UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

IN RE:

Administrative Order 2016- 41

AMENDMENTS TO THE LOCAL RULES NOTICE OF PROPOSED AMENDMENTS, OF OPPORTUNITY FOR PUBLIC COMMENTS, AND OF HEARING TO RECEIVE COMMENTS.

_____/

The Court's Ad Hoc Committee on Rules and Procedures has recommended that this Court amend the Local General Rules. In accordance with Fed. R. Civ. P. 83(a)(1) and Fed. R. Crim. P. 57(a)(l), it is hereby:

ORDERED that the Clerk of the Court is directed to: (a) publish an abbreviated notice once in the Daily Business Review (in each edition published in Miami-Dade, Broward, and Palm Beach Counties, Florida) alerting the public of the opportunity to comment on the proposed rules; (b) post prominently on the Court's website this Order and the attached proposed rule amendments for the next 30 days; (c) provide notice to this Court's bar through the *CM/ECF* electronic noticing system; and (d) offer every person who files any papers in any action in this Court, and to give to anyone who so desires, a copy of this Order with the attached proposed rule amendments for the next 30 days.

IT IS FURTHER ORDERED that the Court will conduct an *en banc* public hearing on the proposed rule amendments on October 6, 2016, at 3 p.m. at the Paul G. Rogers Federal Building and United States Courthouse, 701 Clematis Street, West Palm Beach, Florida 33401. Those who desire to appear and offer oral comments on the proposed rule amendments at this hearing shall file written notice to that effect with the Clerk of the Court no later than five days prior to the hearing. Those who desire to offer only written comments on the proposed rule amendments should do so in accordance with the mechanism provided on the Court's website in connection the publication of the proposed rule amendments.

DONE AND ORDERED in Chambers at Miami, Florida this 1st day of September, 2016.

K. M. Moore

K. MICHAEL MOORE
CHIEF UNITED STATES DISTRICT JUDGE

Copies furnished to:

Honorable Ed Carnes, Chief Judge, United States Court of Appeals for the Eleventh Circuit
All Southern District Judges and Magistrate Judges
James Gerstenlauer, Circuit Executive, Eleventh Circuit
Scott M. Dimond, Chair, Ad Hoc Committee on Rules and Procedures
All members of the Ad Hoc Committee on Rules and Procedures
Library
Daily Business Review

LOCAL RULES

United States District Court

for the

Southern District of Florida

Revised December 1, ~~2015~~2016

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RULE 5.1 FILING AND COPIES

(a) Form of Conventionally Filed Documents. All civil and criminal pleadings, motions, and other papers exempted from the requirement that they be filed via CM/ECF and that are instead tendered for conventional (non-CM/ECF) filing shall:

(1) Be bound only by easily-removable paper or spring-type binder clips, and not stapled or mechanically bound or fastened in any way. Voluminous pleadings, motions, or documents may be bound with a rubber band. Attachments may not be tabbed; reference characters should be printed or typed on a blank sheet of paper separating each attached document.

(2) When filing a civil complaint for which issuance of initial process is requested, one (1) copy of the complaint must be submitted for each summons.

(3) Be on standard size 8-1/2" x 11" white, opaque paper.

(4) Be plainly typed or written on one (1) side with 1" margins on top, bottom, and each side. All typewritten documents, except for quoted material of fifty words or more and footnotes, both of which may be single-spaced, shall have not less than one and one-half (1 1/2) spaces between lines. Fonts for typewritten documents, including footnotes and quotations, must be no smaller than twelve (12) point. All typewritten documents must be paginated properly and consecutively at the bottom center of each page. Only one (1) side of the paper may be used.

(5) Include a caption with:

(A) The name of the Court centered across the page;

(B) The docket number, category (civil or criminal), and the last names of the assigned District Judge and Magistrate Judge, centered across the page;
(C) The style of the action, which fills no more than the left side of the page, leaving sufficient space on the right side for the Clerk of the Court to affix a filing stamp; and

(D) The title of the document, including the name and designation of the party (as plaintiff or defendant or the like) on whose behalf the document is submitted, centered across the page.

Exception:

The requirements of (a)(3)-(a)(5) do not apply to: (i) exhibits submitted for filing; (ii) papers filed in removed actions prior to removal from the state courts; and (iii) forms provided by the Court.

(6) Include (A) a signature block with the name, street address, telephone number, facsimile telephone number, e-mail address, and Florida Bar identification number of all counsel for the party and (B) a certificate of service that contains the name, street address, telephone

number, facsimile telephone number, and e-mail address of all counsel for all parties, including the attorney filing the pleading, motion, or other paper. *See* form available on the Court's website (www.flsd.uscourts.gov).

(7) Not be transmitted to the Clerk of the Court or any Judge by facsimile telecopier.

(8) Be submitted with sufficient copies to be filed and docketed in each matter if styled in consolidated cases.

(b) Form of CM/ECF Filed Documents. Except those documents exempted under Section 5 of the CM/ECF Administrative Procedures, all documents required to be served shall be filed in compliance with the CM/ECF Administrative Procedures; however, pro se parties are exempted from this requirement pursuant to Section 2C of the CM/ECF Administrative Procedures. The requirements of paragraphs (a)(2)-(a)(5) above shall apply to documents filed via CM/ECF. *See* Section 3A of the CM/ECF Administrative Procedures.

(c) Restriction on Courtesy Copies. Counsel shall not deliver extra courtesy copies to a Judge's Chambers except when requested by a Judge's office.

(d) Notices of Filing; Form and Content. The title of a notice of filing shall include (1) the name and designation of the party (as plaintiff or defendant or the like) on whose behalf the filing is submitted, and (2) a description of the document being filed. A notice of filing shall identify by title the pleading, motion or other paper to which the document filed pertains and the purpose of the filing, such as in support of or in opposition to a pending motion or the like.

(e) Consent to Service. Registration as an electronic filing user pursuant to Southern District of Florida CM/ECF Administrative Procedures §3B constitutes consent to receive service electronically pursuant to Fed. R. Civ. P. 5(b)(2)(E) and Fed. R. Crim. P. 49 and waiver of any right to receive service by any other means. Service of papers required to be served pursuant to Fed. R. Civ. P. 5(a) and Fed. R. Crim. P. 39 but not filed, such as discovery requests, may be made via email to the address designated by an attorney for receipt of notices of electronic filings.

Effective December 1, 1994. Amended effective April 15, 1996; April 15, 1998; April 15, 1999; April 15, 2000; April 15, 2001; paragraph E added effective April 15, 2003; April 15, 2007; April 15, 2009; April 15, 2010; April 15, 2011; December 1, 2011; December 1, 2015; December 1, 2016.

RULE 7.1 MOTIONS, GENERAL

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(c) Memorandum of Law. For all motions, except motions served with the summons and complaint, each party opposing a motion shall serve an opposing memorandum of law no later than fourteen (14) days after service of the motion. Failure to do so may be deemed sufficient cause for granting the motion by default. The movant may, within seven (7) days after service of an opposing memorandum of law, serve a reply memorandum in support of the motion, which reply memorandum shall be strictly limited to rebuttal of matters raised in the memorandum in opposition without reargument of matters covered in the movant's initial memorandum of law. No further or additional memoranda of law shall be filed without prior leave of Court. All materials in support of any motion, response, or reply, including affidavits and declarations, shall be served with the filing. For a motion served with the summons and complaint, the opposing memorandum of law shall be due on the day the response to the complaint is due.

(1) *Time.* Time shall be computed under this Local Rule as follows:

(A) If the motion or memorandum was ~~served by mail or~~ filed via CM/ECF or served by hand-delivery, count fourteen (14) days (seven (7) days for a reply) beginning the day after the motion, response, or memorandum was filed via CM/ECF or certified as having been ~~mailed or filed via CM/ECF~~served by hand-delivery. The last day is the due date. If the last day falls on a Saturday, Sunday, or legal holiday, the period continues to run until the next business day~~.~~, which is ~~Beginning on the next calendar day, including Saturday, Sunday, or a legal holiday, count three (3) days. The third day is~~ the due date for the opposing memorandum or reply. ~~If the third day falls on a Saturday, Sunday, or legal holiday, the due date is the next business day.~~

(B) If~~, in addition to being filed via CM/ECF,~~ the motion or memorandum was served only by mail, ~~by hand delivery,~~ count fourteen (14) days (seven (7) days for a reply) beginning the day after the motion, response, or memorandum was ~~hand delivered~~certified as having been mailed. Count three (3) more days. The third ~~fourteenth or seventh~~ day is the due date for the opposing memorandum or reply~~.~~, ~~respectively.~~ If the ~~due date~~third day falls on a Saturday, Sunday, or legal holiday, the due date is the next business day.

(2) *Length.* Absent prior permission of the Court, neither a motion and its incorporated memorandum of law nor the opposing memorandum of law shall exceed twenty (20) pages; a reply memorandum shall not exceed ten (10) pages. Title pages preceding the first page of text, "request for hearing" sections, signature pages, certificates of good faith conferences, and certificates of service shall not be counted as pages for purposes of this rule. Filing multiple motions for partial summary judgment is prohibited, absent prior permission of the Court. This prohibition does not preclude a party from filing both a motion for summary judgment asserting an immunity from suit and a later motion for summary judgment addressing any issues that may remain in the case. This prohibition also is not triggered when, as permitted by Fed. R. Civ. P. 12(d), the Court elects to treat a motion filed pursuant to Fed. R. Civ. P. 12(b) or 12(c) as a summary judgment motion.

(d) Emergency Motions. The Court may, upon written motion and good cause shown, waive the time requirements of this Local Rule and grant an immediate hearing on any matter requiring such expedited procedure. The motion shall set forth in detail the necessity for such expedited procedure and be accompanied by the Certification of Emergency form available on the Court's website (www.flsd.uscourts.gov).

As prescribed by Section 10 of the CM/ECF Administrative Procedures, a party seeking to file an emergency motion must file the documents electronically via CM/ECF using the events specifically earmarked for emergency matters. The filer must certify that the matter is a true emergency. Motions are not considered emergencies if the urgency arises due to the attorney's or party's own dilatory conduct. A Certification of Emergency form must be signed and filed as an attachment to the emergency motion in CM/ECF.

Emergency motions in criminal cases that are also ex parte or sealed must be conventionally filed. A party appearing pro se must file emergency matters conventionally.

(e) Applications Previously Refused. Whenever any motion or application has been made to any Judge or Magistrate Judge and has been refused in whole or in part, or has been granted conditionally, and a subsequent motion or application is made to a different District Judge or Magistrate Judge for the same relief in whole or in part, upon the same or any alleged different state of facts, it shall be the continuing duty of each party and attorney seeking such relief to present to the District Judge or Magistrate Judge to whom the subsequent application is made an affidavit setting forth the material facts and circumstances surrounding each prior application, including: (1) when and to what District Judge or Magistrate Judge the application was made; (2) what ruling was made thereon; and (3) what new or different facts and circumstances are claimed to exist which did not exist, or were not shown, upon the prior application. For failure to comply with the requirements of this Local Rule, any ruling made on the subsequent application may be set aside *sua sponte* or on *ex parte* motion.

Effective December 1, 1994. Amended effective April 15, 1996; April 15, 1997; April 15, 2000; April 1, 2004; April 15, 2005; April 15, 2006; April 15, 2007; April 15, 2009; April 15, 2010; April 15, 2011; December 1, 2011; December 1, 2014; December 1, 2015~~.~~; December 1, 2016.

RULE 11.1 ATTORNEYS

(a) Roll of Attorneys. The Bar of this Court shall consist of those persons heretofore admitted and those who may hereafter be admitted in accordance with the Special Rules Governing the Admission and Practice of Attorneys in this District.

(b) Contempt of Court. Any person who before his or her admission to the Bar of this Court or during his or her disbarment or suspension exercises in this District in any action or proceeding 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.

(c) Professional Conduct. The standards of professional conduct of members of the Bar of this Court shall include the current Rules Regulating The Florida Bar. For a violation of any of these canons in connection with any matter pending before this Court, an attorney may be subjected to appropriate disciplinary action.

(d) Appearance by Attorney.

(1) The filing of any pleading shall, unless otherwise specified, constitute an appearance by the person who signs such pleading.

(2) An attorney representing a witness in any civil action or criminal proceeding, including a grand jury proceeding, or representing a defendant in a grand jury proceeding, shall file a notice of appearance, with consent of the client endorsed thereon, with the Clerk of the Court on a form to be prescribed and furnished by the Court, except that the notice need not be filed when such appearance has previously been evidenced by the filing of pleadings in the action or proceeding. The notice shall be filed by the attorney promptly upon undertaking the representation and prior to the attorney's appearance on behalf of the attorney's client at any hearing or grand jury session. When the appearance is in connection with a grand jury session, the notice of appearance shall be filed with the Clerk of the Court in such manner as to maintain the secrecy requirements of grand jury proceedings.

(3) No attorney shall withdraw the attorney's appearance in any action or proceeding except by leave of Court after notice served on the attorney's client and opposing counsel. A motion to withdraw shall include a current mailing address for the attorney's client or the client's counsel.

(4) Whenever a party has appeared by attorney, the party cannot thereafter appear or act on the party's own behalf in the action or proceeding, or take any step therein, unless an order of substitution shall first have been made by the Court, after notice to the attorney of such party, and to the opposite party; provided, that the Court may in its discretion hear a party in open court, notwithstanding the fact that the party has appeared or is represented by an attorney.

(5) When an attorney dies, or is removed or suspended, or ceases to act as such, a party to an action or proceeding for whom the attorney was acting as counsel must, before any

further proceedings are had in the action on the party's behalf, appoint another attorney or appear in person, unless such party is already represented by another attorney.

(6) No agreement between parties or their attorneys, the existence of which is not conceded, in relation to the proceedings or evidence in an action, will be considered by the Court unless the same is made before the Court and noted in the record or is reduced to writing and subscribed by the party or attorney against whom it is asserted.

(7) Only one (1) attorney on each side shall examine or cross-examine a witness, and not more than two (2) attorneys on each side shall argue the merits of the action or proceeding unless the Court shall otherwise permit.

(e) Relations with Jury. Before~~,~~ and during~~, and after~~ the trial, a lawyer shall ~~should~~ avoid ~~conversing or otherwise~~ communicating with a juror in a case with which a lawyer is connected about ~~on~~ any subject, whether pertaining to the case or not. After ~~Provided, however, after~~ the jury has been discharged, a lawyer shall not communicate with a member of the jury about a case with which the lawyer and the juror have been connected without leave of Court ~~upon application in writing and for~~ granted for good cause shown. In such case, the Court may allow counsel to interview jurors to determine whether their verdict is subject to legal challenge~~. In this event, the Court shall enter an order limiting~~ and may limit the time, place, and circumstances under which the interviews ~~shall~~ may be conducted. The Court also may authorize certain other post-trial lawyer/jury communications in specific cases as the Court may determine to be appropriate under the circumstances. During any Court-conducted or -authorized inquiry, a lawyer shall not ask questions of or make comments to a juror that are calculated to harass or embarrass the juror or to influence the juror's actions in future jury service. ~~The scope of the interviews should be restricted and caution should be used to avoid embarrassment to any juror and to avoid influencing the juror's action in any subsequent jury services.~~ Nothing in this rule shall prohibit a lawyer from communicating with a juror after the jury has been discharged where the communication is not related to the case and either the juror initiates the communication or the lawyer encounters the juror in a social or business setting unrelated to the case.

(f) Relation to Other Rules. This Local Rule governing attorneys is supplemented by the Special Rules Governing the Admission and Practice of Attorneys and the Rules Governing Attorney Discipline of this District.

(g) Responsibility to Maintain Current Contact Information. Each member of the Bar of the Southern District, any attorney appearance *pro hac* vice, and any party appearing *pro se* shall maintain current contact information with the Clerk of Court. Each attorney shall update contact information including e-mail address within seven (7) days of a change. Counsel appearing *pro hac vice* and a party appearing *pro se* shall conventionally file a Notice of Current Address with updated contact information within seven (7) days of a change. The failure to comply shall not constitute grounds for relief from deadlines imposed by Rule or by the Court. All Court Orders and Notices will be deemed to be appropriately served if directed either electronically or by conventional mail consistent with information on file with the Clerk of Court.

Effective December 1, 1994. Amended effective April 15, 2002; April 15, 2007; April 15, 2010; April 15, 2011; December 1, 2011; December 1, 2015; December 1, 2016.

RULE 26.1 DISCOVERY AND DISCOVERY MATERIAL (CIVIL)

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(g) Discovery Motions.

(1) *Time for Filing*. All ~~motions~~disputes related to discovery~~, including but not limited~~ shall be presented to ~~motions to compel~~the Court by motion (or, if the Court has established a different practice for presenting discovery ~~and motions for protective order, shall be filed~~disputes, by other Court-approved method) within thirty (30) days from the: (a) original due date (or later date if extended by the Court or the parties) of the ~~occurrence~~response or objection to the discovery request that is the subject of ~~grounds for the motion.~~the dispute; (b) date of the deposition in which the dispute arose; or (c) date on which a party first learned of or should have learned of a purported deficiency concerning the production of discovery materials. Failure to ~~file a discovery motion~~present the dispute to the Court within ~~thirty (30) days~~that timeframe, absent a showing of ~~reasonable~~good cause for ~~a later filing~~the delay, may constitute a waiver of the relief sought~~. Neither this~~ at the Court's discretion. The thirty~~-~~ (30) day period ~~nor any other Court ordered scheduling deadlines~~set forth in this rule may be extended ~~by~~ once for up to seven (7) additional days by an unfiled, written stipulation between the parties, provided that the stipulation does not conflict with a Court order.

(2) *Motions to Compel.* Except for motions grounded upon complete failure to respond to the discovery sought to be compelled or upon assertion of general or blanket objections to discovery, motions to compel discovery in accordance with Federal Rules of Civil Procedure 33, 34, 36 and 37, or to compel compliance with subpoenas for production or inspection pursuant to Federal Rule of Civil Procedure 45(c)(2)(B), shall, for each separate interrogatory, question, request for production, request for admission, subpoena request, or deposition question, state: (A) verbatim the specific item to be compelled; (B) the specific objections; (C) the grounds assigned for the objection (if not apparent from the objection); and (D) the reasons assigned as supporting the motion as it relates to that specific item. The party shall write this information in immediate succession to enable the Court to rule separately on each individual item in the motion.

(3) *Motions for Protective Order.* Except for motions for an order to protect a party or other person from whom discovery is sought from having to respond to an entire set of written discovery, from having to appear at a deposition, or from having to comply with an entire subpoena for production or inspection, motions for protective order under Federal Rule of Civil Procedure 26(c) shall, for each separate interrogatory question, request for production, request for admission, subpoena request, or deposition question, state: (A) verbatim the specific item of discovery; (B) the type of protection the party requests; and (C) the reasons supporting the protection. The party shall write this information in immediate succession to enable the Court to rule separately on each individual item in the motion.

(h) Reasonable Notice of Taking Depositions. Unless otherwise stipulated by all interested parties, pursuant to Federal Rule of Civil Procedure 29, and excepting the circumstances governed by

Federal Rule of Civil Procedure 30(a), a party desiring to take the deposition within the State of Florida of any person upon oral examination shall give at least seven (7) days' notice in writing to every other party to the action and to the deponent (if the deposition is not of a party), and a party desiring to take the deposition in another State of any person upon oral examination shall give at least fourteen (14) days' notice in writing to every other party to the action and the deponent (if the deposition is not of a party).

Failure to comply with this rule obviates the need for protective order.

Notwithstanding the foregoing, in accordance with Federal Rule of Civil Procedure 32(a)(5)(A), no deposition shall be used against a party who, having received less than eleven (11) calendar days' notice of a deposition as computed under Federal Rule of Civil Procedure 6(a), has promptly upon receiving such notice filed a motion for protective order under Federal Rule of Civil Procedure 26(c)(1)(B) requesting that the deposition not be held or be held at a different time or place and such motion is pending at the time the deposition is held.

Effective December 1, 1994. Amended effective April 15, 1996; April 15, 1998; April 15, 2001; paragraph G.3 amended effective April 15, 2003; April 15, 2004; April 15, 2005; April 15, 2007; April 15, 2009; April 15, 2010; April 15, 2011; December 1, 2011; December 1, 2014; December 1, 2015; December 1, 2016.

RULE 88.10 CRIMINAL DISCOVERY

(a) A defendant's request to the Court for entry of the Standing Discovery Order shall constitute a discovery request by the defendant under Fed. R. Crim. P. 16(a)(1)(A), (B), (C), (D), (E), and (F), and, following entry of the Standing Discovery Order, the government shall comply with the obligations imposed upon it by Fed. R. Crim. P. 16(a)(1)(A)-(F), and ~~The government~~ shall permit the defendant to inspect and copy the ~~following items~~ written or recorded statements made by the defendant, or copies thereof, or supply copies thereof, which are within the possession, custody or control of the government, the existence of which is known or by the exercise of due diligence may become known to the government, all subject to the provisions of Fed. R. Crim. P. 16(a)(2).~~:~~

~~(1) Written or recorded statements made by the defendant;~~

~~(2) The substance of any oral statement made by the defendant before or after his arrest in response to interrogation by a then known to be government agent which the government intends to offer in evidence at trial;~~

~~(3) Recorded grand jury testimony of the defendant relating to the offenses charged;~~

~~(4) The defendant's arrest and conviction record;~~

~~(5) Except as provided in Fed. R. Crim. P. 16(a)(2), books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are material to the preparation of the defendant's defense, or which the government intends to use as evidence at trial to prove its case in chief, or which were obtained from or belonging to the defendant; and~~

~~(6) Results or reports of physical or mental examinations, and of scientific tests or experiments, made in connection with this case.~~

(b) Following a defendant's request to the Court for entry of the Standing Discovery Order and the Court's entry of the Standing Discovery Order, the defendant, subject to the provisions of Fed. R. Crim. P. 16(b)(2), shall: ~~The defendant shall permit the government to inspect and copy the following items, or copies thereof, or supply copies thereof, which are within the possession, custody or control of the defendant, the existence of which is known or by the exercise of due diligence may become known to the defendant:~~

(1) after the government complies with Fed. R. Crim. P. 16(a)(1)(E), comply with the obligations that arise under Fed. R. Crim. P. 16(b)(1)(A); and
~~Books, papers, documents, photographs or tangible objects which the defendant intends to introduce as evidence in chief at trial.~~

(2) after the government complies with Fed. R. Crim. P. 16(a)(1)(F), comply with the obligations that arise under Fed. R. Crim. P. 16(b)(1)(B). ~~Any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this~~

~~case which the defendant intends to introduce as evidence in chief at trial, or which were prepared by a defense witness who will testify concerning the contents thereof; and~~

~~(3) If a defendant intends to rely upon the defense of insanity at the time of the alleged crime, or intends to introduce expert testimony relating to a mental disease or defect or other mental condition bearing on guilt or, in a capital case, punishment, he or she shall give written notice thereof to the government.~~

(c) The government shall reveal to the defendant and permit inspection and copying of all information and material known to the government which may be favorable to the defendant on the issues of guilt or punishment within the scope of *Brady v. Maryland*, 373 U.S. 83 (1963), and *United States v. Agurs*, 427 U.S. 97 (1976).

(d) The government shall disclose to the defendant the existence and substance of any payments, promises of immunity, leniency, preferential treatment, or other inducements made to prospective government witnesses, within the scope of *Giglio v. United States,* 405 U.S. 150 (1972), and *Napue v. Illinois*, 360 U.S. 264 (1959).

(e) The government shall supply the defendant with a record of prior convictions of any alleged informant who will testify for the government at trial.

(f) The government shall state whether defendant was identified in any lineup, showup, ~~photospread~~ photo array or similar identification proceeding, and produce any pictures utilized or resulting therefrom.

(g) The government shall advise its agents and officers involved in this case to preserve all rough notes.

(h) The government shall advise the defendant(s) of its intention to introduce extrinsic act evidence pursuant to Federal Rule of Evidence 404(b). The government shall provide notice regardless of how it intends to use the extrinsic act evidence at trial, i.e. during its case-in-chief, for impeachment, or for possible rebuttal. Furthermore, the government shall apprise the defense of the general nature of the evidence of the extrinsic acts.

(i) The government shall state whether the defendant was an aggrieved person, as defined in 18 U.S.C. § 2510(11), of any relevant electronic surveillance that was authorized pursuant to 18 U.S.C. § 2516 and 18 U.S.C. § 2518 and that has been unsealed in accordance with 18 U.S.C. § 2518, and if so, shall set forth in detail the circumstances thereof.

(j) The government shall have transcribed the grand jury testimony of all witnesses who will testify for the government at the trial of this cause, preparatory to a timely motion for discovery.

(k) The government shall, upon request, deliver to any chemist selected by the defense, who is presently registered with the Attorney General in compliance with 21 U.S.C. §§ 822 and 823, and 21 C.F.R. § 101.22(8), a sufficient representative sample of any alleged contraband which is the subject of this indictment, to allow independent chemical analysis of such sample.

(l) The government shall permit the defendant, his counsel and any experts selected by the defense to inspect any automobile, vessel, or aircraft allegedly utilized in the commission of any offenses charged. Government counsel shall, if necessary, assist defense counsel in arranging such inspection at a reasonable time and place, by advising the government authority having custody of the thing to be inspected that such inspection has been ordered by the court.

(m) The government shall provide the defense, for independent expert examination, copies of all latent fingerprints or palm prints which have been identified by a government expert as those of the defendant.

~~**(n)** The government shall, upon request of the defendant, disclose to the defendant a written summary of testimony the government reasonably expects to offer at trial under Federal Rules of Evidence 702, 703, or 705. This summary must describe the witnesses' opinions, the bases and the reasons therefor, and the witnesses' qualifications. If the defendant seeks and obtains discovery under this paragraph, or if the defendant has given notice under Federal Rule of Criminal Procedure 12.2(b) of an intent to present expert testimony on the defendant's mental condition, the defendant shall, upon request by the government, disclose to the government a written summary of testimony the defendant reasonably expects to offer at trial under Federal Rules of Evidence 702, 703, 705 or Federal Rule of Criminal Procedure 12.2(b), describing the witnesses' opinions, the bases and the reasons for these opinions, and the witnesses' qualifications.~~

~~**(o)**~~**(n)** The parties shall make every possible effort in good faith to stipulate to all facts or points of law the truth and existence of which is not contested and the early resolution of which will expedite the trial.

~~**(p)** The parties shall collaborate in preparation of a written statement to be signed by counsel for each side, generally describing all discovery material exchanged, and setting forth all stipulations entered into at the conference. No stipulations made by defense counsel at the conference shall be used against the defendant unless the stipulations are reduced to writing and signed by the defendant and his counsel. This statement, including any stipulations signed by the defendant and his counsel, shall be filed with the Court within seven (7) days following the conference.~~

~~**(q)**~~**(o)** **Schedule of Discovery.**

(1) Discovery which is to be made in connection with a pre-trial hearing other than a bail or pre-trial detention hearing shall be made not later than forty-eight (48) hours prior to the hearing. Discovery which is to be made in connection with a bail or pre-trial detention hearing shall be made not later than the commencement of the hearing.

(2) Discovery which is to be made in connection with trial shall be made not later than fourteen (14) days after the arraignment, or such other time as ordered by the court.

(3) Discovery which is to be made in connection with post-trial hearings (including, by way of example only, sentencing hearings) shall be made not later than seven (7) days prior to the

hearing. This discovery rule shall not affect the provisions of Local Rule 88.8 regarding pre-sentence investigation reports.

(4) It shall be the continuing duty of counsel for both sides to immediately reveal to opposing counsel all newly discovered information or other material within the scope of this Local Rule.

Effective December 1, 1994. Amended effective April 15, 1996; April 15, 1998; April 15, 2000; April 15, 2003; April 15, 2005; April 15, 2007; April 15, 2010; December 2, 2013; December 1, 2015; December 1, 2016.