

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA**

**IN RE:           2004 REVISION OF LOCAL RULES  
                  1.1, 3.1, 5.1, and 11.1**

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**Misc. No.** \_\_\_\_\_

Following the procedures outlined in Title 28, United States Code, Section 2071; in Rule 83, Federal Rules of Civil Procedure; and in Rule 57, Federal Rules of Criminal Procedure, the judges of this court do unanimously adopt the appended Local Rules 1.1, 3.1, 5.1, and 11.1.

The updated rules shall be effective January 1, 2004.

DONE AND ENTERED this   9th   day of January, 2004

*/s/Roger Vinson*

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Roger Vinson  
Chief Judge

**RULE 1. 1 Scope of the Rules, Electronic Filing, and Administrative Order**

These rules shall apply to all proceedings in this court, whether civil or criminal, and may be cited as "N.D. Fla. Loc. R."

Commencing on January 1, 2004, this will be an electronic court and electronic filing will be required in most civil and criminal cases. Procedures for electronic filing shall be set out in an Administrative Order.

The text of these Local Rules and the Administrative Order are available on the Internet homepage for the Northern District of Florida.

### **RULE 3.1 Divisions of the District for Docketing and Trial**

**(A) Divisions.** This district shall be divided into four (4) divisions. All civil cases in which venue properly lies in a division of this district, and all criminal cases in which the offense was committed in a division of this district, shall be filed in that division and shall remain pending in that division until final disposition unless transferred to another division by order of the court. To the extent that these rules or Administrative Orders permit the filing of paper documents, the file containing the paper documents shall be maintained in the division where the judicial officer to whom the case is assigned maintains his or her principal office. Trial of any case, civil or criminal, shall normally be held in the division in which the case is pending, but trial and any hearing may be held in any division in the discretion of the presiding judicial officer as long as consistent with law. The divisions are as follows:

(1) **Pensacola Division** shall be composed of the following counties: Escambia, Santa Rosa, Okaloosa and Walton.

(2) **Panama City Division** shall be composed of the following counties: Jackson, Holmes, Washington, Bay, Calhoun, and Gulf.

(3) **Tallahassee Division** shall be composed of the following counties: Leon, Gadsden, Liberty, Franklin, Wakulla, Jefferson, Taylor and Madison.

(4) **Gainesville Division** shall be composed of the following counties: Alachua, Lafayette, Dixie, Gilchrist, and Levy.

**(B) Place for Docketing Removed Cases.** All cases removed to this court from the courts of the State of Florida shall be docketed in the division of the district wherein lies the county from which the action was removed.

(C) **Transfer.** The court may order any cause, civil or criminal, transferred from one division to any other division.

## **RULE 5.1 Files and Filing**

### **(A) Electronic Case Filing.**

(1) **Electronic Case Filing Required; Administrative Order.** All documents in civil and criminal cases shall be filed by electronic means, except that documents in cases filed pro se (prisoner and non-prisoner), and documents in other categories of cases (or types of documents) identified by Administrative Order, shall continue to be filed in paper form. A judicial officer may grant other exceptions for good cause.

(2) **Electronic Filing and Docketing Defined.** Electronic transmission of a document to the Electronic Case Filing System pursuant to these Rules and the Administrative Order, together with the transmission of a Notice of Electronic Filing from the court's electronic filing system, constitutes the filing of the document for all purposes pursuant to the Federal Rules of Civil and Criminal Procedure and the Local Rules of this court, and constitutes entry of the document upon the docket kept by the Clerk under Fed.R.Civ.P. 58 and 79.

(3) **Consequences of Electronic Filing.** When a document has been filed electronically, the official record is the electronic recording of the document in the court's Electronic Case Filing System. A document filed by electronic means in compliance with these Local Rules and Administrative Order is the functional equivalent of a paper document for application of the Federal Rules of Civil and Criminal Procedure and the Local Rules.

(4) **Time of filing and docketing.** The time of filing and docketing electronically is assigned automatically when the transmission has been accepted by the Electronic Case Filing System. The time of filing is recorded in the Notice of Electronic Filing. Filing by electronic transmission prior to midnight of the local

time of the division in which the case is pending constitutes filing on that day.

**(5) Filing Users who may file documents; consent to receive service and notice electronically.** A "Filing User" is a person who, pursuant to procedures established by Administrative Order, has been issued a login user name and a password, both of which are necessary to file documents electronically, and who, pursuant to Federal Rule of Civil Procedure 5(b)(2)(D), has consented in writing to receive service and notices electronically. Only a Filing User, or a person authorized by a Filing User to file documents on behalf of the Filing User, may file documents electronically. In addition to the written consent required to become a Filing User, participation in the Electronic Case Filing System as a Filing User by receipt of a login user name and password shall constitute a request for, and consent to, electronic service and notice pursuant to Federal Rule of Civil Procedure 5(b)(2)(D) and Federal Rule of Criminal Procedure 49, and waiver of the right to personal service or service by first class mail.

**(6) Electronic service.** Pursuant to Federal Rule of Civil Procedure. 5(b)(2)(D), service of documents filed electronically shall be through the court's transmission facilities. Transmission of the Notice of Electronic Filing constitutes service of the filed document upon each party in the case who is registered as a Filing User and has consented to service by electronic means.

**(7) Electronic signatures.** Use of the Filing User's login user name and password, either by the Filing User or by someone authorized to act on behalf of a Filing User, to file a document electronically is the legal equivalent of the Filing User's original signature on the document filed and is, for all purposes, the signature of the Filing User required by Fed.R.Civ.P. 11, the Federal Rules of Civil and Criminal Procedure, these Local Rules, and any other purpose for which a signature is required in connection with proceedings before the court. Orders, notices, and other documents which have been filed electronically by a judicial officer, or text-only docket orders or notices by a judicial officer, have the same force and effect as if the judicial officer had affixed his or her original signature to a paper document.

**(8) Accuracy of docket entries.** Each Filing User is responsible to the court for the accuracy of the official docket generated when filing documents by means of the Electronic Filing System.

**(9) Electronic affidavits and declarations.** The electronic filing of a document which contains a statement, declaration, verification, or certificate which is under oath or under penalty of perjury, has the same effect as a paper document with an original signature. By filing such a document, the Filing User certifies that the original signed paper document, signed under oath or penalty of perjury, is in the possession of the Filing User. The Filing User shall make the original document available for inspection and copying upon request by a party or by the Court, and shall retain the original document for two years after the termination of the case.

**(B) Form of Pleadings, Motions, and Other Papers To Be Filed.**

(1) The names of the parties (the style of the case) shall be clearly set forth in the upper left-hand corner on the first page of all pleadings, motions, briefs, applications, and other papers tendered for filing. To the right of the style shall be the case number if a case number has been assigned.

(2) The title of the pleading, motion, or other paper shall immediately follow the style of the case and shall include a clear, concise and specific identification of the document being filed, the filing party, and in the case of responsive filings, the document to which the response is made.

(3) Except for forms provided by this court, all documents tendered for filing shall be double-spaced, if typewritten, and on plain white letter-sized (8 1/2 " x 11") paper with approximately one and one-fourth (1 1/4) inch margins. The first page of every pleading or document filed with the court shall, however, allow approximately a two (2) inch margin at the bottom of the page where the clerk shall date stamp such pleading or document filed.

(4) Each separate pleading, motion, brief, application, or other paper of more than one page which is intended by the party to be filed as a separate document shall be fastened by a staple in the upper left-hand corner.

(5) If the document is to be filed in more than one case, the party shall provide sufficient originals for filing in each case. In every case in which the convening of a three-judge district court is sought, or has been convened, parties shall file the original and three (3) copies of every pleading, motion, or other paper filed in the case until it is determined either that a three-judge court will not be convened or the three-judge court which has been convened is dissolved and the case is remanded to a single judge.

**(C) Signature Blocks.** The typed or printed name, address (including the nine-digit zip code), and telephone number of the attorney or party signing the paper, and The Florida Bar or other state bar number of the attorney shall be included directly under the original signature.

**(D) Certificate of service.** After another party has entered an appearance in the case, each document submitted for filing shall be accompanied by a certificate of service (1) signed by an attorney of record or by a party proceeding *pro se*, (2) certifying that a copy of the document has been served upon all other parties who have appeared, and (3) specifying the date and method of such service (for example, by Notice of Electronic Filing, by First Class mail, by hand delivery, or by other means). A certificate of service is not required for a paper properly filed for *ex parte* consideration by the court.

**(E) Execution of Civil Cover Sheet.** A complete and executed Civil Cover Sheet, currently AO Form JS 44, shall be filed by counsel for the filing party in each civil case at the time of filing, unless for good cause shown an additional time for such filing is allowed. Persons filing civil cases *pro se* are exempt from the requirements of this subsection.

**(F) Facsimile Transmitted Documents.** Facsimile transmission shall not be used for the routine filing of papers.

**(G) Notice of pendency of other or prior similar actions.** Whenever the newly filed case

involves issues of fact or law common with such issues in another case currently pending in this district, or if the case was previously terminated by any means and has now been refiled without substantial change in issues or parties, the party filing the case shall file a "Notice of Pendency of Other or Prior Similar Actions" containing a list and description thereof.

**(H) Filing and Payment of Fees.** A civil action shall not be filed by the clerk until the fee is paid as required by 28 U.S.C. § 1914, unless the complaint or petition is accompanied by a motion for leave to proceed *in forma pauperis*. When accompanied by a motion for leave to proceed *in forma pauperis*, the clerk shall file the complaint or petition and the motion, shall assign a case number, and shall refer the same to the appropriate judicial officer pursuant to 28 U.S.C § 1915.

**(I) Withdrawal of Files.** The clerk shall maintain all files, and no files shall be removed from the clerk's office. The clerk may, however, permit counsel of record to withdraw transcripts for a limited period of time and may set conditions for such withdrawal. Counsel shall be personally responsible for returning the transcripts in the same condition as when withdrawn.

**(J) Applications for Writs of Habeas Corpus Pursuant to 28 U.S.C. §§ 2241 and 2254, Motions Pursuant to 28 U.S.C. § 2255, and Civil Actions Commenced by *Pro Se* Litigants Pursuant to 42 U.S.C. § 1983 or 28 U.S.C. §§ 1331 and 1346.**

(1) All proceedings instituted in this court pursuant to 28 U.S.C. §§ 2254 and 2255 shall be governed by the rules pertaining to such proceedings as prescribed by the Supreme Court of the United States, including the model forms appended thereto.

(2) Form petitions or complaints are available in the offices of the clerk of this court relevant to each of the above types of cases. No application for writ of habeas corpus under 28 U.S.C. §§ 2254 or 2241, motion under 28 U.S.C. § 2255, or civil action commenced by *pro se* litigants under 42 U.S.C. § 1983, 28 U.S.C §§ 1331 or 1346, shall be considered by the court unless the appropriate forms have been properly completed and filed by the litigant.

**(K) Special Procedural and Filing Requirements Applicable to Habeas Corpus Involving the Death Penalty.**

(1) In habeas corpus cases involving the death penalty, it is the responsibility of the party who first makes reference in a pleading or instrument to a deposition or an exhibit to:

(a) Obtain either the original or a certified copy of that deposition and include that deposition or exhibit as an exhibit to their pleading or instrument; or

(b) To file a certificate indicating why the deposition or exhibit is not included as an exhibit to the pleading or instrument.

(2) It is the responsibility of the party offering for filing any portion of a prior state or federal court record or transcript to:



(a) Obtain from the clerk's office a habeas corpus checklist and review the various phases of court proceedings identified on the checklist.

(b) Review each prior state or federal court record to be submitted and identify, within each record, the first page of every portion of the submitted record identified on the checklist, using the colored tabs and numbering scheme as indicated below:

(i) Petitioner shall use red index tabs and shall sequentially number the index tabs commencing with the number "P-1," "P-2," etc.

(ii) Respondent shall employ blue index tabs and shall sequentially number the index tabs commencing with the number "R-1," "R-2," etc.

(iii) *Amicus curiae* or other parties permitted to intervene or otherwise participate shall employ green index tabs and shall sequentially number the index tabs commencing with the number "X-1," "X-2," etc.

(c) Cross-reference the index tab number to the checklist.

(d) File a completed checklist concurrently with the filing of the first pleading or instrument which makes reference to any portion of a prior state or federal court record or transcript.

(e) Serve a copy of the checklist on all parties and file a certificate of service along with the checklist, indicating service upon all parties.

(3) In order to facilitate the timely and efficient processing of habeas corpus capital cases, checklists and index tabs may be obtained in advance of filing from the clerk's office.

**(L) Certificate of Interested Persons.** At the time of filing its first pleading, motion, or other paper, each party that is not a governmental entity or natural person shall file (as a separate document) a certificate of interested persons that contains a complete list in alphabetical order of all persons, associations of persons, firms, partnerships, or corporations that have an interest in the outcome of the particular case, including subsidiaries, affiliates, parent corporations, and other identifiable legal entities related to a party. In bankruptcy appeals, the certificate shall also identify the debtor, the members of the creditor's committee, any entity which is an active participant in the proceedings, and other entities whose stock or equity value may be substantially affected by the outcome of the proceedings.

Any filing that does not include a certificate required under this provision shall be accepted and filed by the Clerk, pending supplementation with the required certificate. Failure to comply with this paragraph shall be considered by the Court under N. D. Fla. Loc. R. 41.1(B) and not under N. D. Fla. Loc. R. 5.1(I).



## **RULE 11.1 Attorneys**

(A) **Qualifications for Admission.** An attorney is qualified for admission to the bar of this district if the attorney: (1) is currently a member in good standing of The Florida Bar or the Bar of any state; and (2) has successfully completed the tutorial on this court's local rules, located on the district's Internet Home Page, [www.flnd.uscourts.gov](http://www.flnd.uscourts.gov). To participate in the court's Electronic Case Filing, the attorney must also have successfully completed the computer based training tutorial on the CM/ECF System, available on the district's Internet Home Page,

Attorneys admitted as of January 1, 2004, are not subject to any new admission requirements and remain members in good standing, but will be required to successfully complete the computer-based training tutorial on the CM/ECF System before they will be able to participate in the court's Electronic Case Filing.

**(B) Procedure for Admission and Proof of Qualifications.** Each applicant for admission shall submit a verified petition setting forth the information specified on the form provided by the Clerk of this Court, together with an application fee in the amount set by the court by administrative order and payable to the Clerk, a signed oath of admission, and a current certificate of good standing from The Florida Bar or the bar of any state. Each applicant must successfully complete the tutorial on local rules, located on the district's Internet Home Page, [www.flnd.uscourts.gov](http://www.flnd.uscourts.gov). To participate in the court's Electronic Case Filing, the attorney must also have successfully completed the computer based training tutorial on the CM/ECF System, available on the district's Internet Home Page, [www.flnd.uscourts.gov](http://www.flnd.uscourts.gov).

**(C) Appearances.**

**(1) Who May Appear Generally.** Only members of the bar of this district may appear as counsel of record in this district.

**(2) Pro Hac Vice Appearance.** Prior to any appearance, any attorney who is not a member of the bar of this district must request permission in writing to appear, certifying that he or she has successfully completed the computer-based tutorial on local rules of the Northern District of Florida and the computer-based tutorial on this court's CM/ECF System, available on the district's Internet home page, [www.flnd.uscourts.gov](http://www.flnd.uscourts.gov). In addition, a certificate of good standing from The Florida Bar, from the bar of any state, or from the United States district court to which said attorney has been admitted, together with an admission fee in the amount set by the court by administrative order, shall accompany said request. Upon completion of these requirements the attorney will be admitted to the bar of this district. With the advent of electronic case filing, this court no longer draws any substantive distinction between membership in the bar of this district and pro hac vice admission. An attorney admitted pro hac vice will be treated as a member of the bar of this district and will remain a member, even after termination of the case, until such time as the attorney affirmatively withdraws from the bar of this district or no longer meets the admission qualifications.

**(3) Counsel for the United States or a State Officer or Agency.** Any attorney representing the United States, or any officer or agency thereof, may, without petitioning for admission, appear and participate in particular cases in which the United States or such counsel's agency is involved, provided the attorney has successfully completed the tutorial on local rules of the Northern District of Florida and the tutorial on CM/ECF available on the district's Internet home page .

Any attorney representing the State of Florida, or any officer or agency thereof,

who is a member of The Florida Bar and is not a member of the bar of this district may by motion request to appear *pro hac vice* in any such case without having to file a certificate of good standing, provided the attorney has successfully completed the tutorial on local rules of the Northern District of Florida and the tutorial on CM/ECF available on the district's Internet home page [www.flnd.uscourts.gov](http://www.flnd.uscourts.gov). Upon completion of these requirements, the attorney will be admitted.

Any attorney representing the United States or the State of Florida and who is an employee of the United States or the State of Florida, respectively, is exempt from paying the admission fee.

**(4) Temporary Waiver in Exceptional Cases.** In an exceptional case, when the interest of justice is best served by a waiver of the admission requirements, the judge before whom the matter is pending may permit a person not admitted to the bar of this district to temporarily appear in any aspect of the pending matter, civil or criminal. An appearance permitted under this paragraph applies only to the pending matter, and normally will be conditioned upon prompt compliance with the more formal requirements set out in this rule .

**(D) Pro Se Appearance.** Any party represented in a suit by counsel of record shall not thereafter take any step or be heard in the case in proper person, absent prior leave of court; nor shall any party having previously elected to proceed in proper person be permitted to obtain special or intermittent appearances of counsel.

**(E) Disbarment and Discipline.**

**(1) Professional Conduct.** Except where an act of Congress, federal rule of procedure, Judicial Conference Resolution, or rule of court provides otherwise, the professional conduct of all members of the bar of this district, with respect to any matter before this court, shall be governed by the Rules of Professional Conduct of the Rules Regulating The Florida Bar.

**(2) Contempt of Court.** Any person, who, prior to admission to the bar of this district or during any period of prohibition of practice in this district, exercises in any action or proceedings pending in this court any of the privileges of a member of the bar, or who pretends to be entitled to do so, may be found guilty of contempt of court.

**(3) Prohibition of Practice.** Whenever it is made to appear that any attorney has been disbarred or suspended from practice by the Supreme Court of Florida or any other state bar, or by any federal court, such attorney shall be prohibited from practice in this district. If subsequently reinstated by such court or bar, the attorney may apply for readmission to practice in this district, provided, however, that the court may impose such reasonable additional requirements as may be appropriate.

**(4) Conviction of Crime.** Whenever it is made to appear to the court that an

attorney has been convicted of any felony offense or of any misdemeanor offense involving dishonesty or moral turpitude in any court, such attorney shall be prohibited from practice in this district. The acceptance by any court of a plea of guilty or nolo contendere, or a jury or court verdict of guilty as to such offenses, which plea or verdict is not subsequently set aside, shall be deemed a conviction for the purposes of this rule, regardless of whether guilt is adjudicated by that court.

**(5) Additional Grounds for Prohibition of Practice.** Nothing in this rule shall be deemed to limit the court's authority to discipline a member of the bar of this district for conduct involving dishonesty, moral turpitude or any other activity inconsistent with the member's legal and ethical responsibilities. An attorney may be prohibited from practice in this district for a definite period, reprimanded, or subjected to such other discipline as the court may deem proper after notice and an opportunity to be heard.

**(F) Withdrawal of Attorneys.**

**(1) Approval of Court Required.** No attorney, firm, or agency, having made an appearance, shall thereafter abandon the case or proceeding in which the appearance was made, or withdraw as counsel for any party therein, except by written leave of court obtained after giving ten (10) days notice to the party or client affected thereby and to all other counsel of record.

**(2) Non-Payment of Fees.** Failure to pay attorneys' fees shall not be reason for seeking leave to withdraw if the withdrawal of counsel is likely to cause a continuance of a scheduled trial, hearing or other court proceeding.

**(G) Responsibility of Retained Counsel in Criminal Cases.**

(1) Unless the court, within seven (7) calendar days after arraignment, is notified in writing of counsel's withdrawal because of the defendant's failure to make satisfactory financial arrangements, the court will expect retained criminal defense counsel to represent the defendant until the conclusion of the case. Failure of a defendant to pay sums owed for attorneys' fees or failure of counsel to collect a sum sufficient to compensate for all the services usually required of defense counsel will not constitute good cause for withdrawal after the seven-day (7) period has expired.

(2) If a defendant moves the court to proceed on appeal in forma pauperis and/or for appointment of Criminal Justice Act appellate counsel, counsel retained for trial will, in addition to the information required under Form 4 of the Rules of Appellate Procedure, be required to fully disclose in camera (a) the attorneys' fee agreement and the total amount of such fees and costs paid to date, in cash or otherwise; (b) by whom fees and costs were paid; (c) any fees and costs remaining unpaid and the complete terms of agreements concerning payment thereof; (d) the costs actually incurred to date; and (e) a detailed description of services actually rendered to date, including a record of the itemized time (to the nearest 1/10 of an

hour) for each service, both in-court and out-of-court, and the total time. All such information submitted will be viewed in camera by the court for the purpose of deciding the defendant's motion and will be a part of the record (sealed if requested) in the case.