A party wishing to alter any deadline or any discovery limitation of a scheduling order must file an objection to the scheduling order with a detailed explanation of the reasons for each requested alteration, request a scheduling conference with the Court, or both. The Court will promptly schedule a conference if it deems one necessary.

Rule 16.3 Case Management Track Procedures

(a) Standard Track

(1) The case management of all cases on the Standard Track is governed by the scheduling order.

(2) When a scheduling conference is requested, it may be conducted in person, by telephone, or via videoconference at the discretion of the judge.

(3) Before the requested scheduling conference, the parties must confer and be prepared to discuss these topics: the voluntary exchange of information and discovery; a discovery plan, including electronic discovery issues; alternative dispute resolution (ADR) options; consent to trial before the magistrate judge; the legal issues; dispositive motions; and settlement.

(4) The Court may require the parties to file a joint proposed discovery and motion plan before the conference.

(5) During the conference, the judge may explore the advisability and utility of ADR, ascertaining actual discovery needs and costs, and imposing discovery limits and deadlines.

(b) Complex Track

(1) Complex Track cases will follow the Standard Track in subsection (a) with these modifications:

(2) In all Complex Track cases, promptly after the pleadings are complete, an initial scheduling conference will be held before a judge. The conference may be conducted in person, by telephone, or via videoconference.

(3) Before the conference, the parties must meet either in person, by telephone, or via videoconference and discuss the topics in subsection (a)(3).

(4) Not less than 2 business days before the conference, the parties must file a joint proposed discovery and motion plan, including a proposed litigation schedule, and any proposal for ADR.

(5) During the initial conference, the judge may schedule a conference for settlement discussions and, if so, will determine whether parties or party representatives must attend the settlement conference.

(c) Administrative Track

(1) **Post-Conviction Challenges**

Proceedings on applications for habeas corpus under 28 U.S.C. § 2254 and proceedings on motions to vacate sentence under 28 U.S.C. § 2255 will be referred to a magistrate judge under 28 U.S.C. § 636(b)(1)(B) and processed under the Rules Governing Section 2254 Cases, 28 U.S.C. § 2254, and the Rules Governing Section 2255 Proceedings, 28 U.S.C. § 2255, respectively.

(2) **Social Security Disability Cases**

These matters are referred upon filing to a magistrate judge for proceedings under the Supplemental Rules for Social Security Actions under 42 U.S.C. § 405(g). These additional procedures apply:

(A) Except by leave of Court, the parties' principal briefs must not exceed 20 pages and Plaintiff's reply brief must not exceed 10 pages.

(B) Instead of filing a brief, the Commissioner may move to remand.

(C) The Court will schedule oral argument unless it determines, in its discretion, that oral argument is unnecessary. If oral argument is held, each party will be given 15 minutes to present its position to the Court.

(D) If the parties have not consented to the magistrate judge's jurisdiction under 28 U.S.C. § 636(c), the magistrate judge will issue a recommended decision. Any party desiring to object to the recommended decision must do so under Federal Rule of Civil Procedure 72(b)(2) and Local Rule 72(c). Any party basing its objection or response on portions of oral argument will provide the transcript.

(E) Local Rule 7 governs any motion practice arising from filing a social security appeal.

(3) **Bankruptcy Appeals**

Unless otherwise provided in these rules, the rules in Part VIII of the Federal Rules of Bankruptcy Procedure (Rules 8001–8028) govern the procedure on appeal to this Court of a judgment, order, or decree from the United States Bankruptcy Court for the District of Maine (Bankruptcy Court).

(A) The Clerk will issue the briefing schedule under Federal Rule of Bankruptcy Procedure 8018.

(B) Local Rule 7 governs the timing and length limits of motion practice in bankruptcy appeals to this Court.

(4) **Other Cases**

The case management of all other Administrative Track cases is governed by the scheduling order.

(d) Prisoner Civil Rights Track

(1) All prisoner civil rights cases will be referred to a magistrate judge when filed or removed from state court.

(2) The case management will be governed by a scheduling order entered by the magistrate judge.

(e) Individuals With Disabilities Education Act (IDEA) Track

(1) Promptly after the pleadings are complete, an initial scheduling conference will be held before a judge, which may be conducted in person, by telephone, or via videoconference.

(2) The agenda for the initial conference may include these topics: identifying the essential factual and legal issues of the case; the organization of the administrative record; the impact on any non-IDEA claims alleged; the mode and sequence for the presentation of additional evidence, if any; and the briefing schedule.

(3) Counsel must not use the name of the child with a disability in court filings, and must refer to the child with a disability by initials only, or by the pseudonym of J. Doe under Local Rule 10(d).

(4) The administrative record, transcript, and any additional evidence of the administrative proceedings must be filed under seal under Local Rule 5.2.

(f) Employee Retirement Income Security Act (ERISA) Track

(1) All cases brought under § 502(a)(1)(B) of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1132(a)(1)(B), will be referred to a magistrate judge.

(2) The case management of all ERISA Track cases will be governed by the scheduling order.

(3) Scheduling conferences, at the discretion of the magistrate judge, may be conducted in person, by telephone, or via videoconference.

Rule 16.4 Alternative Dispute Resolution (ADR)

(a) In General

Parties are encouraged to use judicial settlement conferences conducted by judges in this district or any other private alternative dispute resolution (ADR) process on which they can agree, including mediation, early neutral evaluation, nonbinding summary trial, and arbitration.

(b) Consideration of ADR

(1) **Standard Track Cases.** Under the scheduling order issued in all Standard Track cases, the parties must confer with each other, and counsel must consult with their clients, about ADR options.

(2) **Complex Track Cases.** Before the initial scheduling conference, the parties must confer with each other, and counsel must consult with their clients, about ADR options and must be prepared to discuss those options with the judge at the initial scheduling conference.

(3) **Exempted Actions.** Exempted from the requirement to consider and consult about ADR are actions assigned under Local Rule 16.1 to the Administrative Track or the Prisoner Civil Rights Track.

(c) Judicial Settlement Conferences

The district judges, magistrate judges, and bankruptcy judges of this district are available to conduct judicial settlement conferences with counsel and the parties. Requesting a judicial settlement conference is voluntary. If all parties consent, a judge assigned to the matter may conduct the settlement conference. To request a judicial settlement conference, one of the parties should contact the Clerk. All decision makers necessary to make settlement decisions for each party must be available for the conference.

(d) Confidentiality

Confidential communications of the parties, counsel, neutrals, or judges made during any ADR proceedings may not be disclosed to others. Such communications are not admissible in any subsequent proceeding, including the trial of the matter, except as the Federal Rules of Evidence permit.

Rule 16.5 Final Pretrial Conference and Order

(a) Final Pretrial Conference

A final pretrial conference will be held as close to the time of trial as reasonable under the circumstances. A final pretrial conference may be conducted by the trial judge or any other judicial officer. The conference may be conducted in person, by telephone, or via videoconference.

(b) Preparation for Final Pretrial Conference

(1) Not later than 5 business days before the final pretrial conference, each party must file with the Court and serve on every other party a pretrial memorandum, which may not exceed 5 pages, containing the following information:

(A) a brief factual statement of the party's claims or defenses, including an itemized statement of any damages claimed;

(B) a brief statement of the party's contentions regarding any controverted points of law, including evidentiary questions, with supporting authority;

(C) proposed stipulations about substantive or evidentiary matters not in dispute;

(D) the names and addresses of all witnesses the party intends to call other than those to be used for impeachment and rebuttal. Absent stipulation, disclosing a witness will not constitute a representation that the witness will be produced or called;

(E) any proposed use of case-specific juror questionnaires; and

(F) a list of the documents and things the party intends to offer as exhibits.

(2) Each party must be prepared at the pretrial conference to discuss any issues concerning subsection (b)(1)(A) through (F) above, to make a representation about settlement, and to discuss all aspects of the trial, including trial presentation.

(c) Conduct of Final Pretrial Conference

(1) Counsel who will conduct the trial for each represented party must attend the conference, unless excused for good cause by the Court. Each attorney attending the conference must be familiar with this rule and with the case and must be prepared to represent to the Court that counsel has discussed settlement with the client.

(2) At the conference, the Court and parties will discuss any pending motions and issues as well as any matters relevant to the trial. The Court will determine whether any pending motions or activities require that additional deadlines be stayed. The Court will ordinarily set a trial date and the deadlines for all pretrial findings.

(3) The Court may direct that a separate settlement conference be held with party representatives present in person.

(d) Final Pretrial Order

(1) Either at or following the final pretrial conference, the Court will issue a final pretrial order, containing the significant points from the conference and setting pretrial deadlines. The order will control the subsequent course of the action. Unless otherwise ordered, any objections to the final pretrial order must be made within 14 days after receipt by the parties.

(2) Any discussion at the conference relating to settlement will not be a part of the final pretrial order.

(3) Trial briefs, voir dire, jury instructions, and other pretrial and trial filings must be filed electronically under Appendix B, the Administrative Procedures Governing the Filing and Service by Electronic Means.

Rule 16.6 Cases Involving Recusal

When, due to recusal, a case is assigned from this district to a judge in another district, or when a judge of this district is assigned to preside over a case filed in another district, these procedures will apply:

(a) Jurisdiction and Governing Rules

The originating court will retain jurisdiction and enter final judgment. Local rules of the originating court will govern the case unless otherwise ordered by the judge presiding by designation.

(b) Filings

Parties must make filings in the originating court.

(c) Conferences, Hearings, and Trial

Conferences and hearings may be held in either district. Jury trials will be held in the district of the originating court.

Rule 16.7 Assignment of Remanded Cases

A case remanded for further proceedings will be assigned as follows, unless the Court orders otherwise after considering the rights and convenience of the parties, the conservation of litigant and judicial resources, and the fair and expeditious administration of justice:

(a) Pretrial Proceedings

A case remanded for further proceedings following a vacatur of any pretrial order or judgment will be assigned to the previously assigned judge.

(b) Jury Trial

A case remanded for a new jury trial will be assigned to the previously assigned judge.

(c) Nonjury Trial

Unless the parties otherwise agree, or the remand was based solely on errors of law, a case remanded for a new nonjury trial will be assigned to a new judge.

Rule 16.8 Bankruptcy

(a) Reference to Bankruptcy Court

All cases under Title 11 and any or all proceedings arising under Title 11 or arising in or related to cases under Title 11 will be referred to the bankruptcy judges of this district under 28 U.S.C. § 157(a).

(b) Jury Trial

Each bankruptcy judge for this district is specially designated to conduct jury trials under 28 U.S.C. § 157(e).

(c) Bankruptcy Appellate Panel

The United States Bankruptcy Appellate Panel for the First Circuit is authorized to hear and determine bankruptcy appeals originating in the District of Maine under 28 U.S.C. § 158(b)(6).

Rule 26 Discovery

(a) Serving Discovery

Unless ordered by the Court or required under this rule, the following discovery requests, objections, and responses must be served on all other parties, but should not be filed with the Court:

(1) deposition notices;

(2) interrogatories;

(3) requests for documents;

(4) requests for admissions;

(5) subpoenas; and

(6) initial disclosures, expert disclosures, pretrial disclosures, and any disclosures ordered by the Court.

(b) Obligation to Preserve

Any party serving discovery requests or responses is responsible for preserving original transcripts and original discovery for use by the Court.

(c) Discovery Disputes

No contested discovery motions may be filed without prior approval of the Court. The procedure for seeking review of a discovery dispute is:

(1) Before seeking judicial review, a party must confer with the opposing party in a good faith effort to resolve the discovery issues.

(2) If that effort is unsuccessful and a party wants judicial review of the discovery dispute, the party must file on ECF and serve on all parties the Court's form for requesting a hearing on a discovery dispute, available on the Court's website, https://www.med.uscourts.gov/forms. Filing a request for hearing is a representation that the parties have conferred in good faith to resolve the issues before seeking a hearing.

(3) If the Court needs to review discovery materials, the party requesting the hearing must confer with the opposing party to identify the discovery

materials relevant to the dispute. Only relevant excerpts of transcripts and discovery should be submitted with the request for hearing unless the dispute cannot be decided without the complete document.

(4) The hearing may take place in person, by telephone, or via videoconference.

(5) Recording telephone or video hearings is prohibited unless prior permission is granted by the Court. The Court will conduct the hearing on the record, but that record will not be officially transcribed except on request of the parties or the Court.

(6) Written discovery motions may not be filed without the prior approval of the Court. If the Court permits a written discovery motion, the motion must be filed under Local Rule 7.

(7) Written discovery motions must:

(A) quote in full each disputed discovery request or deposition question at issue or otherwise identify specifically and succinctly the disputed discovery;

(B) quote in full or otherwise identify specifically and succinctly the response or objection to the disputed discovery; and

(C) state why the Court should compel a response to the specified disputed discovery or grant protection against the discovery sought.

(d) Confidentiality Order

A party may submit an uncontested motion to the Court with a proposed confidentiality order for the production and use of confidential documents and information in the pending action. If the motion is contested the parties must follow subsection (c). If the proposed order does not conform to the Form Confidentiality Order or Form Heightened Confidentiality Order in Appendix F the motion must identify each proposed modification and state the reason for that modification. If a party moves for entry of the Form Heightened Confidentiality Order or a modified version of that Order, the party's motion must explain why the additional confidentiality protections are necessary.

Rule 30 Depositions

In a video deposition, the camera must focus on the witness from a single stationary position unless the parties otherwise agree or the Court enters an order under Local Rule 26(c).

Rule 32 Use of Depositions in Court Proceedings

The Court will not give effect to a stipulation attempting to preserve for trial those objections waived under Federal Rule of Civil Procedure 32(d)(3).

Rule 33 Interrogatories

Responses to interrogatories must set forth each interrogatory in full immediately before each answer or objection.

Rule 34 Request for Production of Documents

Responses to requests for production must set forth each request in full immediately before each answer or objection.

Rule 36 Request for Admissions

Responses to requests for admissions must set forth each requested admission in full immediately before each answer or objection.

Rule 38 Demand for Jury Trial

(a) In General

If a demand for jury trial is made in a pleading under Federal Rule of Civil Procedure 38(b), the pleading should also include "Demand for Jury Trial" or the equivalent in the title.

(b) Actions Removed from State Court

In actions removed to this Court from state court, a demand for jury trial will be governed instead by Federal Rule of Civil Procedure 81(c)(3).

Rule 39 Courtroom Practice

Unless otherwise ordered by the Court, the following rules will govern courtroom practice.

(a) Opening Statements

Opening statements may not be argumentative or exceed 30 minutes in length. Only one attorney may make an opening statement for each party. The defendant may make an opening statement immediately following the plaintiff's opening statement or after the close of the plaintiff's evidence.

(b) Closing Arguments

The Court will determine the length and order of closing arguments. Only one attorney may argue for each party.

(c) Examination of Witnesses

(1) Only one attorney for each party may examine or object to examination of each witness.

(2) The Court, on its own or on motion of a party, may order that a witness under examination not discuss the witness's testimony with counsel or others, including during any recess taken during the examination or before the witness is finally excused.

(d) Trial Day

(1) The Court will establish the limits of the trial day.

(2) The Court may establish the amount of time that each party will have for its case, including for cross-examination of witnesses.

(e) Exhibits

(1) **Custody and Marking.** All exhibits must be marked prior to trial in accordance with the final pretrial order or at trial if allowed by the Court. All exhibits offered or admitted into evidence, used, or referred to during trial must be left in the custody of the Clerk, unless otherwise ordered by the Court or addressed in this rule.

(2) **Valuable or Bulky Exhibits.** A party who offers a valuable or bulky exhibit is responsible for its insurance and safekeeping.

(3) **Firearms, Ammunition, Edged Weapons.** A party intending to offer a firearm, ammunition, or an edged weapon (e.g., knife, machete) must first deliver it to the Marshal who will ensure that the item is unloaded and is rendered safe for presentation in court. During the proceedings, the firearm, ammunition, or edged weapon must remain in the custody and control of a custodian approved in advance by the Court and the Marshal. If, as part of its deliberation, a jury is provided such an item for examination, the item must remain in the custody of a court security officer, who must remain, without comment, in the jury room during the jury's examination of the item. Once viewed, the item must then be returned to and remain with the approved custodian until completion of the trial.

(4) **Other Dangerous Items.** Counsel must obtain permission from the Court before seeking to bring into the courtroom any other potentially dangerous items, such as dangerous chemicals, scheduled drugs, sharp objects, accelerants, explosives, or any other exhibit that may present a physical or security concern if not maintained in the custody of a trained individual.

(5) **Return.** After the conclusion of the proceeding, all exhibits will be returned to or made available for pick-up by the submitting parties, who must preserve them in the form in which they were offered, marked, or used, until any appeals are finally concluded. Upon a party's failure to timely remove any exhibits, the Clerk may, after notice to counsel, dispose of them.

Rule 41.1 Dismissal of Actions

(a) Dismissal of Settled Actions

(1) The parties must promptly notify the Clerk when an action has been settled. Within 30 days of that notice, the parties must file the papers necessary to terminate the action. If the parties fail to do so, the Court will enter an order dismissing the action with prejudice but without costs.

(2) This subsection does not apply to any settlement requiring court approval under Federal Rules of Civil Procedure 23(e), 23.1, 23.2, or 66, Local Rule 41.2, or any other rule or statute of the United States that requires dismissal by court order.

(b) Dismissal for Failure to Prosecute

The Court may at any time issue an order to show cause why a case should not be dismissed for failure to prosecute. If good cause is not shown, the Court may enter a judgment of dismissal with or without prejudice.

Rule 41.2 Court Approval of Settlements on Behalf of Minors

(a) Court Approval Required

An action on behalf of a minor may not be settled without court approval. A court order approving such a settlement may require court approval of any withdrawals of settlement funds before the minor reaches majority.

(b) Motion for Court Approval

A party requesting approval of a settlement on behalf of a minor must file a motion signed by the minor's next friend or guardian containing the following information, if applicable:

(1) a brief description of the claim;

(2) an itemized statement of all damages sustained;

(3) the total amount of the settlement and a breakdown of how all of the settlement proceeds are to be distributed. If a parent or guardian is to be paid directly, the motion must contain a statement of the total amount to be paid to the parent and specify each item the payment covers;

(4) whether the settlement was negotiated by counsel representing the minor and, if so, the amount claimed as attorneys' fees;

(5) the financial institution where the settlement funds will be deposited; and

(6) an acknowledgement that any withdrawals of settlement funds are subject to court approval until the minor reaches majority.

(c) Deviations

Any deviation from the approved settlement requires court approval.

(d) Affidavit Required

Within 30 days after entry of the order approving the settlement, the attorney or party to whom the funds are paid must file an affidavit, which must:

(1) verify that the funds paid have been deposited in a financial institution as required by court order;

(2) state the financial institution and account number; and

(3) certify that a copy of the court order has been provided to the financial institution.

Rule 47 Selection of Jurors

(a) Number of Jurors

In all civil jury cases, the jury must consist of at least 6 members unless the parties otherwise consent.

(b) Examination of Jurors

The Court will conduct the examination of prospective jurors. At the close of such examination, the Court will afford the parties an opportunity, at the bench, to request that the Court ask additional questions.

(c) Challenges for Cause

Challenges for cause of individual prospective jurors must be made at the bench, at the conclusion of the Court's examination.

(d) Peremptory Challenges

(1) **Number.** Consistent with 28 U.S.C. § 1870, in civil cases, each party is entitled to 3 peremptory challenges. Several defendants or several plaintiffs may be considered a single party for the purposes of making challenges, or the Court may allow additional peremptory challenges and permit them to be exercised separately or jointly.

(2) **Manner of Exercise.** Peremptory challenges must be exercised by striking out the name of the prospective juror challenged on the list of the drawn venire prepared by the Clerk. A party may waive the exercise of any peremptory challenge without thereby relinquishing the right to exercise any remaining peremptory challenge or challenges to which the party is entitled. If all peremptory challenges are not exercised, the Court will strike from the bottom of the list sufficient names to reduce the number of prospective jurors remaining to the number of jurors decided by the Court to sit on the case.

(3) **Order of Exercise.** In any action in which both sides are entitled to an equal number of peremptory challenges, they must be exercised one by one, alternately, with the plaintiff exercising the first challenge. In a condemnation action, the claimant will exercise the first challenge. In any action in which the Court allows several plaintiffs or several

defendants additional peremptory challenges, the Court will determine the order in which challenges are to be exercised.

Rule 54.1 Claim for Attorneys' Fees

(a) Application for Attorneys' Fees

(1) **No Appeal Filed.** If no timely appeal is filed, an application for attorneys' fees must be filed within 30 days of the expiration of the time for filing an appeal.

(2) **Appeal Filed**. If an appeal is filed, an application for attorneys' fees must be filed within 30 days of the filing of the appellate mandate or order finally disposing of the appeal to the Court of Appeals. A claim for fees filed before the final disposition of any appeal to the Court of Appeals has no effect and will be denied without prejudice.

(b) Fees in Social Security Appeals

Notwithstanding subsection (a), any application for fees under 42 U.S.C. § 406(b) in a social security appeal that was filed under 42 U.S.C. § 405(g) and results in a remand must be filed within 30 days of the date of the Commissioner of Social Security's notice of award establishing both the applicant's entitlement to past-due benefits and the amount of those benefits.

Rule 54.2 Bill of Costs

(a) Contents

A bill of costs must be filed with supporting documentation and any memorandum of law. Parties may use the bill of costs form available on the Court's website, https://www.med.uscourts.gov/forms, or a substantially similar form. Alternatively, a party may incorporate a bill of costs into an application for attorneys' fees under Local Rule 54.2.

(b) Timing

(1) **No Appeal Filed.** If a timely appeal is not filed, a bill of costs must be filed within 30 days of the expiration of the time for filing an appeal.

(2) **Appeal Filed.** If an appeal is filed, a bill of costs must be filed within 30 days of the filing of the appellate mandate or order finally disposing of any appeal to the Court of Appeals. A bill of costs filed before the final disposition of any appeal to the Court of Appeals has no effect and will be denied without prejudice.

(c) Objections

If the opposing party does not file an objection to a bill of costs with a supporting memorandum of law within 21 days, the opposing party will be deemed to have waived objection and the Clerk of Court may tax all properly claimed costs. The party that filed the bill of costs may not file a reply unless otherwise ordered by the Clerk or Court.

Rule 56 Motions for Summary Judgment

(a) Filing Requirements

Submissions in support of or in opposition to a motion for summary judgment must comply with the requirements of this rule and Local Rule 7.

(b) Supporting Statement of Material Facts

(1) A motion for summary judgment must be supported by a separate, short, and concise statement of material facts, each fact in a separately numbered paragraph, as to which the moving party contends there is no genuine issue of material fact to be tried. Each fact asserted in the statement must be stated simply and directly in narrative without footnotes or tables and must be supported by a record citation as required by subsection (f).

(2) Nothing in this rule precludes the parties from filing a stipulated statement of material facts as to the facts underlying a motion for summary judgment or any opposition filed. If the parties file a joint stipulation of fact, such stipulated facts will control and take precedence over any conflicting statement of fact filed by any party to the stipulation.

(c) Opposing Statement of Material Facts

(1) A party opposing a motion for summary judgment must submit with its opposition a separate, short, and concise statement of material facts. The opposing statement must admit, deny, or qualify the facts by reference to each numbered paragraph of the moving party's statement of material facts. Unless a fact is admitted, the party must support each denial or qualification by a record citation as required by subsection (f). Each such statement must begin with the designation "Admitted," "Denied," or "Qualified" and, in the case of an admission, must end with such designation.

(2) The opposing statement may include a separately titled section containing additional facts, each stated simply and directly in narrative without footnotes or tables and supported by a record citation as required by subsection (f).

(d) Reply Statement of Material Facts

A party replying to the opposition to a motion for summary judgment must submit with its reply a separate, short, and concise statement of material facts, which must be limited to any additional facts submitted by the opposing party. The reply statement must admit, deny, or qualify the facts by reference to each numbered paragraph of the opposing party's statement of opposing material facts and, unless a fact is admitted, must support each denial or qualification by a record citation as required by subsection (f). Each such statement must begin with the designation "Admitted," "Denied," or "Qualified" and, in the case of an admission, must end with such designation.

(e) Motions to Strike Not Allowed

(1) Motions to strike statements of fact are not allowed. If a party contends that an individual statement of fact should not be considered by the Court, the party may assert as part of the response to that statement of fact that it "should be stricken" with a brief statement of the reasons and supporting authority or record citation. Without prejudice to determining the request to strike, the party must admit, deny, or qualify the statement as provided in this rule.

(2) A party may respond to a request to strike either in the reply statement of material facts or, if the request was made in a reply statement of material facts, by filing a response within 14 days. A response to a request to strike must be strictly limited to a brief statement of the reasons why the statement of fact should be considered and supporting authority or record citation.

(f) Specific Record Citations Required

An assertion of fact in a statement of material facts must be followed by a citation to the specific page or paragraph of identified record material supporting the assertion. The Court may disregard any statement of fact not supported by a specific citation to record material properly considered on summary judgment. The Court has no independent duty to search or consider any part of the record not specifically referenced in a statement of facts.

(g) Statement of Facts Deemed Admitted Unless Properly Controverted

(1) Facts in a supporting or opposing statement of material facts, if supported by record citations, will be deemed admitted unless properly controverted.

(2) Facts deemed admitted solely for summary judgment will not be deemed admitted for any other purpose.

(h) Pre-Filing Conference

In all Standard Track cases, except those categories of cases in Federal Rule of Civil Procedure 26(a)(1)(B), a party intending to move for summary judgment must file no later than 7 days after the close of discovery either: (1) a joint motion setting forth a proposed schedule agreed to by all the parties and confirming that all parties agree that a pre-filing conference with a judge would not be helpful; or (2) a notice of intent to move for summary judgment and a request for a pre-filing conference with a judge.

(1) By Joint Motion with Proposed Schedule

The parties may jointly propose a schedule for briefing the motions for summary judgment. The proposed schedule must include:

(A) Proposed page limits and deadlines for filing. If the motion proposes to exceed the limits in Local Rule 7, the parties must include a brief statement explaining why good cause exists for allowing extra time or pages.

(B) The estimated number of statements of material fact and the estimated number of additional statements by any party opposing the motion for summary judgment.

(C) A deadline to file stipulations or a stipulated record. The deadline must be at least 5 calendar days before the deadline for filing the motion for summary judgment.

(D) Proposed page limits and deadlines for filing *Daubert* and *Kumho* motions, oppositions to *Daubert* and *Kumho* motions, and replies to oppositions to *Daubert* and *Kumho* motions. If the parties propose to exceed the time or page limits in Local Rule 7, the parties must include a brief statement explaining why good cause exists for allowing extra time or pages.

The Court may adopt or modify the jointly proposed schedule or instead may set the matter for a pre-filing conference.

(2) By Notice

Absent agreement, the movant must provide the Court and all parties to the action with written notice of the intent to seek summary judgment.

(3) Pre-Filing Conference

At any pre-filing conference, the parties must be prepared to discuss, and the Court may consider:

(A) the legal and factual issues to be addressed by any motions for summary judgment;

(B) the estimated number of paragraphs in any statement of material facts filed;

(C) the length of the memoranda filed;

(D) the deadlines for filing the motion for summary judgment and supporting and opposing material;

(E) the use of stipulations with or in lieu of separate statements of material fact; and

(F) whether either party intends to file any *Daubert* or *Kumho* motions, and, if so, the issues to be addressed by the motions, the length of any memoranda of law, and the deadlines for filing the motions.

Following any pre-filing conference, the Court will issue an order reciting the action taken at the conference.

Rule 64 Attachment and Trustee Process

(a) Permitted Motions

Except as provided in subsection (d), a party to a civil action may make the following motions:

(1) for approval of attachment of property located within Maine, including attachment on trustee process; and

(2) for dissolution or modification of attachment of property within Maine that was approved ex parte.

(b) Applicable Law

Motions under subsection (a) are governed by the substantive state law that would apply had the action been maintained in state court. The procedure for such motions is governed by the Federal Rules of Civil Procedure and these rules.

(c) Approval and Service of Writ

On approval of attachment or trustee process, the moving party must prepare the appropriate writ and submit it to the Clerk for attestation. Service must comply with the applicable law and procedure of the State of Maine.

(d) Admiralty or Maritime Claims

This rule does not apply to an admiralty or maritime claim within the meaning of Federal Rule of Civil Procedure 9(h).

Rule 65.1 Bonds and Security

(a) Approval by Clerk

The Clerk is authorized to approve the form of and the sureties on all required bonds and undertakings, and any security permitted by law to be offered in lieu of sureties. The Court on its own or by motion may suspend, alter, or rescind the Clerk's action.

(b) Court Officers as Sureties

No Marshal, member of the bar, or employee or officer of this Court will be approved as surety.

(c) Bond Amount

Unless the Court directs otherwise, a bond or other security staying execution of a money judgment must include the following amounts:

(1) the judgment amount;

(2) an additional 10% of the judgment amount to cover interest and any award of damages for delay; and

(3) $500 to cover costs.

Rule 67 Deposit of Registry Funds in Interest-Bearing Accounts

The following procedures apply to deposits into the registry of the Court.

(a) Proposed Order Required

A party seeking a court order directing the Clerk to deposit money in an interest-bearing account must deliver to the Clerk a proposed order specifying the amount to be invested by the Clerk or financial administrator. The Clerk will review the proposed order for compliance with this rule prior to signature by a judge.

(b) Receipt of Funds

(1) **Order Required.** No money may be sent to the Court or its officers for deposit in the registry except by order of the Court.

(2) **Delivery to the Clerk.** The party making the deposit or transferring funds to the Court's registry must electronically serve the order permitting the deposit or transfer on the Clerk.

(3) **Duties of the Clerk.** Unless the order provides otherwise, the Clerk will deposit all funds received with the Treasurer of the United States (Treasury) in the name and to the credit of this Court under 28 U.S.C. § 2041.

(c) Investment of Registry Funds

(1) **Court Registry Investment System.** Funds required under Federal Rule of Civil Procedure 67 to be placed in an interest-bearing account or invested in a Court-approved, interest-bearing instrument must be placed in the Court Registry Investment System (CRIS), administered by the Administrative Office of the United States Courts (Administrative Office) under 28 U.S.C. § 2045.

(2) **Custodian.** The Director of the Administrative Office is designated as custodian for all CRIS funds. The Director or the Director's designee will perform the duties of custodian. Funds held in the CRIS remain subject to the control and jurisdiction of the Court.

(3) **Pooling of Funds.** Money deposited in the CRIS under this rule will be pooled with money on deposit with the Treasury to the credit of other

courts in the CRIS and used to purchase Government Account Series securities through the Bureau of Public Debt. The Treasury will hold the money in an account in the name and to the credit of the Director of the Administrative Office. The pooled funds will be invested in accordance with the principles of the CRIS Investment Policy as approved by the Registry Monitoring Group.

(4) **Disputed Ownership Funds.** IRS regulations require special handling for interpleader funds deposited under 28 U.S.C. § 1335 or Federal Rule of Civil Procedure 22, as defined in 26 C.F.R. § 1.468B-9 (Disputed Ownership Funds). Those funds that meet the IRS definition of a Disputed Ownership Fund (DOF) require tax administration. Unless the Court orders otherwise, the Clerk will deposit interpleader funds in the DOF established within the CRIS and administered by the Administrative Office, which will be responsible for meeting all DOF tax administration requirements.

(5) **Case-Specific DOF Accounts.** For each case in which money is invested as a DOF account, the CRIS DOF will establish an account in the name of that case. Income generated from fund investments will be distributed to each case after applying the DOF fee and deducting federal tax withholdings. Reports showing the interest earned and the principal amounts contributed in each case will be made available to litigants or their counsel. On appointment of an administrator authorized to incur expenses on behalf of the DOF in a case, the Court will issue an order directing that case's DOF funds to be transferred to another investment account.

(6) **Case-Specific Non-DOF Accounts.** For non-DOF case funds, an account will be established in the CRIS Liquidity Fund in the name of that case. Income generated from fund investments will be distributed to each case based on the ratio of each account's principal and earnings to the aggregate principal and income total in the fund after applying the CRIS fee. Reports showing the interest earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in the CRIS and made available to litigants or their counsel.

(d) Fees and Taxes

(1) **Custodian's Authority to Deduct CRIS Fee.** For the management of investments in the CRIS, the custodian must deduct the CRIS fee, which is an annualized 10 basis points on assets on deposit for all CRIS funds, excluding the case funds held in the DOF. Under the Court's Miscellaneous Fee Schedule, the CRIS fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to court cases.

(2) **Custodian's Authority to Deduct DOF Fee.** For the management of investments and tax administration, the custodian must deduct the DOF fee, which is an annualized 20 basis points on assets on deposit in the DOF. Under the Court's Miscellaneous Fee Schedule, the DOF fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to court cases.

(3) **Custodian's Authority to Pay Federal Taxes.** The custodian must withhold and pay federal taxes due on behalf of the DOF.

(e) Withdrawal of Deposit

To withdraw money deposited with the Court under Federal Rule of Civil Procedure 67 and this rule, a party must file a motion and a proposed order for disbursement of funds along with a completed IRS Form W-9.

Rule 72 Magistrate Judge Authority and Procedure

(a) Magistrate Judge Authority

Magistrate judges are granted the full extent of authority allowed under federal statutes or rules.

(b) Nondispositive Matters

An objection to a magistrate judge's order on a nondispositive matter may not exceed 10 pages. Any response must be filed within 14 days of service of the objection. No reply is permitted.

(c) Dispositive Motions and Prisoner Petitions

An objection to a magistrate judge's recommended decision on a dispositive motion or prisoner petition, and any response to an objection, may not exceed 20 pages. No reply is permitted.

(d) Record

When objecting to a magistrate judge's order or recommended decision, a party may not add to the record any documents, materials, exhibits, or evidence not submitted to the magistrate judge, except as allowed by the district judge.

Rule 73 Consent for Magistrate Judges to Conduct All Proceedings

At the time a civil action or notice of removal is filed, the Clerk will provide a form to the filing party or counsel which contains (i) a notice of the party's right to consent to the exercise of a magistrate judge's jurisdiction to conduct all proceedings and order the entry of judgment, and (ii) a consent form for execution by all the parties or their counsel.

Rule 79 Records and Items Kept by the Clerk

Except on order of Court, no records or items kept by the Clerk may be removed from the Clerk's custody other than by authorized court personnel or for transmission to an appellate court. Unless otherwise provided by statute, rule, or order of Court, any person may inspect the records or items and request copies.

Rule 83.1 Attorneys: Admission

(a) Eligibility for Admission

An attorney is eligible to apply for admission to the bar of this Court if the attorney is:

(1) of good personal and professional character;

(2) an active member in good standing of, and not conditionally admitted to, the bar of the State of Maine; and

(3) not currently under any order of disbarment, suspension, or any other discipline by any authority governing the practice of law.

(b) Procedure for Admission

(1) Each applicant must file an application with the Clerk on a form provided by the Clerk that includes:

(A) the applicant's state bar number;

(B) a certification that the applicant has read and will comply with these rules; and

(C) the required application fee.

(2) The application must be accompanied by a letter from a member of the bar of this Court moving for the applicant's admission and stating why admission is appropriate.

(3) The Court will grant the motion with or without a hearing if it determines that the applicant is eligible under subsection (a).

(4) If the application is granted, the applicant must file a signed Oath or Affirmation of Admission, as follows:

I solemnly [swear] [affirm] that I will conduct and comport myself as an attorney and counselor of this the United States District Court for the District of Maine uprightly and according to law; that I will support the Constitution of the United States and the Constitution of the State of Maine; that I will maintain the respect due to Courts of Justice and judicial officers; that I will never reject, for any personal considerations,

the cause of the defenseless or oppressed; and that I will strive at all times to uphold the honor and maintain the dignity of the legal profession, and to serve justice, [so help me God] [and I do this under the pains and penalty of perjury].

(5) After the applicant files the signed Oath or Affirmation of Admission, the applicant will be a member of the bar of this Court.

(c) Attorneys Who Are Not Members of the Bar of this Court

No person may appear or practice before this Court on behalf of another person if they are not a member in good standing of the bar of this Court, except:

(1) **Attorneys Admitted Pro Hac Vice**

(A) The Court will grant leave to appear and practice before it to any attorney who is not a member of the bar of this Court if the attorney files with the Clerk a certification for admission pro hac vice for each case in which the attorney will enter an appearance. The certification must be on a form provided by the Clerk, and must require the attorney to certify that the attorney:

(i) is admitted to practice in any other United States federal court or the highest court of any State;

(ii) is not currently under any order of disbarment, suspension, or any other discipline by any authority governing the practice of law;

(iii) is not subject to any pending proceedings that might lead to such discipline before any authority governing the practice of law; and

(iv) has read and will comply with these rules.

(B) An attorney admitted pro hac vice must associate at all times with a member of the bar of this Court who has appeared in the action (local counsel). Local counsel is required to attend any proceeding before a judge unless excused by the Court.

(C) Attorneys who will appear pro hac vice in this district must also pay the Clerk the pro hac vice fee listed in the District Court Fee Schedule in each case in which they appear and must register in the district's ECF system.

(D) The Court will determine the requesting attorney's eligibility.

(2) **Government Attorneys and Federal Public Defenders**

(A) The Court grants leave to appear and practice before it to any attorney:

(i) who is a member in good standing of the bar of any court of the United States or of the highest court of any State,who is employed by the United States or by the State of Maine, or any of their departments or agencies;

(ii) whose duties involve the representation of the United States or of the State of Maine, or any of their departments or agencies, or indigent criminal defendants, in actions in courts of the United States;

(iii) who is appearing and practicing in any action pursuant to the duties described in subsection (iii); and

(iv) who enters an appearance.

(B) Any attorney practicing in this district under this subsection must read and comply with these rules.

(3) **Attorneys Practicing with Legal Services Organizations**

(A) If attorneys practicing with legal services organizations obtain temporary admission in the Maine state courts, they may submit the same application to this Court, and the Court may grant them temporary admission and may impose the same or different conditions, limitations, and term.

(B) Any attorney practicing in this district under this subsection must read and comply with these rules.

(d) Disciplinary Jurisdiction and Procedures

(1) Any attorney applying to, appearing, or practicing before this Court under this rule submits to the Court's disciplinary jurisdiction.

(2) The Court may revoke the permission to appear and practice before it granted under subsection (c) for good cause at any time and without a hearing. However, the Court may in its discretion use any appropriate disciplinary procedure set forth in these rules.

Rule 83.2 Attorneys: Appearances and Withdrawals

(a) Appearances

An attorney's signature on any filing constitutes an appearance for the filing party or parties as to all issues and proceedings. An attorney's initial appearance must be signed by the attorney and must include the attorney's individual name, postal address, phone number, and email address.

(b) Limited Appearances

(1) **By Motion.** To the extent permitted by Maine Rule of Professional Conduct 1.2, an attorney may provide limited representation to an otherwise unrepresented litigant in a non-criminal case at the discretion of the Court on motion filed by the attorney seeking to provide the limited representation. The motion must state precisely the scope of the limited representation to be provided.

(2) **Filings.** An attorney may draft or assist in drafting pleadings, motions, or other documents filed in this Court only if the Court has granted the attorney leave to provide limited representation under this rule. The attorney must sign and serve the filings pursuant to the Federal Rules of Civil Procedure and these rules.

(3) **Completion of limited representation.** Any limited representation by an attorney under this rule shall automatically terminate on completion of the specified scope of representation provided the attorney files and serves on all parties or their counsel a "Notice of Completion of Limited Representation."

(c) Withdrawals

No attorney may withdraw an appearance, or withdraw a limited appearance prior to the completion of the specified scope of representation, without leave of Court.

Rule 83.3 Attorneys: Rules of Disciplinary Enforcement

(a) Standards of Professional Conduct

This Court adopts as its standard for professional conduct the Maine Rules of Professional Conduct adopted by the Supreme Judicial Court of Maine, as amended from time to time by that Court.

(b) Consent to Jurisdiction

Any attorney admitted, applying for admission, or who is permitted to appear and practice before this Court confers disciplinary jurisdiction on the Court for any alleged misconduct of that attorney.

(c) Attorney Duty to Inform

Any attorney admitted or permitted to practice before this Court must promptly inform the Clerk in writing if the attorney:

(1) is convicted of a crime in any court;

(2) is suspended from practice, disbarred, put on probation, or subject to any other sort of disciplinary action by any authority governing the practice of law;

(3) is found to be incapacitated by any court or bar; or

(4) consents to disbarment or resigns from the bar while an investigation into allegations of misconduct or incapacity is pending.

(d) Disciplinary Proceedings

(1) **Special Counsel.** Except as otherwise provided in this rule, when the Court learns of allegations of misconduct or incapacity which, if substantiated, would warrant discipline or other corrective action against an attorney applying to or admitted to practice before this Court, the Chief Judge may appoint special counsel with the powers and obligations described in subsection (e) and refer the matter to the special counsel.

(2) **Formal Proceedings; Initiation and Response**

(A) After investigation, special counsel may initiate formal disciplinary proceedings by promptly filing a complaint with the Court.

(B) Upon the filing of a complaint, the Clerk must issue a summons and deliver the summons and a copy of the complaint to the Marshal to be served according to subsection (k).

(C) The respondent-attorney must file an answer to the complaint within 21 days of service.

(D) If the respondent-attorney's answer raises any issue of fact, or the respondent-attorney wishes to be heard in mitigation, the Court will set the matter for a prompt hearing before one or more judges. If the proceeding is based on a complaint from a judge of this Court, the complaining judge may not conduct the hearing; if no judge of this Court is eligible to serve, the hearing may be conducted by a district judge of this circuit appointed by the Chief Judge of the Court of Appeals.

Nothing in this rule prohibits the Court from taking other appropriate action as it deems appropriate, including referring any matter to another judge of this Court for making determinations in accordance with these rules.

(e) Appointment of Special Counsel

(1) This Court may appoint special counsel at any stage in any proceeding under these rules. The term "special counsel" refers to any attorney appointed by the Court to perform the investigative or prosecutorial functions of this rule.

(2) Special counsel must investigate a matter referred to them and may prosecute a formal disciplinary proceeding. If special counsel concludes after investigation that a formal proceeding should not be initiated against the respondent-attorney, special counsel must file a recommended disposition and statement of reasons with the Court. The recommendation may include dismissal, stay, deferral, proceedings under the Maine Bar Rules, or other appropriate action.

(3) Special counsel, once appointed, may not resign without the Court's permission.

(4) When appointing special counsel under these rules, this Court may select any attorney or attorneys who are members of the bar of the Court.

(5) For good cause, the respondent-attorney may move to disqualify special counsel.

(f) Discipline of Attorneys Convicted of Crimes

(1) **Conviction of a Serious Crime**

(A) When this Court receives a copy of a judgment of conviction showing that an attorney admitted to practice before the Court has been convicted in any court of a serious crime as defined in subsection (n), the Court will enter an order immediately suspending that attorney until there is a final disposition in a disciplinary proceeding based on that conviction. The attorney will be suspended whether the conviction resulted from a plea of guilty or nolo contendere or from any verdict, and regardless of the pendency of any appeal.

(i) A copy of the order of suspension must immediately be served on the attorney as provided in subsection (k).

(ii) The Court may set aside the order of suspension for good cause, when it appears in the interest of justice to do so.

(B) Upon receiving such a record of conviction, the Court will also refer the matter to special counsel for the institution of a disciplinary proceeding before one or more judges of the Court.

(i) The sole question in that disciplinary proceeding will be what final discipline should be imposed based on the conduct that resulted in the conviction.

(ii) The disciplinary proceeding may not proceed to a final hearing until all appeals from the conviction are concluded.

(C) An attorney suspended under this subsection will be reinstated immediately after filing documentation that the underlying conviction of a serious crime has been reversed. This reinstatement will not terminate any disciplinary proceeding

pending against the attorney. The Court will determine the disposition of that disciplinary proceeding based on all the available evidence relating both to culpability and to appropriate discipline.

(2) **Conviction of Any Other Crime.** When this Court receives a copy of a judgment of conviction showing that an attorney admitted to practice before the Court has been convicted in any court of a crime that is not a serious crime as defined in subsection (n), the Court may refer the matter to special counsel for whatever action special counsel may deem warranted. However, the Court may choose not to refer matters regarding convictions for minor offenses.

(3) **Establishing Misconduct.** In a disciplinary proceeding against an attorney based on a criminal conviction, a certified copy of the attorney's judgment of conviction for that crime is conclusive evidence that the attorney committed the crime.

(g) Action Taken by Other Courts or Tribunals

(1) **Reciprocal Suspension for Administrative Suspension by the Maine Board of Overseers of the Bar**

(A) Upon receiving notice that an attorney admitted to practice or practicing before this Court is administratively suspended by the Maine Board of Overseers of the Bar under the Maine Bar Rules, the Court will immediately administratively suspend the attorney from practice in this Court for 14 days. The Court will promptly notify the attorney that:

(i) the attorney has been administratively suspended for a period of 14 days;

(ii) the attorney must provide proof of reinstatement by the Maine Board of Overseers of the Bar, or assert an additional basis to practice in this Court as permitted by Rule 83.1(c), within those 14 days; and

(iii) if no reply is made within 14 days, the Court will suspend the attorney from practice in this Court.

(B) If the Court receives notice during the 14-day suspension period from the Maine Board of Overseers of the Bar that the attorney

has been reinstated, the Court will promptly reinstate the attorney to the bar of this Court.

(2) **Disbarment or Suspension**

(A) After receiving a copy of a judgment or order by any court of disbarment or suspension, for reasons other than incapacity, this Court may enter an order immediately suspending that attorney from practice in this Court.

(B) After suspending an attorney under this subsection, the Court will promptly send the attorney a notice containing:

(i) a copy of the suspension order entered by this Court;

(ii) a copy of the judgment or order from the other court or tribunal; and

(iii) an order to show cause directing the attorney to inform this Court of any reason under subsection (g)(4) that the Court should not impose reciprocal discipline, within 14 days after the order is served on the attorney.

(C) If the Court does not immediately suspend the attorney under this subsection, it may issue an order directing the attorney to show cause why this Court should not impose some other specified discipline that the Court deems appropriate.

(3) **Incapacity; Other Disciplinary Action.** After receiving a copy of a judgment or order of any court finding incapacity or imposing discipline other than suspension or disbarment, this Court may promptly send the attorney a notice containing:

(A) a copy of the judgment or order from the other court or tribunal; and

(B) an order to show cause directing the attorney to inform this Court of any reason under subsection (g)(4) that the Court should not impose reciprocal discipline or finding of incapacity, within 14 days after the notice is served on the attorney.

(4) **Reciprocal Discipline Absent Objection.** After the expiration of 14 days from service of a notice under subsection (g)(2) or (g)(3), this Court may impose the reciprocal discipline or make the same finding of incapacity as the original tribunal. However, this Court may instead

enter any other order it considers appropriate if the respondent-attorney demonstrates, or this Court otherwise finds that:

(A) the record in the other jurisdiction clearly shows that:

(i) the procedure so lacked notice or opportunity to be heard that it deprived the respondent-attorney of due process; or

(ii) the proof of misconduct or incapacity was so infirm that this Court cannot, consistent with its duty, accept the conclusion on that subject as final;

(B) this Court imposing the same discipline or finding would result in grave injustice; or

(C) the conduct at issue warrants substantially different action from this Court.

(5) **Establishing Misconduct or Incapacity.** Except as provided in subsection (g)(4), a final adjudication in another jurisdiction that an attorney is incapacitated or has committed misconduct conclusively establishes the misconduct or incapacity in any proceeding under this rule.

(6) **Stay of Action.** If an action imposed in another jurisdiction has been stayed or suspended, any reciprocal action taken by this Court may be deferred until that stay expires.

(h) Resignation or Disbarment on Consent in Other Courts

Any attorney admitted to practice before this Court who consents to disbarment or resigns from the bar of any court while under investigation for alleged misconduct or incapacity may not practice before this Court upon such disbarment or resignation.

(i) Consent to Discipline in this Court

(1) **Conditional Offer of Discipline.** Any attorney admitted to practice before this Court who is the subject of an investigation or proceeding involving allegations of misconduct or incapacity may offer the Court a conditional admission to the alleged misconduct or incapacity in exchange for a stated form of discipline, such as disbarment, suspension, or surrender of the right to practice in this Court.

(2) **Affidavit Required.** A lawyer who wishes to offer a conditional admission to misconduct or incapacity must provide an affidavit that the attorney:

(A) desires to consent to discipline;

(B) freely and voluntarily consents, is not being subjected to coercion or duress, and is fully aware of the implications of consenting;

(C) is aware of the pending investigation or proceeding involving allegations of misconduct or incapacity, the nature of which the attorney must specifically describe;

(D) acknowledges that the material facts alleged are true or could be proven and that sufficient evidence exists to support a finding of misconduct or incapacity and the imposition of the stated discipline; and

(E) consents because the attorney knows that if formal proceedings were held the attorney could not successfully contest the allegations.

(3) **Court Approval Required.** After receiving the required affidavit, the Court may approve or reject the admission and stated form of discipline offered under subsection (i)(1).

(A) If the Court rejects the offer:

(i) the Court will proceed with a disciplinary hearing; and

(ii) the offered admission is withdrawn and may not be used against the respondent-attorney in subsequent hearings.

(B) If the Court approves the offer, it will enter an order disciplining the attorney.

(j) Reinstatement

(1) **After Suspension, Disbarment, or Surrender**

(A) An attorney suspended for six months or less will be automatically reinstated at the end of the period of suspension if:

(i) the attorney files an affidavit with the Court showing that they complied with the underlying order of suspension; and

(ii) the attorney retakes the attorney's oath.

(B) An attorney who was suspended for more than 6 months, disbarred, or who surrendered the right to practice, must move for reinstatement to practice in this Court. The attorney may not resume practice until the attorney has been reinstated by order of this Court and has retaken the attorney's oath.

(2) **Time of Reinstatement Following Disbarment or Surrender.** A person who was disbarred after a hearing or by consent, or who surrendered the right to practice in this Court, may not move for reinstatement until at least 5 years after the effective date of the disbarment or surrender.

(3) **Motion for Reinstatement**

(A) **Screening and Initial Action.** An attorney who has been suspended for more than six months, disbarred, or who surrendered the right to practice in this Court may file a motion for reinstatement with the Chief Judge of the Court. The Chief Judge will screen the motion to determine, in the Chief Judge's discretion, whether the motion warrants a hearing. The Chief Judge may order that additional information be produced in connection with the motion.

(i) If the Chief Judge determines that a hearing is not warranted, the Chief Judge may rule on the merits of the motion based on its contents and any further information that was produced.

(ii) If the Chief Judge orders a hearing, the Chief Judge will refer the motion to special counsel and assign the matter for hearing as provided in subsection (j)(3)(B) before one or more judges of this Court. If the disciplinary or other proceeding that led to the suspension, disbarment, or surrender was based on a complaint by a judge of this Court, the hearing must be conducted by one or more other district judges of this Court, or if there are none eligible to serve, by a district judge of this Circuit appointed by the Chief Judge of the Court of Appeals.

(B) Hearing

(i) After referral, the judge assigned to the matter will hold a hearing within 30 days.

(ii) At the hearing, the movant has the burden of demonstrating by clear and convincing evidence that the movant:

(a) no longer has any incapacity or now possesses the moral qualifications, competency, and learning in the law required for admission to practice law before this Court; and

(b) resuming the practice of law will not harm the integrity and standing of the bar, the administration of justice, or the public interest.

(iii) The movant has the right to be represented by counsel and to cross-examine witnesses and present evidence in support of the motion for reinstatement.

(iv) Special counsel will conduct any cross-examination of the movant's witnesses and submit evidence, if any, in opposition to the motion.

(4) **Reinstatement Decision**

(A) If the Court finds the movant unfit to resume the practice of law, it will deny the motion and may impose the costs of the proceedings, or a portion of them, on the movant.

(B) If the Court finds the movant fit to resume the practice of law, it will enter an order of reinstatement. That order may include whatever conditions the Court considers necessary to protect the public interest, and may condition the reinstatement on the movant:

(i) paying all or part of the costs of the proceedings; and

(ii) making partial or complete restitution to parties harmed by the movant's conduct that led to the suspension or disbarment.

(5) **Successive Motions.** If a motion to reinstate a person is denied, another motion to reinstate that person may not be filed for at least one year after the denial.

(k) Service

(1) **Summons and Complaint; Order of Suspension.** The Marshal must serve the summons and complaint that initiates a disciplinary proceeding, or an order of suspension, according to Federal Rule of Civil Procedure 4(c)(3) or, if the Marshal cannot make such service, by registered or certified mail addressed to the respondent-attorney at the attorney's last-known address.

(2) **Other Papers.** Any other paper or notice required by this rule may be served by addressing it to the respondent-attorney at the attorney's last-known address; or to counsel or the respondent's attorney at the address indicated in the most recent document filed by them during any proceeding.

(3) **Courtesy Copy.** Regardless of mode of service, a courtesy copy of each paper or notice required to be served must also be sent to the respondent-attorney's last-known email address.

(l) Duties of the Clerk

(1) After learning that an attorney admitted to practice before this Court has been convicted of any crime, the Clerk will promptly obtain a copy of the judgment from the court in which the conviction occurred and file the judgment with this Court.

(2) After learning that an attorney admitted to practice before this Court has been disciplined or found incapacitated by any authority governing the practice of law, the Clerk will obtain a copy of the relevant judgment or order and file it with this Court.

(3) Whenever this Court disbars, suspends, censures, disbars on consent, or convicts of any crime a person who is a member of the bar of any other court, the Clerk will transmit a copy of the disciplinary judgment or order to that other court, along with the last-known office and residence addresses of the person disciplined.

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

(m) Applicability of Other Rules to Proceedings Under This Rule

Except as otherwise provided in this rule, the Federal Rules of Civil Procedure do not apply to attorney disciplinary proceedings. In addition, the Federal Rules of Evidence, other than Rules 501 and 502, do not apply to disciplinary proceedings.

(n) Definitions

As used in this rule:

(1) "any court" means any court of the United States, the District of Columbia, or of any state, territory, commonwealth, possession of the United States, or any foreign or other duly authorized tribunal.

(2) "serious crime" means the commission of, or the attempt, conspiracy, or solicitation of another to commit:

(A) any felony;

(B) any crime that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; or

(C) any crime of which a necessary element involves interference with the administration of justice, false swearing, fraud, misrepresentation, deceit, bribery, extortion, misappropriation, or theft. The necessary elements of the crime are determined by the statutory or common law definitions in the jurisdiction where the judgment was entered.

(o) Public Records

Absent a Court order to the contrary, disciplinary proceedings, including disciplinary and reinstatement orders, are a matter of public record. However, the affidavit required under subsection (i)(2) may not be publicly disclosed or made available for any other proceeding without an order from this Court.

(p) Construction of this Rule

This rule does not deny the Court any other powers necessary to maintain control over proceedings conducted before it.

Rule 83.4 Judges: Complaints of Judicial Misconduct or Disability

Complaints alleging judicial misconduct or disability are governed by the Judicial Conduct and Disability Act, 28 U.S.C. § 372, and by the Rules of the Judicial Council of the First Circuit Governing Complaints of Judicial Misconduct or Disability. Any such complaint should be filed with the Clerk of the First Circuit Court of Appeals.

Rule 83.5 Law Clerks: Restrictions on Law Practice

(a) Current Law Clerks

No one may practice law while serving as a law clerk to a judge of this Court.

(b) Former Law Clerks

(1) No former law clerk may appear as counsel before the judge for whom they previously clerked for a period of 6 months after separating from that position.

(2) No former law clerk may ever practice as an attorney in connection with any case that the judge for whom they previously clerked acted on during the law clerk's tenure, whether or not the former law clerk had any involvement with the case.

Rule 83.6 Law Students: Appearance

(a) Authorization to Appear

(1) With the permission of the Court, a law student may appear and practice under the direction of a supervising attorney, as set forth in this rule.

(2) Before a law student may appear and practice in this Court, the following must be filed:

(A) a dean's certification; and

(B) a motion for the law student's appearance, which must be filed by the supervising attorney in each individual case in which the law student wishes to appear. The supervising attorney must attach to the motion a written consent or approval signed by the client or the government as specified in subsection (d).

(3) If the motion is granted, it permits the certified law student to engage in the activities specified in this rule for that case.

(4) If the Court withdraws its permission, the Court will issue a notice of the termination.

(b) Dean's Certification

(1) The dean of any ABA accredited school of law may certify a law student who:

(A) has completed legal studies amounting to at least 3 semesters;

(B) is of good character and competent legal ability;

(C) is adequately trained to perform as a legal intern;

(D) promises to neither ask for nor receive any compensation or remuneration of any kind for their services from the person on whose behalf service is rendered, except as otherwise provided in this rule; and

(E) has read and is familiar with the Maine Rules of Professional Conduct, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence and these rules, and who confirms as much in writing.

(2) The dean's certification may be withdrawn at any time by mailing a notice of withdrawal to the Clerk. The notice does not need to explain the reason for the withdrawal.

(c) Supervision

A member of the bar of this Court must supervise a certified law student in connection with any activities permitted by this rule and must:

(1) supervise the quality of the student's work;

(2) assume personal responsibility for the student's guidance and work;

(3) assist the student in preparation to the extent necessary; and

(4) file an appearance and remain counsel of record in the matter, regardless of student participation, until authorized to withdraw under Rule 83.2(c).

(d) Authorized Law Student Activities

(1) Authorized Student Appearance in Court.

(A) A certified law student may appear in court in any civil or criminal proceeding:

(i) on behalf of a person receiving legal assistance from a law school clinical practice program, with the written consent of the person on whose behalf the student is appearing;

(ii) on behalf of any local, state, or federal governmental agency, with the written approval of the supervising government attorney; or

(iii) as otherwise approved by the Court.

(B) A supervising attorney must appear in court with any certified law student appearing in court under this rule.

(2) **Preparation of Documents.** A certified law student may prepare pleadings, briefs, and other documents to be filed in the Court in any matter in which the student may appear. Each pleading, brief, or other document must contain the name of any certified law student who

participated in drafting it. Each document must be signed by the supervising attorney.

(e) Limitations

(1) This rule does not affect the rights of any person who is not admitted to practice law to do anything that the person may otherwise lawfully do.

(2) Subsection (b)(1)(D) does not prohibit a legal aid bureau, law school, or government from paying compensation to the eligible law student or prevent any agency from imposing a charge for its services that it is otherwise authorized to impose.

Rule 83.7 Safety and Security

(a) Courthouse Security

(1) **Screening and Search.** All individuals entering federal courthouse facilities in this district and all items are subject to appropriate screening and search by the Marshal or a law enforcement officer designated by the Marshal. Individuals will be required to provide identification and to state the nature of their business in the courthouse. Anyone refusing to cooperate with these security measures may be denied entrance to the courthouse.

(2) **Firearms Prohibited.** Unless specifically authorized by the Marshal or their designee, all individuals, including all law enforcement personnel not employed by the U.S. Marshals Service, must deposit any firearm or other weapon with the Marshal or designated law enforcement officer directly upon entering district federal courthouse facilities.

(3) **Use of Electronic Devices**

(A) **By the Public**. Absent prior approval by the Court, the use of electronic devices of any kind by the public is prohibited in any courthouse or space used by the United States District Court, the Bankruptcy Court, the Probation Office or the Marshal. Electronic devices include cell phones, laptops, tablets, cameras, video recorders, smart watches, and any devices that access the internet.

(B) By Members of the Bar

(i) Unless otherwise ordered by the Court, members of the bar of this Court may use cell phones, laptops, tablets, smart watches, and other devices that access the internet in the courthouse. A member of the bar may authorize a person providing services to them to use electronic devices in connection with a case to the same extent the attorney is permitted to use them. The attorney authorizing such use is responsible for that person's compliance with this rule.

(ii) All devices must be silent and must not interfere with any proceedings.

(C) **Photographs and video or audio transmissions or recordings not permitted.** Absent prior approval, no court proceedings may be transmitted while they are occurring; no video or audio recordings may be made; and no photographs may be taken in the courthouse or court-used space.

(b) Courtroom Security

No weapons are permitted in any courtroom, except:

(1) when carried by the Marshal; or

(2) when offered as exhibits in compliance with Local Rule 39 or Local Rule 123.

(c) Grand Jury Security

To maintain the secrecy of the grand jury proceedings and the privacy of the witnesses who come before the grand jury, the only people permitted on the second floor of the U.S. Courthouse in Bangor and on the third floor of the U.S. Courthouse in Portland while the grand jury is in session are law enforcement officers, attorneys for the government, witnesses called by the grand jury, attorneys for witnesses, court personnel, employees and invitees of government agencies located on the premises, and other people with business with those government agencies.

(d) Other Security Measures

This rule sets out established security procedures. It does not preclude the Court or the Marshal from imposing additional security restrictions in particular circumstances.

Criminal Rules

Rule 110 Trial Date

A trial date will ordinarily be set at the arraignment.

Rule 111 Plea Agreements

Counsel must file with the Clerk any plea agreement at least 2 business days prior to a scheduled change of plea.

Rule 117 Final Pretrial Conference

At the discretion of the Court, a pretrial conference may be held under Federal Rule of Criminal Procedure 17.1.

Rule 123 Courtroom Practice

(a) Opening Statements

Opening statements may not be argumentative or exceed 30 minutes in length, except by leave of Court.

(b) Closing Arguments

The Court will determine the length of closing arguments. Only one attorney may argue for each party, except by leave of Court. The Government must argue first and may reserve for rebuttal such time as may be fixed by the Court.

(c) Examination of Witnesses

(1) The examination of a particular witness, and objections relating to that examination, must be made by one attorney for each party, except by leave of Court.

(2) On oral motion of a party or on its own motion, the Court may order on such terms as it may prescribe that a witness under examination in court may not discuss the witness's testimony, including during any recess taken during the examination or before the witness is finally excused.

(d) Attorneys as Witnesses

No attorney may without leave of Court conduct the trial of a jury action in which the attorney is a witness for the party represented at trial.

(e) Trial Day

The presiding judge will establish the limits of the trial day.

(f) Exhibits

(1) **Custody and Marking.** All exhibits must be marked for identification prior to trial in accordance with the final pretrial order. Unless otherwise ordered by the Court, all exhibits offered in evidence, whether admitted or excluded, will be held in the custody of the Clerk during the pendency of the proceedings. Exhibits that, because of their size or nature, require special handling, however, must remain in the

possession of the party introducing them. Exhibits retained by counsel must be preserved in the form in which they were offered until the proceeding is finally concluded.

(2) **Return.** Unless otherwise ordered by the Court, at the conclusion of the proceeding, all nondocumentary exhibits will be returned to the submitting parties who must keep them in the form in which they had been offered and who must make them available for the use of other parties, the Court, or an appellate court until the expiration of any appeal. Any documentary exhibits must be withdrawn by counsel who offered them within 30 days after the final determination of the action by this or any appellate court. Upon counsel's failure to timely remove any exhibits, the Clerk may, after due notice to counsel, dispose of them as necessary.

(3) **Valuable Exhibits.** A party who offers valuable exhibits is responsible for their insurance and protection.

(4) **Photographs of Chalks.** Counsel may photograph or otherwise copy any chalk in order to make a record of it.

(5) **Firearms.** A party intending to offer a firearm must first deliver it to the Marshal who will ensure that it is not loaded and that it is rendered safe for presentation in court. During the course of the proceedings, the firearm must remain in the custody and control of a custodian approved in advance by the Court and the Marshal. A firearm may be examined by a deliberating jury only while in the custody of a Court Security Officer, who must remain, without comment, in the jury room during the examination.

(g) Official Record

The only official record of any court proceeding is a record prepared by an authorized court reporter or an electronic sound recording made by court personnel or a transcript prepared therefrom by professional transcription services, when properly certified in each case.

Rule 124.1 Proposed Questions for Jury Voir Dire

Proposed questions for jury voir dire must be served and submitted to the Court at least 3 days prior to jury empanelment.

Rule 124.2 Trial Jury

(a) Number of Jurors

In all criminal jury trial cases, the jury must consist of 12 members.

(b) Examination of Jurors

The Court will conduct the examination of prospective jurors. At the close of such examination, the Court will afford counsel an opportunity, at the bench, to request that the Court ask additional questions.

(c) Challenges for Cause

Challenges for cause of individual prospective jurors must be made at the bench, at the conclusion of the Court's examination.

(d) Peremptory Challenges

(1) **Manner of Exercise.** Peremptory challenges must be exercised by striking out the name of the juror challenged on the list of the drawn venire prepared by the Clerk. Any party may waive the exercise of any of his peremptory challenges without thereby relinquishing his right to exercise any remaining peremptory challenge or challenges to which he is entitled. If all peremptory challenges are not exercised, the Court will strike from the bottom of the list sufficient names to reduce the number of jurors remaining to 12.

(2) **Order of Exercise.** In a criminal case in which the government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges, they will be exercised as follows:

Government	1
Defendant(s)	2
Government	1
Defendant(s)	2
Government	1
Defendant(s)	2
Government	1

Defendant(s)	2
Government	1
Defendant(s)	1
Government	1
Defendant(s)	1

In any action in which the Court allows several defendants additional peremptory challenges, the order of challenges will be determined by the Court.

(3) **Alternate Jurors in Criminal Cases.** Peremptory challenges to alternate jurors in a criminal case will be exercised one by one, alternately, the government exercising the first challenge.

Rule 130 Requests for Jury Instructions

Written requests for jury instructions under Federal Rule of Criminal Procedure 30 must be served and submitted to the Court at least 3 days prior to jury empanelment, subject to the right of the parties to submit at the close of the evidence any additional requests the need for which might not reasonably have been foreseen. No requests need be submitted for usual and common instructions. Requests for instructions must be numbered and must include supporting citations.

Rule 132 Sentencing

(a) Time for Filing Objections to Presentence Investigation Report (PSR)

The Probation Office will make initial disclosure of the presentence investigation report (PSR) to both counsel via ECF and to the defendant. The sentencing judge will not read or otherwise consider the initial disclosure of the presentence report or any objections thereto unless the sentencing judge expressly states on the record or in an order that the judge has read or otherwise considered the same. Any objections that either counsel or the defendant may have as to any material information, sentencing classification, sentencing guideline ranges, or policy statements contained in or omitted from the initial disclosure of the report must be filed on ECF within 14 days after disclosure of the report.

(b) Submission of Revised PSR

The probation officer must conduct any further investigation and make any revisions to the PSR that may be necessary and must file the PSR on ECF for delivery to the sentencing judge, to counsel for both parties, and to the defendant no more than 77 days after the verdict or finding of guilt. The PSR must include an addendum setting forth any objections counsel may have, together with the submission of the officer's comments thereon.

(c) Presentence Conference

Upon receipt of the PSR, the Court may schedule a presentence conference with all counsel and with the probation officer present and with the defendant if proceeding pro se. Any such conference will be conducted by telephone upon the record but not transcribed except on specific request of counsel, for discussion of the application of the United States Sentencing Commission Guidelines to the case and for the identification of all remaining contested issues. At the request of a party or on its own, the Court may hold the presentence conference in person or by video.

(d) Disputed Issues

Except with regard to any unresolved objection made under subsection (a), the PSR may be accepted by the Court as accurate. The Court, however, for good cause shown, may allow objections to be raised at any time before the imposition of sentence.

(e) Modification of Time Limits

The times set forth in this rule may be modified by the Court for good cause shown, except that the 14-day period set forth in subsection (a) may be diminished only with consent of the defendant.

(f) Disclosure

(1) Nothing in this rule requires the disclosure of any portions of the PSR that are not disclosable under Federal Rule of Criminal Procedure 32. The recommendations of the probation officer as to the sentence to be imposed may not be disclosed without the Court's permission.

(2) The PSR must be deemed to have been disclosed to counsel and the defendant when the report is filed on ECF.

(g) Sentencing Exhibits and Documents

Unless ordered otherwise by the assigned judge, sentencing exhibits and documents must be submitted as follows:

(1) **Motions for Cooperation Departures or Cooperation Variances.** These documents must be filed with the Court as sealed docket entries and sealed documents 5 business days prior to the sentencing hearing.

(2) **Documents in Support of Motions for Cooperation Departures or Cooperation Variances.** These documents must be submitted to the Probation Office which must, in turn, provide them to the assigned judge 5 business days prior to the sentencing hearing. The documents will be returned to the Probation Office after the sentencing hearing.

(3) **Sentencing Exhibits.** Courtesy copies of exhibits that will be referenced to or moved into evidence at the sentencing hearing must be submitted to the Court 5 business days prior to the sentencing hearing either by email to MaineECFIntake@med.uscourts.gov in PDF format or in hard copy with an index as directed by the Court in the presentence conference order to allow the Court time to review the proposed exhibits. When transmitting courtesy copies of exhibits to the Court, counsel must include the Probation Office and opposing counsel in the email. Courtesy copies of exhibits will not be docketed or treated as the official

Court exhibit. It is the responsibility of counsel to provide the Court with marked paper exhibits at the sentencing hearing.

In cases in which a presentence conference will not be held, the docket entry reflecting the scheduling of the sentencing hearing will reflect that courtesy copies of sentencing exhibits to be used at sentencing must be submitted to the Court in accordance with this rule, 5 business days prior to the sentencing hearing.

Rule 132.1 Revocation of Probation or Supervised Release

(a) Time for Filing Revocation Report

Unless otherwise ordered by the Court, the probation officer must file on ECF a revocation report with the Court not more than 10 calendar days after either (1) a finding of or waiver of probable cause that a violation of supervised release or probation has been committed, in the case of an arrested defendant; or (2) an initial appearance by a defendant who has been summonsed. When filed on ECF, the revocation report will be disclosed to counsel for both parties and to the defendant.

(b) Contents of the Revocation Report

The revocation report disclosed to counsel for both parties and the defendant must contain information about the defendant's compliance while on supervision, sentencing options, and a dispositional recommendation. The probation officer's justification for the recommended disposition must be filed on ECF and disclosed to the Court only. Objections to the revocation report will be addressed orally at the time of the revocation hearing.

Rule 145 Time

Federal Rule of Criminal Procedure 45 applies when computing any period of time stated in these rules.

Rule 147 Motions and Memoranda of Law

(a) Submissions of Motions and Supporting Memoranda

Every motion must incorporate a memorandum of law, including citations and supporting authorities. Any affidavits and other documents setting forth or evidencing facts on which the motion is based must be filed with the motion.

(b) Objections to Motions

(1) Unless within 21 days after the filing of a motion the opposing party files written objection thereto, incorporating a memorandum of law, the opposing party will be deemed to have waived objection.

(2) Any objections must be filed in duplicate and must include citations and supporting authorities and affidavits and other documents setting forth or evidencing facts on which the objection is based. The deemed waiver imposed herein does not apply to motions filed during trial.

(c) Reply Memorandum

Within 14 days of the filing of any objection to a motion, the moving party may file a reply memorandum, which may not exceed 7 pages in length and which must be strictly confined to replying to new matter raised in the objection or opposing memorandum.

(d) Form and Length

All memoranda must be typed, double-spaced on 8-1/2 x 11 inch paper or printed. All pages must be numbered at the bottom. Except by prior leave of Court, memorandum of law in support of or in opposition to a dispositive motion or a motion to suppress evidence may not exceed 20 pages. Memoranda in support and in opposition to all other motions may not exceed 10 pages.

(e) Written Submissions and Oral Argument

All motions will be decided by the Court without oral argument unless otherwise ordered by the Court or, in its discretion, upon request of counsel.

Rule 157.1 Authority of United States Magistrate Judges

Any magistrate judge is authorized to exercise all powers and perform all duties conferred on magistrate judges by 28 U.S.C. § 636(b), (c), and (g), and 18 U.S.C. § 3401(i), and to exercise the powers enumerated in Federal Rules of Criminal Procedure 5, 8, 9, and 10, and the Rules Governing Section 2254 and 2255 Proceedings in accordance with the standards and criteria established in 28 U.S.C. § 636(b)(1).

Rule 157.2 Trial Briefs

At least 3 days prior to the date set for trial, unless otherwise ordered by the Court, each party must serve and file a trial brief identifying, with citation to appropriate authorities, the legal basis of the claims and defenses to be asserted at trial. All pages must be numbered at the bottom. Except by prior leave of Court, a trial brief may not exceed 20 pages in length.

Rule 157.3 Special Orders for the Protection of the Accused in Widely Publicized and Sensational Criminal Cases

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

Rule 157.4 Release of Information by Attorneys and Courthouse Personnel in Criminal Cases

(a) Attorneys

(1) It is the duty of the lawyer or law firm not to release or authorize the release of information or opinion that a reasonable person would expect to be disseminated by means of public communication, in connection with pending or imminent criminal litigation with which the lawyer or the firm is associated, if there is a reasonable likelihood that such dissemination will seriously interfere with a fair trial.

(2) With respect to a grand jury or other pending investigation of any criminal matter, a lawyer participating in or associated with the investigation must refrain from making any extra-judicial statement that a reasonable person would expect to be disseminated by means of public communication, that goes beyond the public record or that is not necessary to inform the public that the investigation is underway, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, to warn the public of any dangers, or otherwise aid in the investigation.

(3) From the time of arrest, issuance of an arrest warrant, or the filing of a complaint, information, or indictment in any criminal matter until the commencement of trial or disposition without trial, a lawyer or law firm associated with the prosecution or defense may not release or authorize the release of any extra-judicial statement relating to that matter and concerning the areas enumerated below, that a reasonable person would expect to be disseminated by means of public communication, if there is a reasonable likelihood that such dissemination will seriously interfere with a fair trial:

(A) the prior criminal record (including arrests, indictments, or other charges of crime), or the character or reputation of the accused, except that the lawyer or law firm may make a factual statement of the accused's name, age, residence, occupation, and family status, and if the accused has not been apprehended, a lawyer associated with the prosecution may release any information necessary to aid in the accused's apprehension or to warn the public of any dangers the accused may present;

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

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

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

(E) the possibility of a plea of guilty to the offense charged or a lesser offense; and

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

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

(5) During a jury trial of any criminal matter, including the period of selection of the jury, no lawyer or law firm associated with the prosecution or defense may give or authorize any extra-judicial statement or interview, relating to the trial or the parties or issues in the trial, which a reasonable person would expect to be disseminated by means of public communication, if there is a reasonable likelihood that such dissemination will seriously interfere with a fair trial, except that

the lawyer or law firm may quote from or refer without comment to public records of the Court in the case.

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

(b) Courthouse Personnel

All court-supporting personnel, including the Marshal, court clerks, court security officers, court reporters, and employees or subcontractors retained by the court reporters, are prohibited from disclosing to any person, without authorization by the Court, information relating to a pending grand jury proceeding or criminal case that is not part of the public records of the Court. The divulgence of information concerning grand jury proceedings, in camera arguments and hearings held in chambers or otherwise outside the presence of the public is also forbidden.

Rule 157.5 Attorneys: Appearances and Withdrawals

(a) Appearances

An attorney's signature to a pleading constitutes an appearance. Otherwise, an attorney who wishes to participate in any manner in any action must file a formal written appearance. An appearance whether by pleading or formal written appearance must be signed by an attorney in their individual name and must state their office address and telephone number.

(b) Withdrawals in General

(1) No attorney may withdraw an appearance in any action except by leave of Court. A defense attorney in any criminal case must continue the representation until relieved by order of this Court or the Court of Appeals. A motion to withdraw must be accompanied by a notice of appearance of substitute counsel. In the absence of the appearance of substitute counsel, a motion to withdraw must set forth sufficient information to enable the Court to rule. Such information may be filed under seal, submitted to the Court in camera, and will not be made part of the public record, except by order of the Court. After sentencing, the Court will grant leave to withdraw only upon the appearance of substitute counsel.

(2) After a notice of appeal has been filed, a motion to withdraw must be directed to the Court of Appeals under First Circuit Rules 12 and 46.6.

Rule 157.6 Sealed Documents and Pleadings

A pleading or document listed in subsection (a) that is designated in the caption of the document or pleading as being filed under Local Rule 157.6(a) (Sealed Document) will be accepted as filed under seal without prior approval from the Court. Otherwise, parties seeking to seal a pleading or document must file a motion to seal in accordance with subsection (b) or subsection (g).

(a) Automatic Sealing

The following documents will be sealed upon filing. They will remain sealed until further order of the Court, unless otherwise provided below.

(1) search warrant and tracking warrant applications, supporting affidavits and resulting warrants, which will be sealed until the warrant is executed and returned to the Court;

(2) arrest warrants, which will be sealed until the warrant is executed;

(3) motions, orders, and notices concerning matters occurring before the grand jury;

(4) applications and orders for pen/trap devices, or wire, oral or electronic communication interceptions;

(5) applications and orders for the disclosure of tax information;

(6) motions and orders involving the Classified Information Procedures Act;

(7) all ex parte requests;

(8) all pretrial services reports, presentence investigation reports, and revocation reports;

(9) motions, orders, and any other pleadings and documents involving the Juvenile Delinquency Act; and

(10) cooperation agreements, which will be sealed until the Defendant is sentenced and then for an additional period of time equal to any term of imprisonment that the Court may impose.

(b) Motions to Seal

A party seeking to obtain an order sealing any document not listed in subsection (a) of this rule or seeking to continue the sealing of any pleading or document already sealed must file a motion under this subsection. The motion must state the basis for sealing, the period of time during which the document is to be sealed and must set forth specific findings as to the need for sealing and the duration thereof. The motion itself must be filed under seal and remain sealed pending order of the Court under subsection (e). The document for which sealing is sought will be accepted provisionally under seal. Unless the motion is filed ex parte, the motion must include a statement whether there is agreement of the parties to the sealing.

(c) Response and Reply

Any response to a motion to seal under subsection (b), and any reply thereto, must be filed under seal. Unless otherwise ordered by the Court, the response and reply must be filed in accordance with Local Rule 147.

(d) Captions and Attachments to Motions

The caption for a motion to seal, and any response or reply thereto, must clearly identify the document as relating to sealed matters. Any documents submitted along with the motion to seal must bear the proper case number and contain the words "Filed Under Seal" in the caption.

(e) Orders

(1) If the Court grants a motion to seal filed under subsection (b), it will state its findings supporting the issuance of an order to seal and will specify the duration of sealing. In making specific findings as to the need for sealing and the duration the document must be sealed, the Court may incorporate by reference the proposed findings in the motion to seal.

(2) If the Court denies a motion to seal filed under subsection (b), the motion to seal and any proposed paper documents tendered under provisional seal with that motion to seal will be returned to the moving party. Any electronic versions of the proposed documents will remain on ECF, sealed indefinitely, unless otherwise ordered by the Court. The denied motion to seal will remain sealed indefinitely, unless otherwise ordered by the Court.

(f) Form of Filing

Filings under seal, and motions to seal and any response and reply thereto, must be in paper, unless otherwise directed by the Clerk.

(g) Transcripts of Proceedings in Criminal Cases

(1) **Duty to Request Sealing.** Counsel must request an order sealing some or all of a transcript of a criminal proceeding held before the Court.

(2) **Producing a Transcript.** Except for content ordered sealed by the Court, court reporters or other individuals designated to produce the record will not review the record for sealed or confidential information before producing or filing the transcript.

(3) **Partial Transcript.** When the Court orders content in a transcript sealed, the court reporter will make the textual notation "sealed" in that part of the transcript. The cover page of the transcript will contain the text "Partial Transcript." The part ordered sealed will not be preserved with empty or blacked-out line and page numbers. The court reporter will file the partial transcript, which will be available to the public.

(4) **Unredacted Transcript.** Court reporters will separately file the unredacted transcript containing information ordered sealed. The docket entry associated with this transcript and the transcript itself will be sealed from the public.

Rule 158 Petty Offenses

(a) Waiver of Appearance

A person who is charged with a petty offense as defined in 18 U.S.C. § 19, or with violating any regulation promulgated by any department or agency of the United States government, may, in lieu of appearance, waive appearance and pay the fine amount indicated in the summons and as identified by the fee schedules promulgated by this Court and made publicly available on the Court's website.

(b) Waiver Not Allowed

For all other petty offenses, the person charged must appear before a magistrate judge.

Appendices

Appendix A
Glossary of Frequently Used Terms

The following phrases and terms will have the following meaning in these rules:

(1) *ADR* means alternative dispute resolution, and includes judicial settlement conferences conducted by judges in the District of Maine, mediation, arbitration, early neutral evaluation, non-binding summary trial, and any other agreed-upon means of resolving the case without a trial.

(2) *Appendix* means the Appendix to these rules.

(3) *Bankruptcy Court* means the United States Bankruptcy Court for the District of Maine.

(4) *Clerk* means the Clerk of Court for the United States District Court for the District of Maine and includes employees of the Clerk's Office.

(5) *Court* means the United States District Court for the District of Maine.

(6) *District* means the District of Maine.

(7) *ECF* or *ECF system* means the CM/ECF case management/electronic case file system.

(8) *Forms* means the forms that appear on the Court's website, https://www.med.uscourts.gov/forms.

(9) *HSD* means highly sensitive document as defined in Local Rules 5 and 5.3.

(10) *Judge* means a U.S. District Judge or a U.S. Magistrate Judge.

(11) *Marshal* means the U.S. Marshal for the District of Maine and any Deputy U.S. Marshal.

(12) *Probation Office* means the United States Probation Office for the District of Maine.

(13) *PDF* means portable document format, an electronic file format.

(14) *PSR* means the Presentence Investigation Report prepared and filed by the Probation Office.

(15) *State* means the State of Maine.

Appendix B
Administrative Procedures Governing the Filing and Service by Electronic Means

Electronic Filing and PDF

Electronic filing is the process of uploading a document from a registered user's computer, using the Court's Internet-based Electronic Case Files (ECF) system, to file the document in the Court's case file. The ECF system only accepts documents in a portable document format (PDF). Although there are two types of PDF documents–electronically converted PDFs and scanned PDFs–only electronically converted PDFs may be filed with the Court using the ECF system, unless otherwise authorized by local rule or order.

Electronically converted PDFs are created from word processing documents (MS Word, WordPerfect, etc.) using Adobe Acrobat or similar software. They are text searchable and their file size is small.

Scanned PDFs are created from paper documents run through an optical scanner. Scanned PDFs are not searchable and have a large file size.

Software used to electronically convert documents to PDF which includes proprietary or advertisement information within the PDF document is prohibited.

Administrative Procedures

(a) General Information

(1) All documents submitted for filing in civil and criminal cases, except those documents specifically exempted in subsection (g) of these procedures, shall be filed electronically using the ECF system.

(2) The official Court record in ECF cases shall be the electronic file maintained on the Court's servers together with any physical media and paper documents filed in accordance with these procedures.

(3) All documents filed by electronic means must comply with technical standards, if any, established by the Judicial Conference of the United States or by this Court.

(4) Documents filed with the Clerk's Office will normally be reviewed no later than the close of the next business day. It is the responsibility of

the filing party to promptly notify the Clerk via telephone of a matter that requires the immediate attention of a judge.

(5) A party may apply to the Court for permission to file paper documents.

(b) Registration

(1) Attorneys admitted to the bar of this Court, including visiting attorneys, must register as filing users of the Court's ECF system prior to filing any pleadings. Registration must be on an Attorney Registration Form, a copy of which is on the Court's website, www.med.uscourts.gov.

(2) A non-prisoner who is a party to a civil action and who is not represented by an attorney may register to receive service electronically and to electronically transmit their documents to the Court for filing in the ECF system. If during the course of the action the person retains an attorney who appears on the person's behalf, the Clerk will terminate the person's registration upon the attorney's appearance.

(3) A registered user may not allow another person to file a document using the user's login and password, except for an authorized agent of the filing user. Use of a user's login and password by a staff member shall be deemed to be the act of the registered user.

(4) Registration constitutes consent to service of all documents by electronic means as provided in these procedures.

(c) Filing and Service of Civil Case Opening Documents

(1) Civil case opening documents, such as a complaint, petition, or notice of removal, together with a properly completed summons and civil cover sheet, must be sent in PDF form to MaineECFIntake@med.uscourts.gov, so that the documents can be added to ECF.

(2) The Clerk will imprint the seal of the Court and the Clerk's signature on the summons and issue the summons electronically to counsel. A party may not electronically serve a civil complaint but must print the embossed summons and effect service under Federal Rule of Civil Procedure 4.

(d) Electronic Filing

(1) Electronic transmission of a document to the ECF system, together with the transmission of a Notice of Electronic Filing (NEF) from the Court, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure and constitutes entry of the document on the docket maintained by the Clerk under Federal Rules of Civil Procedure 58, 79, and 49 and Federal Rule of Criminal Procedure 55.

(2) A document filed electronically will be deemed filed at the time and date stated on the NEF.

(3) All pleadings filed electronically must be titled using the approved list of civil or criminal events for the ECF system of this Court.

(e) Service of Electronically Filed Documents

(1) Whenever a non-sealed pleading is filed electronically, the ECF system will automatically generate and send a NEF to the filing user and registered users of record. The user filing the document should retain a paper or digital copy of the NEF, which will serve as the Court's date-stamp and proof of filing.

(2) Although the filing of sealed documents in civil cases produces an NEF, the document itself cannot be accessed and counsel are responsible for serving the sealed documents.

(3) Attorneys who have not yet registered as users with ECF and pro se litigants who have not registered with ECF must be served a paper copy of any electronically filed pleading or other document under Federal Rule of Civil Procedure 5.

(f) Deadlines.

Filing documents electronically does not alter any filing deadlines. All electronic transmissions of documents must be completed prior to midnight, Eastern Time, to be considered filed that day. Where a specific time-of-day deadline is set by Court order or stipulation, the electronic filing must be completed by that time.

(g) Special Filing Requirements and Exceptions

(1) Except as otherwise provided below, all documents in civil cases must be filed electronically, including:

(A) motions to file documents under seal and sealed documents;

(B) ex parte motions and applications;

(C) unredacted documents; and

(D) administrative records in Social Security Disability cases.

(2) The following documents may be filed in paper:

(A) administrative review proceeding records other than administrative records in social security disability cases; and

(B) the state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. § 2254 proceedings.

(3) The following documents must be filed in paper or via alternate electronic means such as email with the Clerk. These documents will be uploaded into ECF (Note that sealed documents in criminal cases will not generate an NEF and the docket entry and documents will not be accessible):

(A) motions to file documents under seal and documents filed under seal in criminal cases;

(B) ex parte motions and applications filed in criminal cases;

(C) pleadings and documents filed in sealed cases, both civil and criminal;

(D) the charging document in a criminal case, such as the complaint, indictment, or information;

(E) any pleading or document in a criminal case containing the signature of a defendant; and

(F) affidavits for search and arrest warrants.

(4) Highly sensitive documents (HSDs) must be filed in paper. See Local Rule 5.3 and Appendix E.

(5) The following restricted criminal documents must be electronically filed by the United States Probation Office and access will be provided only to applicable parties in criminal cases:

(A) pretrial services reports, any addenda, and release status reports;

(B) all versions of presentence investigation reports; and

(C) revocation reports.

(6) The following criminal documents must be electronically filed by the United States Probation Office and the documents will be sealed:

(A) sentencing recommendations; and

(B) revocation justifications.

(7) The following restricted criminal documents must be electronically filed by counsel and access will be provided only to applicable parties in criminal cases:

(A) objections to presentence investigation reports; and

(B) restricted documents in felony information cases (if not filed with the original filing paperwork), until the waiver of indictment is held, at which time it will become unrestricted.

(8) The following restricted criminal documents will be scanned by the Clerk and uploaded into ECF:

(A) financial declarations;

(B) writs of habeas corpus;

(C) forensic psychiatric evaluation reports;

(D) statements of reasons and findings affecting sentencing; and

(E) revocation judgment personal identifier attachment.

(9) The following documents must be filed in paper, and may also be scanned into ECF by the Clerk:

(A) all handwritten pleadings; and

(B) all documents filed by pro se litigants who are incarcerated or who are not registered ECF users.

(1) The following documents must be scanned by counsel and filed using ECF:

(C) Rule 4 executed service of process documents; and

(D) the state court record filed in 28 U.S.C. § 1446 removal proceedings.

(10) The following documents may be delivered to the Clerk, but may not be filed, electronically or otherwise, unless ordered by the Court:

(A) character letters and general documents in support of sentencing (excluding sentencing memoranda), whose admission will be moved at the time of sentencing;

(B) hearing and trial exhibits; and

(C) letters in support of downward departure motions.

(11) Any document to be filed with or submitted to the Court may not be password protected or encrypted.

(h) Signature

(1) **Attorneys**. The user login and password together with a user's name on the signature block constitutes the attorney's signature under the Federal Rules of Civil Procedure and the Local Rules of this Court. All electronically filed documents must include a signature block and must set forth the attorney's name, address, telephone number and email address. The name of the ECF user under whose login and password the document is submitted must be preceded by a "/s/" in the space where the signature would otherwise appear.

(2) **Multiple Signatures.** The filer of any document requiring more than one signature (e.g., pleadings filed by visiting lawyers, stipulations, joint status reports) must list all the names of other signatories, preceded by a "/s/" in the space where the signatures would otherwise appear. By submitting such a document, the filing attorney certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filing attorney has their actual authority to

submit the document electronically. The filing attorney must retain any records evidencing this concurrence for future production, if necessary, until 2 years after the expiration of the time for filing a timely appeal. A non-filing signatory or party who disputes the authenticity of an electronically filed document containing multiple signatures must file an objection to the document within 10 days of the date on the NEF.

(3) **Affidavits.** Except as provided in subsection (g)(3)(F), affidavits shall be filed electronically; however, the electronically filed version must contain the typed name of the signatory, preceded by a "/s/" in the space where the signature would otherwise appear indicating that the paper document bears an original signature. The filing attorney must retain the original for future production, if necessary, for 2 years after the expiration of the time for filing a timely appeal.

(i) Privacy Protection for Filings Made with the Court

The Clerk is not required to review documents filed with the Court for compliance with Federal Rule of Civil Procedure 5.2 or Federal Rule of Criminal Procedure 49.1. Counsel and the party or nonparty making the filing are responsible for redacting filings.

(j) Attachments

Attachments to filings and exhibits must be filed in accordance with the Court's ECF User Manual, unless otherwise ordered by the Court.

(1) When there are 50 or fewer attachments to a pleading, the attachments must be filed by counsel electronically using ECF.

(2) When there are more than 50 attachments, the attachments must be filed in one of the following ways:

(A) Using ECF, as attachments to the pleading being filed;

(B) Using ECF, using the "Additional Attachments" menu item;

(C) On paper; or

(D) On a properly labeled 3.5" floppy disk, CD, or DVD.

Attachments filed on paper or on disk must contain a comprehensive index that clearly describes each document.

(3) A filing user must submit as 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. Users who file excerpts of documents do so without prejudice to their right to timely file additional excerpts or the complete document, as may be allowed by the Court. Responding parties may timely file additional excerpts or the complete document that they believe are directly germane.

(4) Filers may not attach as an exhibit any pleading or other paper already on file with the Court in that case but should instead reference that document by title and ECF document number.

(k) Orders and Judgments

(1) Proposed orders may not be filed unless requested by the Court. When requested by the Court, proposed orders must be filed by email in word processing format.

(2) A judge, or any authorized member of the Court staff, may grant routine orders by a text-only entry on the docket. In such cases, no PDF document will issue; the text-only entry will be the Court's only order on the matter and counsel will receive a system-generated NEF.

(3) Any order or other court-issued document filed electronically without the original signature of a judge or the Clerk has the same force and effect as if the judge or the Clerk had signed a paper copy of the order and it had been entered on the docket in a conventional manner.

(l) Transcripts

(1) **Proceedings of this Court.**

(A) A transcript of a proceeding of this Court must be filed electronically using ECF. The transcript shall be available at the Clerk's Office, for inspection only, for a period of 90 days after it is filed. During this 90-day period, a copy of the transcript may be obtained from the court reporter or transcriber at the rate established by the Judicial Conference. The transcript will be available at the public terminal at the courthouse and remotely electronically available to any attorneys of record who have purchased a copy from the court reporter or transcriber.

(B) In compliance with the policy of the Judicial Conference of the United States and to address privacy concerns outlined in section (i) of this appendix:

(i) parties must file a notice of intent to redact within 7 calendar days of the filing of the official court transcript;

(ii) if redaction is requested, parties must submit to the court reporter a redaction request within 21 days from the filing of the official court transcript;

(iii) parties must move the Court for any additional redactions beyond those identified in section (i) of this appendix;

(iv) any redacted transcript must be filed using ECF within 31 days from the filing of the official court transcript;

(v) after the 90-day inspection-only period has ended, the original transcript, or redacted transcript, if so filed, will be publicly available through PACER.

(C) As required by the Judicial Conference of the United States Policy on Privacy and Public Access to Electronic Case Files, documents in criminal cases containing identifying information about jurors or potential jurors will not be included in the public case file and will not be made available to the public at the courthouse or via remote electronic access. Transcripts of proceedings may become public record; therefore, counsel are advised to use juror numbers instead of juror names during court hearings.

(2) **Transcripts from Other Courts.** A transcript of a proceeding of another court must be filed electronically in PDF if possible and otherwise in paper.

(3) **Depositions**. Excerpts of depositions in support of or in opposition to a motion must be filed using ECF, unless otherwise permitted by the Court. Full transcripts of depositions to be used at trial should be filed in paper.

(m) Fax

No pleadings or other documents may be submitted to the Court for filing by fax without prior leave of Court.

(n) Technical Failures

(1) A filing user whose filing is made untimely as the result of a technical failure may seek appropriate relief from the Court.

(2) A technical failure of the Court's ECF system is deemed to have occurred when the system cannot accept filings continuously or intermittently over the course of any period of time greater than one hour. Known system outages will be posted on the Court's website along with guidance on how to proceed, if applicable.

(o) Unrepresented Parties

Non-prisoner unrepresented parties in civil actions may register with ECF or may file (and serve) all pleadings and other documents in paper. The Clerk will scan into ECF any pleadings and documents filed on paper in accordance with section (g) of these procedures.

(p) Access to Documents

(1) **Electronically** Stored Documents. The public may review at the Clerk's Office all filings that have not been sealed. Except for social security cases, the public may access civil filings made after January 1, 2003, and criminal filings made after November 1, 2004, in ECF at the Court's website, www.med.uscourts.gov, by obtaining a PACER login and password. In social security cases, the public may access judgments, opinions, and orders filed on or after December 1, 2007. Access to other documents filed in social security cases will be restricted to the attorneys of record.

(2) **Sealed Cases and Documents**

(A) **In General.** In both civil and criminal actions, cases may be sealed in their entirety, or only as to certain documents. Sealing may be required when a case is initiated or at various times during the proceedings. Cases and documents can only be sealed by statute, local rule, or Court order. A sealed case or document may not be examined except by order of the Court, or by the following judicial employees: Clerk of Court, Chief Deputy, Information Systems Analysts, Case Managers, Chambers Staff and Probation Office employees.

(B) **Criminal.** In a criminal case that is not sealed in its entirety, when an individual document is sealed, neither the docket entry nor the document will be available to the public without a Court order, unless the Local Rules provide otherwise.

(C) **Civil.** In a civil case that is not sealed in its entirety, when an individual document is sealed, the docket entry remains publicly available, unless the Local Rules provide otherwise. However, the sealed document itself will not be available to the public except by Court order.

Appendix C
Model Complaint in Social Security Appeal

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

ABC,	)	
	)	
Plaintiff,	)	
	)	No. _____
v.	)	
	)	
XYZ, Commissioner of Social Security,	)	
	)	
Defendant.	)	

Complaint

The above-named plaintiff makes the following representations to this Court for the purpose of obtaining judicial review of a decision of the defendant adverse to the plaintiff:

1. The plaintiff is a resident of (City), (State).

2. The plaintiff complains of a decision which adversely affects the plaintiff in whole or in part. The decision has become the final decision of the Commissioner for purposes of judicial review and bears the following caption:

In the Case of	Claim for
(Claimant)	_____
(Wage Earner)	

3. The plaintiff has exhausted administrative remedies in this matter and this Court has jurisdiction for judicial review pursuant to 42 U.S.C. § 405(g).

WHEREFORE plaintiff seeks judicial review by this Court and the entry of a judgment for such relief as may be proper, including costs.

(Date)

(Attorney for Plaintiff)

(Address)

(Telephone)

(E-mail)

Appendix D
Agreement on Acceptance of Service

To facilitate and assure timely service of process and to provide adequate time to answer civil complaints filed by *in forma pauperis* litigants and habeas corpus petitions under 28 U.S.C. § 2254, the Clerk of Court of the United States District Court for the District of Maine and the Attorney General of the State of Maine agree to the following procedures. This agreement addresses cases in which the United States District Judge or Magistrate Judge determines that service documents are to issue when a plaintiff has been granted *in forma pauperis* status in a civil action involving the State of Maine or its employees and in all cases where a petitioner has filed a habeas corpus petition under 28 U.S.C. § 2254, regardless of whether or not the filing fee has been paid.

(a) General Provisions

(1) At case opening, the case manager will add an appropriate entity specified by the Attorney General as a "Notice Only Party" to the court's Case Management and Electronic Case Filing System (CM/ECF). The Attorney General's Office will thereby receive electronic notice of all case filings and activity, including the case initiating documents, to any email accounts specified by that office in their "Notice Only" designation. If the Attorney General ultimately enters an appearance on behalf of one or more defendants in the case, the "Notice Only Party" will be terminated and the attorney/(s) who enters his/her appearance will be designated as the counsel to whom notice is sent.

(2) These procedures shall take effect for any case filed after May 1, 2009, and remain in effect until terminated by the Attorney General or the Clerk.

(b) Habeas Corpus Petitions

Pursuant to the Rules 4 and 5 Governing § 2254 Cases, following preliminary review by the Court, the respondent is only required to answer or otherwise respond to the petition if ordered to do so by the court. In its order the Court will fix the time by which response must be made, normally allowing 60 days. The Attorney General agrees that entry of the order to respond on the docket by the clerk complies with the requirement of service of the petition on the respondent, the Attorney General, or other appropriate officer and will accept service of the same.

(c) Prisoner IFP Complaints wherein Maine Employees and/or the Department of Corrections are Defendants

Pursuant to 28 U.S.C. § 1915A all prisoner complaints will be subject to mandatory screening before the Court will order service of complaint. The Attorney General shall file no pleadings in the case until after the Court completes its preliminary review. If the Court determines that the complaint should be served, the clerk will enter the following notice on the docket:

NOTICE: The court has completed its preliminary review and ordered the complaint to be served. Pursuant to the Agreement on Service between the Clerk of Court and the Maine Attorney General, this Notice constitutes service as directed by the court. The Maine Attorney General shall file notice of acceptance or declination of acceptance of service within thirty (30) days.

(1) If service is accepted, it shall constitute both proof of service and acceptance of service under Federal Rule of Civil Procedure 4, and the clerk shall commence the 60 day answer period from the date the Notice was entered on the docket, as though service had been made by mailing a request for a waiver to the defendant pursuant to the provisions of Federal Rule of Civil Procedure 4(d)(3).

(2) If service is declined, the Attorney General, shall to the extent able, explain the reason for declination, e.g., the defendant is no longer employed by the State of Maine, there is a conflict of interest, or the defendant has declined representation by the Attorney General. A notice of acceptance or declination of service shall be filed in every case where the Attorney General has been listed as a "Notice Only Party."

(3) In those cases where service is declined, the Court shall immediately order in-hand service by the United States Marshals Service on behalf of any indigent prisoner and shall further order the Attorney General to provide the last known address of the defendant to the United States Marshals Service to be used only for the purpose of attempting to effectuate in-hand service.

(4) If the Court determines that a shortened response time is required because the plaintiff has filed a preliminary motion for injunctive relief, or for any other reason requiring an expedited response, it shall notify the Attorney General of any shortened response date by a specific order.

(d) Non-prisoner IFP cases wherein Maine Employees and/or Maine Agencies or Departments are Defendants

(1) The Attorney General shall file no pleadings in a non-prisoner IFP case until after the Court issues an order on the plaintiff's IFP status. If the plaintiff is granted IFP status and service documents are to issue, the clerk will enter the following notice on the docket:

(2) NOTICE: The court has granted IFP status and ordered the complaint to be served. Pursuant to the Agreement on Service between the Clerk of Court and Maine Attorney General, this Notice constitutes service as directed by the court. The Maine Attorney General shall file notice of acceptance or declination of acceptance of service within thirty (30) days.

(3) Following entry of the Notice, the procedures applicable to prisoner IFP cases, outlined above, shall apply.

DATE: 12/1/2019

/s/ Aaron Frey
Attorney General
State of Maine

DATE: 12/1/2019

/s/ Christa K. Berry
Clerk of Court
District of Maine

Appendix E
Judicial Conference Guidance on Highly Sensitive Documents (HSDs)

The Judicial Conference Committee on Court Administration and Case Management developed the following guidance for Highly Sensitive Documents (HSDs).

HSDs are a narrow subset of sealed documents that must, for their protection, be stored offline. The added protection for HSDs is important because, in the event of a breach of the courts' electronic case management system by a sophisticated actor, those documents are more likely to be sought out and stolen, or their unauthorized access or exposure are likely to have outsized consequences beyond that of most sealed documents, or both.

The following definition and guidance are intended to assist courts in identifying highly sensitive documents and managing the offline handling of HSDs. This guidance does not apply to classified information, which should be handled according to the Classified Information Procedures Act (CIPA) and the Chief Justice's Security Procedures related thereto, 18 U.S.C. app. 3 §§ 1, 9(a).[1]

(a) Definition

A Highly Sensitive Document (HSD) is a document or other material that contains sensitive, but unclassified, information that warrants exceptional handling and storage procedures to prevent significant consequences that could result if such information were obtained or disclosed in an unauthorized way. Although frequently related to law enforcement materials, especially sensitive information in a civil case could also quality for HSD treatment.

[1] The Chief Justice's Security Procedures (criminal prosecutions) and the Department of Justice (DOJ) regulation 28 C.F.R. § 17.17(c) (civil actions) govern classified information in any form in the custody of a court. Such classified information may not be filed on CM/ECF or any other court network or standalone computer system. Courts are assisted in their protection of classified information by classified information security officers, who are detailed to the courts by the DOJ's Litigation Security Group, a unit independent of the attorneys representing the government. Courts should direct questions regarding how to handle classified documents to the DOJ's Litigation Security Group. See also, Robert Timothy Reagan, Keeping Government Secrets: A Pocket Guide on the State-Secrets Privilege, the Classified Information Procedures Act and Classified Information Security Officers, (Federal Judicial Center, 2d ed. 2013).

(1) **Examples of HSDs:** Examples include ex parte sealed filings relating to: national security investigations, cyber investigations, and especially sensitive public corruption investigations; and documents containing a highly exploitable trade secret, financial information, or computer source code belonging to a private entity, the disclosure of which could have significant national or international repercussions.

(2) **Exclusions:** Most materials currently filed under seal do not meet the definition of an HSD and do not merit the heightened protections afforded to HSDs. The form or nature of the document, by itself, does not determine whether HSD treatment is warranted. Instead, the focus is on the severity of the consequences for the parties or the public should the document be accessed without authorization. Most presentence reports, pretrial release reports, pleadings related to cooperation in criminal cases, social security records, administrative immigration records, applications for search warrants, interception of wire, oral, or electronic communications under 18 U.S.C. § 2518, and applications for pen registers, trap, and trace devices would not meet the HSD definition.

(b) HSDs: Sources and Characteristics

(1) HSD designation may be requested by a party in a criminal, civil, appellate, or bankruptcy matter.

(2) HSDs vary in their physical form and characteristics. They may be paper, electronic, audiovisual, microform, or other media. The term "document" includes all recorded information, regardless of its physical form or characteristics.

(3) An opinion or order entered by the court related to an HSD may itself constitute an HSD, if it reveals sensitive information in the HSD.

(4) An HSD in the lower court's record will ordinarily be also regarded by an appellate court as an HSD.

(c) HSD Designation

(1) A court's standing order, general order, or equivalent directive should include the HSD definition set forth in (a) above and outline procedures for requesting, filing, and maintaining HSDs.

(2) The onus is on the party, including the Department of Justice and other law enforcement agencies, to identify for the court those documents that the party believes qualify as HSDs and the basis for that belief. In moving for HSD treatment, the filing party must articulate why HSD treatment is warranted, including, as appropriate: the contents of the document; the nature of the investigation or litigation; and the potential consequences to the parties, the public, or national interests, in the event the information contained in the document is accessed or disseminated without authorization.

(3) **Judicial Determination:**

(A) The presiding judge (or, when no presiding judge is available, the chief judge) should determine whether a document meets the HSD definition by evaluating whether a party has properly articulated sufficient reasons for such treatment, including the consequences for the matter, should the document be exposed. Most applications for HSD treatment are likely to be ex parte, but the presiding judge should resolve any disputes about whether a document qualifies as an HSD as defined in (a) above. The fact that a document may contain sensitive, proprietary, confidential, personally identifying, or financial information about an entity or an individual, that may justify sealing of the document or case, does not alone qualify the document as an HSD.

(B) In making this determination, the court should consider properly articulated concerns that the unauthorized access or disclosure of the information contained in the document at issue would result in significant adverse consequences that outweigh the administrative burden of handling the document as an HSD. As a general matter, courts should give careful and appropriate consideration to the concerns articulated by the executive branch in matters implicating the authority of the executive branch to oversee the military and safeguard national security. If relevant, the court has the discretion to consider the impact of the heightened protection provided by offline placement to any other party's right of access.

(d) Exceptional Administrative Treatment for HSDs:

(1) **Filing:** HSDs and requests for HSD treatment will be accepted for filing only in paper form or via a secure electronic device (e.g., USB stick or portable hard drive).

(2) **Handling:** The court must handle the HSDs by storing all information offline. Furthermore, any pleadings or other filings created in connection with the proceedings should not disclose the subject matter of the HSD (including information that may identify the place, object, or subject of an ex parte filing).

(3) **Docketing:** Docket entries for HSDs should not include personal or other identifying details related to or contained within them. For example:

8/25/22 [no link] SYSTEM ENTRY-Docket Entry 92
Restricted until further notice (Entered 8/25/22).

(4) **Storing**: HSDs shall be stored and handled only in a secure paper filing system, or an encrypted external hard drive attached to an air- gapped system (i.e., entirely disconnected from networks and systems, including a court unit's local area network and the judiciary's network).

(5) **Safeguarding Internal Communication**: Care should also be taken in judicial communications regarding HSDs, including notes and pre-decisional materials, not to include the protected substance of HSDs in any communication using the internet or a computer network.

(e) Duration of HSD Treatment

HSDs are stored temporarily or permanently offline as the situation requires. When designating a document as an HSD, courts should indicate when the designation will automatically lapse or when the designation should be revisited by the judicial officer. HSDs should be migrated as sealed documents to the court's electronic docketing system and unsealed, as appropriate as soon as the situation allows.

Appendix F
Confidentiality Orders

In cases in which a party believes a confidentiality order is appropriate, the Court provides the following forms: (1) the Standard Confidentiality Order (Standard Order); and (2) the Heightened Confidentiality Order (Heightened Order), which are also available on the Court's website, https://www.med.uscourts.gov/forms.

If all parties consent to a motion to use the Standard Order, the Court ordinarily will grant it. If all parties consent to amend the Standard Order, the parties must include in their motion an explanation of the proposed changes.

In limited circumstances that meet the heightened standard to treat certain information as "attorneys' eyes only," a party may propose to use the Heightened Order instead of the Standard Order. A party may also propose amendments to this order. Even if all parties consent to the use of this order or an amended version of it, the parties must explain why the use of a heightened order is appropriate.

If the parties are requesting amendments to either of these orders, they must submit a redlined version with the requested changes to the court with their motion.

If all parties do not consent to use or amend the same confidentiality order, any party seeking a confidentiality order must file a motion under Local Rule 7.

Appendix F-1 Form Standard Confidentiality Order

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

ABC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No.
	)	
XYZ,	)	
	)	
Defendant.	)	

Confidentiality Order

Upon consent of the parties, or upon motion for good cause shown, it is ORDERED:

1. Scope and Purpose. This Order is entered based on the representations of the parties and for the purpose of facilitating discovery. All testimony, documents, things, material, and other information produced in discovery are subject to this Order, including information produced by third parties in response to a subpoena or otherwise. This Order is binding upon all counsel and their law firms, the parties, and persons who receive confidential information in this case.

2. Service of Order to Third Parties. This Order must be served on any third party with any subpoena served in this matter.

3. Definition of Confidential Information. Confidential information (Confidential Information) is information that a party believes in good faith is protected from disclosure by law or that should be protected from disclosure as

confidential because it is likely to be detrimental if disclosed, including for example, sensitive personal information, trade secrets, confidential or proprietary financial information, competitive information, personnel records, or commercially sensitive information. Information that is publicly available is not confidential. The designation of information as confidential does not mean that the information has any status or protection by statute or otherwise except to the extent and for the purposes of this Order.

4. Form and Timing of Designation. Any party or third party may designate documents, testimony, things, material, or other information as Confidential Information and restricted from disclosure under this Order at the time they are produced by marking them "Confidential" on all copies in a manner that will not interfere with the legibility of the information. The right to designate information as confidential is granted to third parties who testify or produce documents or information in response to a subpoena. Information should be designated confidential before or at the time of the production or disclosure of the information.

5. Inadvertent Production. Information inadvertently produced without a confidentiality designation must be designated as soon as practicable after the inadvertent disclosure and will be treated as confidential from the date written notice of the designation is provided to the receiving party. Inadvertent production alone will not constitute a waiver of the confidentiality designation. If the producing person notifies all parties that confidential information was inadvertently produced, the receiving parties must return or destroy the information and may not use the

information unless the parties agree or the Court rules on it.

6. Depositions. Deposition testimony will be deemed confidential only if designated. A party must take the following steps to designate deposition testimony as Confidential Information:

(a) A party must state on the record during the deposition that the testimony contains Confidential Information protected by this Order. Any testimony so designated will remain confidential for 45 days after receipt of the deposition transcript from the court reporter.

(b) Within 45 days after receipt of the transcript from the court reporter, a designating party must serve a Notice of Designation on all parties of record as to specific portions of the transcript, identified by page and line, to be designated confidential. Thereafter, the portions so designated will be protected as confidential pending objection under the terms of this Order.

(c) The failure to serve a Notice of Designation waives the confidential designation made on the record.

7. Protection of Confidential Information. Confidential Information must not be used or disclosed for any purpose other than to conduct this litigation. The Confidential Information may only be used or disclosed as provided in this Order or additional orders.

8. Disclosure of Confidential Information. Confidential Information may only be disclosed to the following people and only as specifically needed for the purposes of this litigation:

(a) counsel, including necessary employees;

(b) parties, including necessary employees;

(c) mediators, special masters or neutrals;

(d) court reporters and video operators;

(e) consultants, experts, and contractors;

(f) deponents; and

(g) witnesses or others by written consent of the affected parties.

9. Acknowledgement Required. If Confidential Information is disclosed to witnesses, contractors, consultants, experts, or others by written consent, each of the individuals must be advised that the information is confidential and must sign Exhibit A.

10. Unauthorized Disclosure. If counsel or any party or third party learns of an unauthorized disclosure of Confidential Information, that individual must promptly report the disclosure to the party that produced the information and take steps to retrieve the information and remedy any harm caused by the disclosure.

11. Procedures for Filing Confidential Information. This Order does not authorize the sealing of Confidential Information without Court approval. Parties wishing to file Confidential Information under seal must follow the procedures in Local Rule 7A.

12. No Greater Protection of Specific Information. No party may withhold information from discovery on the ground that it requires protection greater than provided in this Order unless the party moves for an order providing additional

protection.

13. Challenges to Confidential Designations. Any confidential designation is subject to challenge by any party or producing third party. A party may challenge a designation under this Order as follows:

(a) **Challenge to Information Designation.** A party need not challenge a designation at the time the information is designated. If a party subsequently disputes a confidentiality designation, the affected parties must make a good faith effort to resolve the dispute. If they cannot resolve the dispute, any affected party may seek to resolve the discovery dispute under the Local Rules for the District of Maine.

(b) **Challenge to Qualified Person.** A party or producing third party may challenge the designation of a person as qualified to receive such information under this Order within 21 days of becoming aware the person has received or will receive the information. If they cannot resolve the dispute through a good faith effort, any affected party may seek to resolve the discovery dispute under the Local Rules.

14. Action by the Court. Applications to the Court for orders relating to Confidential Information must be made by motion under Local Rule 7.

15. Use of Confidential Information at Trial. A party that intends to present at trial or anticipates that another party may present Confidential Information at trial should identify the issue, not the specific Confidential Information, in the pretrial memorandum. The Court may make such orders as are

necessary to govern the use of such documents or information at trial.

16. Obligations on Conclusion of Litigation.

(a) **Order Remains in Effect.** Unless otherwise agreed or ordered, this Order will remain in force after dismissal or entry of final judgment not subject to further appeal. Filings made under seal will only be deleted from ECF upon order of the Court.

(b) **Return or Destruction of Confidential Information.** Within 60 days after the conclusion of the litigation, including any appeal, the receiving party must return the Confidential Information if requested or destroy the Confidential Information and notify the producing party that it was destroyed. Notwithstanding this provision, counsel are entitled to retain copies of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Confidential Information. Any such materials retained by counsel that contain or constitute Confidential Information remain subject to this Order.

(c) **Third Parties.** When any third party produces Confidential Information voluntarily or in response to a subpoena, the receiving party must notify the producing third party promptly after the conclusion of the litigation, including any appeal, so that the producing third party may avail itself of the rights afforded by this Order.

17. No Judicial Determination. This Order is not a judicial determination that any documents or information designated confidential are subject to protection under any statute or rule. Nothing in this Order or any action or agreement of a party under this Order limits the Court's power to make orders concerning the disclosure of documents produced in discovery or at trial.

18. Non-Waiver of Privilege or Protection and Inadvertent Disclosure. Nothing in this Order waives or limits any applicable privilege, work product, or other protection, including confidential business information or personal identifying information, or limits the ability of a party to seek relief for inadvertent disclosure of information protected by privilege, work product, or other protection.

19. Attorney-Client Privilege. This Order will be interpreted to provide the maximum protection allowed by Federal Rule of Evidence 502(d).

20. Modification. The Court may modify this Order either on its own or at a party's request by motion filed under Local Rule 7.

So Ordered.

Dated:

U.S. District Judge
U.S. Magistrate Judge
U.S. Bankruptcy Judge

Exhibit A

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

ABC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No.
	)	
XYZ,	)	
	)	
Defendant.	)	

Acknowledgement and
Agreement to be Bound

The undersigned hereby acknowledges that they have read the Confidentiality Order dated _____ in the above-captioned action, understands its terms, and agrees to be bound by them. The undersigned submits to the jurisdiction of the United States District Court for the District of Maine in matters relating to the Confidentiality Order and understands that the terms of the Confidentiality Order obligate them to use materials designated confidential in accordance with the Confidentiality Order solely for the purposes of the above-captioned action, and not to disclose any such documents or information derived from them to any other person, firm, or entity.

The undersigned acknowledges that violation of the Confidentiality Order may result in penalties for contempt of court.

Name: _____

Job Title: _____

Employer: _____

Business Address: _____

_____

_____

Date: _____ Signature: _____

Appendix F-2 Form Heightened Confidentiality Order

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

ABC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No.
	)	
XYZ,	)	
	)	
Defendant.	)	

Heightened Confidentiality Order

Upon motion for good cause shown, it is ORDERED:

1. Scope and Purpose. This Order is entered based on the representations of the parties and for the purpose of facilitating discovery. All testimony, documents, things, material, and other information produced in discovery are subject to this Order, including information produced by third parties in response to a subpoena or otherwise. This Order is binding upon all counsel and their law firms, the parties, and persons who receive confidential information in this case.

2. Service of Order to Third Parties. This Order must be served on any third party with any subpoena served in this matter.

3. Definition of Confidential Information. Confidential information (Confidential Information) is information that a party believes in good faith is protected from disclosure by law or that should be protected from disclosure as confidential because it is likely to be detrimental if disclosed, including for example,

sensitive personal information, trade secrets, confidential or proprietary financial information, competitive information, personnel records, or commercially sensitive information. Information that is publicly available is not confidential. The designation of information as confidential does not mean that the information has any status or protection by statute or otherwise except to the extent and for the purposes of this Order.

4. Definition of Attorneys' Eyes Only Confidential Information. Attorneys' Eyes Only Confidential Information is information: (a) that meets the above definition of Confidential Information; and (b) that a party or party's counsel, after reviewing the information, has a good faith belief contains information so sensitive that it could cause harm if disclosed to another party in this action. Confidential Information and Attorneys' Eyes Only Confidential Information are referred to collectively as Protected Information**.**

5. Form and Timing of Designation. Any party or third party may designate documents, testimony, things, material, or other information as Protected Information and restricted from disclosure under this Order at the time they are produced by marking them "Confidential" or "Attorneys' Eyes Only" on all copies in a manner that will not interfere with the legibility of the information. The right to designate information as Protected Information is granted to third parties who testify or produce documents or information in response to a subpoena. Information should be designated protected before or at the time of the production or disclosure of the information.

6. Inadvertent Production. Information inadvertently produced without a confidentiality designation must be designated as soon as practicable after the inadvertent disclosure and will be treated as protected from the date written notice of the designation is provided to the receiving party. Inadvertent production alone will not constitute a waiver of the confidentiality designation. If the producing person notifies all parties that protected information was inadvertently produced, the receiving parties must return or destroy the information and may not use the information unless the parties agree or the Court rules on them.

7. Depositions. Deposition testimony will be deemed Protected Information only if designated. A party must take the following steps to designate deposition testimony as Confidential Information or Attorneys' Eyes Only Confidential Information:

(a) A party must state on the record during the deposition that the testimony contains such information protected by this Order. Any testimony so designated will remain protected under this Order for 45 days after receipt of the deposition transcript from the court reporter.

(b) Within 45 days after receipt of the transcript from the court reporter, a designating party must serve a Notice of Designation on all parties of record as to specific portions of the transcript, identified by page and line, to be designated as a form of Protected Information. Thereafter, the portions so designated will be so protected pending objection under the terms of this Order.

(c) The failure to serve a Notice of Designation waives the designation made on the record.

8. Protection of Confidential Information. Protected Information must not be used or disclosed for any purpose other than to conduct this litigation. Protected Information may only be used or disclosed as provided in this Order or additional orders.

9. Disclosure of Confidential Information. Confidential Information may only be disclosed to the following people and only as specifically needed for the purposes of this litigation:

(a) counsel, including necessary employees;

(b) parties, including necessary employees;

(c) mediators, special masters or neutrals;

(d) court reporters and video operators;

(e) consultants, experts, and contractors;

(f) deponents; and

(g) witnesses or others by written consent of the affected parties.

10. Disclosure of Attorneys' Eyes Only Confidential Information. Attorneys' Eyes Only Confidential Information may not be disclosed to parties or their employees. Such information may only be disclosed to the following people and only as specifically needed for the purposes of this litigation:

(a) outside counsel, including necessary employees;

(b) experts, court reporters and video operators; or

(c) others by written consent of the affected parties.

11. Acknowledgement Required. If Protected Information is disclosed to witnesses, contractors, consultants, experts or others by written consent, each of the individuals must be advised that the information is protected and must sign Exhibit A.

12. Unauthorized Disclosure. If counsel or any party or third party learns of an unauthorized disclosure of Protected Information, that individual must promptly report the disclosure to the party that produced the information and take steps to retrieve the information and remedy any harm caused by the disclosure.

13. Procedures for Filing Confidential Information. This Order does not authorize the sealing of Protected Information without Court approval. Parties wishing to file Protected Information under seal must follow the procedures in Local Rule 7A.

14. No Greater Protection of Specific Information. No party may withhold information from discovery on the ground that it requires protection greater than provided in this Order unless the party moves for an order providing additional protection.

15. Challenges to Designations. Any confidential or attorneys' eyes only designation is subject to challenge by any party or producing third party. A party may challenge a designation under this Order as follows:

(a) **Challenge to Information Designation.** A party need not challenge a designation at the time the information is designated. If a party

subsequently disputes a designation, the affected parties must make a good faith effort to resolve the dispute. If they cannot resolve the dispute, any affected party may seek to resolve the discovery dispute under the District of Maine Local Rules.

(b) **Challenge to Qualified Person.** A party or producing third party may challenge the designation of a person as qualified to receive such information under this Order within 21 days of becoming aware the person has received or will receive the information. If they cannot resolve the dispute through a good faith effort, any affected party may seek to resolve the discovery dispute under the District of Maine Local Rules.

16. Action by the Court. Applications to the Court for orders relating to Protected Information must be made by motion under Local Rule 7.

17. Use of Protected Information at Trial. A party that intends to present at trial or anticipates that another party may present at trial Protected Information should identify the issue, not the specific information, in the pretrial memorandum. The Court may make such orders as are necessary to govern the use of such documents or information at trial.

18. Obligations on Conclusion of Litigation.

(a) **Order Remains in Effect.** Unless otherwise agreed or ordered, this Order will remain in force after dismissal or entry of final judgment not subject to further appeal. Filings made under seal will only be deleted from ECF upon order of the Court.

(b) **Return or Destruction of Confidential Information.** Within 60 days after the conclusion of the litigation, including any appeal, the receiving party must return the Protected Information if requested or destroy the Protected Information and notify the producing party that it was destroyed. Notwithstanding this provision, counsel are entitled to retain copies of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Information. Any such materials retained by counsel that contain or constitute Protected Information remain subject to this Order.

(c) **Third Parties.** When any third party produces Protected Information voluntarily or in response to a subpoena, the receiving party must notify the producing third party promptly after the conclusion of the litigation, including any appeal, so that the producing third party may avail itself of the rights afforded by this Order.

19. No Judicial Determination. This Order is not a judicial determination that any documents or information designated confidential or attorneys' eyes only are subject to protection under any statute or rule. Nothing in this Order or any action or agreement of a party under this Order limits the Court's power to make orders concerning the disclosure of documents produced in discovery or at trial.

20. Non-Waiver of Privilege or Protection and Inadvertent Disclosure. Nothing in this Order waives or limits any applicable privilege, work product, or other protection, including confidential business information or personal identifying information, or limits the ability of a party to seek relief for inadvertent disclosure of information protected by privilege, work product, or other protection.

21. Attorney-Client Privilege. This Order will be interpreted to provide the maximum protection allowed by Federal Rule of Evidence 502(d).

22. Modification. The Court may modify this Order either on its own or at a party's request by motion filed under Local Rule 7.

So Ordered.

Dated:

U.S. District Judge
U.S. Magistrate Judge
U.S. Bankruptcy Judge

Exhibit A

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

ABC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No.
	)	
XYZ,	)	
	)	
Defendant.	)	

Acknowledgement and
Agreement to be Bound

The undersigned hereby acknowledges that they have read the Heightened Confidentiality Order dated _____ in the above-captioned action, understands its terms, and agrees to be bound by them. The undersigned submits to the jurisdiction of the United States District Court for the District of Maine in matters relating to the Heightened Confidentiality Order and understands that the terms of the Heightened Confidentiality Order obligate them to use materials protected in accordance with the Heightened Confidentiality Order solely for the purposes of the above-captioned action, and not to disclose any such documents or information derived from them to any other person, firm, or entity.

The undersigned acknowledges that violation of the Heightened Confidentiality Order may result in penalties for contempt of court.

Name: _____

Job Title: _____

Employer: _____

Business Address: _____

_____

_____

Date: _____ Signature: _____