

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

In the matter of )  
 ) General Order No. 643  
LOCAL RULES AMENDMENTS )  
 )  
\_\_\_\_\_ )

Good cause appearing, the Court proposes amending the following Local Rules as follows:

**Civil Rule 5.1 Form; Paper; Legibility;  
Nature of Documents to be Filed**

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- b. Original; copies.** The original of a document must be labeled as the original. All copies are to be clearly identified as such. The case number must appear in the lower right corner of each page, although it is not required on the title page or on the complaint, petition or other document which opens the case. The typed number must be inserted ~~below line 28~~ in the following format: year, case type, four-digit case number with leading zeros if necessary (96cv0010). Case types are as follows: civil = cv, criminal = cr, magistrate judge = mg, miscellaneous = mc. The clerk's office can provide a macro in WordPerfect format upon request.

**Civil Rule 7.1  
Motion Practice, Extensions, Enlargements  
or Shortening of Time, Submission of Orders**

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- h. Length of Brief in Support of or in Opposition to Motions.** Briefs or memoranda in support of or in opposition to all motions noticed for the same motion day must not exceed a total of twenty-five (25) pages in length,

per party, for all such motions without leave of the judge who will hear the motion. No reply memorandum will exceed ten (10) pages without leave of the judge. Briefs and memoranda exceeding ten (10) pages in length must have a table of contents and a table of authorities cited.

### **Civil Rule 15.1 Amended Pleadings**

- a. Amended Pleadings.** ~~Unless prior approval is obtained from the court, e~~  
Every pleading to which an amendment is permitted as a matter of right or has been allowed by court order, must be retyped and filed so that it is complete in itself without reference to the superseded pleading. All amended pleadings must contain copies of all exhibits referred to in such amended pleadings. Permission may be obtained from the court, if desired, for the removal of any exhibit or exhibits attached to prior pleadings, in order that the same may be attached to the amended pleading. Each amended pleading must be designated successively as first amended, second amended, etc.
  
- b. Motions to Amend.** Any motion to amend a pleading must be accompanied by: (1) a copy of the proposed amended pleading, and (2) a version of the proposed amended pleading that shows — through redlining, underlining, strikeouts, or other similarly effective typographic methods — how the proposed amended pleading differs from the operative pleading. If the court grants the motion, the moving party must file and serve the amended pleading.
  
- c. Amended Pleadings Filed After Motions to Dismiss or Strike.** Any amended pleading filed after the granting of a motion to dismiss or motion to strike with leave to amend, must be accompanied by a version of that pleading that shows — through redlining, underlining, strikeouts, or other similarly effective typographic methods — how that pleading differs from the previously dismissed pleading.

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**Civil Rule 16.1 Pretrial and Setting for Trial**

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**f. Pretrial.**

\* \* \* \* \*

**6. Pretrial Order.**

- c. **Format.** Attorneys for all parties appearing in the case must have approved the Pretrial Order as to form and substance. The Pretrial Order will contain the following form to be as follows, unless the court orders otherwise:

~~UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA~~

~~(Title of Case) \_\_\_\_\_ Civil No. \_\_\_\_\_~~

~~PRETRIAL ORDER~~

~~Following pretrial proceedings pursuant to Fed. R. Civ. P. 16 and Civil Local Rule 16.1.f.6.~~

~~IT IS ORDERED:~~

~~I~~

~~This is an action for: (Here state nature of action, designate the parties and list the pleadings which raise the issues.)~~

~~II~~

~~Federal jurisdiction and venue are invoked upon the ground: (Here list a concise statement of the facts and statutory basis requisite to confer federal jurisdiction and venue.)~~

~~III~~

~~The following facts are admitted and require no proof: (Here list each admitted fact, including jurisdictional facts.)~~

IV

~~The reservations as to the facts recited in paragraph III above are as follows: (Here set forth any objection reserved by any party as to the admissibility in evidence of any admitted fact and, if desired by any party, limiting the effect of any issue of fact as provided by Fed. R. Civ.P. 36(b).)~~

V

~~The following facts, though not admitted, are not to be contested at the trial by evidence to the contrary: (Here list each.)~~

VI

~~The following issues of fact, and no others, remain to be litigated upon the trial: (Here specify each; a mere general statement will not suffice.)~~

VII

~~The exhibits to be offered at the trial, together with a statement of all admissions by and all issues between the parties with respect thereto, are as follows: (Here list all documents and things intended to be offered at the trial by each party, other than those to be used for impeachment, in the sequence proposed to be offered, with a description of each sufficient for identification, and a statement of all admissions by and all issues between any of the parties as to the genuineness thereof, the due execution thereof, and the truth of relevant matters of fact set forth therein or in any legend affixed thereto, together with a statement of any objections reserved as to the admissibility in evidence thereof.)~~

VIII

~~A list of witnesses to be called by plaintiff and defendant.~~

IX

~~The following issues of law, and no others, remain to be litigated upon the trial: (Here set forth a concise statement of each.)~~

X

~~The foregoing admissions having been made by the parties, and the parties having specified the foregoing issues of fact and law remaining to be litigated, this order must supplement the pleadings and govern the course of the trial of this cause, unless modified to prevent manifest injustice.~~

~~XI~~

~~This case will be tried by (jury) (by the court without a jury).~~

~~XII~~

~~The trial of this case (will) (will not) be bifurcated. (If bifurcated, state also which issues will be tried first.)~~

~~XIII~~

~~Time estimated for trial is ( ) days.~~

1. A statement to be read to the jury, not in excess of one page, of the nature of the case and the claims and defenses.
2. A list of the causes of action to be tried, referenced to the Complaint [and Counterclaim if applicable]. For each cause of action, the order shall succinctly list the elements of the claim, damages and any defenses. A cause of action in the Complaint [and/or Counterclaim] which is not listed will be dismissed with prejudice.
- 3(a). A list of each witness counsel actually expect to call at trial with a brief statement, not exceeding four sentences, of the substance of the witnesses' testimony.
- 3(b). A list of each expert witness counsel actually expect to call at trial with a brief statement, not exceeding four sentences, of the substance of the expert witnesses' testimony.
- 3(c). A list of additional witnesses, including experts, counsel do not expect to call at this time but reserve the right to call at trial along with a brief statement, not exceeding four sentences, of the substance of the witnesses'

testimony.

- 4(a). A list of all exhibits that counsel actually expect to offer at trial with a one-sentence description of the exhibit.
- 4(b). A list of all other exhibits that counsel do not expect to offer at this time but reserve the right to offer if necessary at trial with a one-sentence description of the exhibit.
5. A statement of all facts to which the parties stipulate. This statement must be on a separate page and will be read to and provided to the jury. The parties are directed to meet with the assigned magistrate judge to work out as many stipulations of fact as possible.
6. A list of all deposition transcripts by page and line, or videotape depositions by section, that will be offered at trial.
7. In addition to filing proposed jury instructions in accordance with Fed. R. Civ. P. 51 and CivLR 51.1, the parties shall e-mail the proposed instructions in Word or Wordperfect form to Chambers. If a party disagrees with a particular instruction, the party shall submit an alternate instruction.
8. This case will be tried by (jury) (by the court without a jury).
9. Time estimated for trial is ( ) days.

~~DATED: , 20-~~

\_\_\_\_\_  
\_\_\_\_\_  
United States District Judge

~~APPROVED AS TO FORM AND CONTENT:~~

\_\_\_\_\_  
\_\_\_\_\_  
Attorney for Plaintiff

\_\_\_\_\_  
\_\_\_\_\_  
Attorney for Defendant

- d. ~~**Unresolved Issues of Fact and Law.** In stating the issues of fact and law that remain to be litigated, the parties must agree upon a joint and not separately listed statement of these issues. If one party proposes an issue which the other party denies is in issue, then it must be listed in the pretrial order and tried.~~

### **Civil Rule 17.1 Actions Involving Minors or Incompetents**

- a. **Order or Judgment Required.** No action by or on behalf of a minor or incompetent, or in which a minor or incompetent has an interest, will be settled, compromised, voluntarily discontinued, dismissed or terminated without court order or judgment. All settlements and compromises must be revised by a magistrate judge before any order of approval will issue. The parties may, with district judge approval consent to magistrate judge jurisdiction under 28 U.S.C. § 636(c) for entry of an order approving the entire settlement or compromise.

### **Civil Rule 40.1 Assignment of Civil Cases**

- a. **Assignment of Civil Cases.** . . . . The judge to whom a case is assigned, or the chief judge of the district, may transfer such a case at any time to a consenting judge in the interest of efficient administration of the judicial business of the district.

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- c. **Assignments to New Judges.** Upon the induction of a new judge, the clerk will ascertain the number of cases which comprises an equal share of all cases then pending, and the number of cases assigned to each active judge. The clerk will then indicate to each active judge the number of cases to be transferred to the new judge.

The Court will enter an order designating the number of such cases to be selected by the transferring judge and the number to be chosen randomly by the clerk. The transferring judge may decline to transfer a case and then another case will be randomly selected.

~~It is within the discretion of each active judge to determine which cases will be transferred to the new judge. The new judge may refuse to accept any such transfer where there are grounds for recusal, in which instance the~~

~~transferor judge will transfer another case will be selected for transfer a different case to the new judge.~~

The clerk will then add the name of the new judge to the random selection system that governs the assignment of new cases to active judges.

### **Civil Rule 67.1 Deposit and Disbursements of Registry Funds**

- ~~a. **Disbursement of Funds.** Upon the entry of a judgment following a court or jury trial, funds, if any, on deposit in the registry of the court will be disbursed only by order of the court after the time for appeal has expired, or upon written stipulation by all parties approved by the court.~~

~~Each order directing the clerk to disburse funds must be clearly entitled “order to disburse funds” and must be without conditions to be met prior to disbursement of said funds. The order must also contain the taxpayer identification number and mailing address of the party entitled to said funds; and instructions about collecting the fee if it is an interest-bearing account. A sample order is available from the clerk’s office.~~

- ~~b. **Deposit.** Any funds, received in either civil or criminal cases, may be retained in a non-interest-bearing treasury account as necessary to arrange for their deposit in an interest-bearing account.~~

~~c. **Automatic Deposit:**~~

~~1. Unless otherwise ordered by a district judge, all funds deposited in the registry of the court in which the principal exceeds \$4,999.99 must be deposited into a passbook savings account:~~

~~2. The clerk is authorized to deduct a fee for the handling of all funds deposited with the court and held in interest-bearing accounts or instruments. The fee must be equal to that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office of the United States Courts. The fee must be withdrawn whenever income earned becomes available for deduction and must be deposited in the U.S. Treasury, without further order of the court.~~

~~d. **Exceptions to Automatic Deposit:**~~

~~1. It will be the responsibility of the interested party to serve the clerk or chief deputy personally with any order which directs a registry deposit under terms and conditions other than those provided in c. If the clerk or chief deputy is not personally served with such order, it will be presumed that the court has no notice, actual or constructive, of the terms and conditions of such order.~~

~~2. **Requirements.** Any order obtained by a party or parties in an action that directs the clerk to invest funds or change any investment deposited in the registry of the court pursuant to 28 U.S.C. § 2041 in an interest-bearing account or instrument must include the following:~~

~~a. The amount to be invested;~~

~~b. The name of the depository approved by the Treasurer of the United States as a depository in which funds may be deposited;~~

~~c. A designation of the type of account or instrument in which the funds will be invested;~~

~~d. Wording which directs the clerk to assess a charge for the handling of the funds in accordance with the fee schedule issued by the Director of the Administrative Office of the U.S. Courts.~~

~~e. Each order submitted under this rule must also contain the following paragraph. "IT IS ORDERED that counsel presenting this order personally serve a copy thereof on the clerk or the chief deputy. Absent the aforesaid service, the clerk is hereby relieved of any personal liability relative to compliance with this order."~~

**a. Receipt of Funds.**

1. No money will be sent to the Court or its officers for deposit in the Court's registry without a court order signed by the presiding district or magistrate judge in the case or proceeding.

2. The party making the deposit or transferring funds to the Court's registry will serve the order permitting the deposit or transfer on the Clerk of Court.

3. Unless provided for elsewhere in this Local Rule, all monies ordered to be paid to the Court or received by its officers in any case pending or adjudicated will be deposited with the Treasurer of the United States in the name and to the credit of this Court pursuant to 28 U.S.C. § 2041 through depositories designated by the Treasury to accept such deposit on its behalf.

**b. Investment of Registry Funds.**

1. Unless otherwise ordered by a district judge, all funds deposited in the registry of the court in which the principal equals or exceeds \$5000 are to be placed in an interest-bearing account. The Court Registry Investment System (“CRIS”), administered by the Administrative Office of the United States Courts under 28 U.S.C. § 2045, will be the only investment mechanism authorized.
2. The Director of the Administrative Office of the United States Courts is designated as custodian for CRIS. 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. Money from each case deposited in the CRIS will be “pooled” together with those 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, which will be held at the Treasury, in an account in the name and to the credit of the Director of the Administrative Office of the United States Courts. The pooled funds will be invested in accordance with the principals of the CRIS Investment Policy as approved by the Registry Monitoring Group.
4. An account for each case will be established in the CRIS titled in the name of the case giving rise to the investment in the fund. Income generated from fund investments will be distributed to each case based on the ratio each account’s principal and earnings has to the aggregate principal and income total in the fund. 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 and/or their counsel.

**c. Deductions of Fees.**

1. The custodian is authorized and directed by this Local Rule to deduct the investment services fee for the management of investments in the CRIS and the registry fee for maintaining accounts deposited with the Court.
2. The investment services fee is assessed from interest earnings to the pool and is to be assessed before a pro rata distribution of earnings to court cases.
3. The registry fee is assessed by the custodian from each case's pro rata distribution of the earnings and is to be determined on the basis of the rates published by the Director of the Administrative Office of the United States Courts as approved by the Judicial Conference of the United States.

**d. Disbursement of Registry Funds.**

1. Upon the entry of a judgment, funds, if any, on deposit in the registry of the court will be disbursed only by order of the court after the time for appeal has expired, or upon written stipulation by all parties approved by the court.
2. Each order directing the clerk to disburse funds must be clearly entitled "order to disburse funds" and must be without conditions to be met prior to disbursement of said funds. It must indicate which parties are entitled to principal and any accrued interest.

The order must also contain the name and mailing address of the party entitled to said funds, unless forbidden elsewhere in these rules or the Court's General Order, in which case the information may be redacted and/or provided directly to the Clerk's financial office.

Taxpayer identification numbers for the check payees must be delivered directly to the Clerk's financial office prior to disbursement.

3. A sample order is available from the Clerk's office.

### **Civil Rule 83.1 Sanctions for Noncompliance with Rules**

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- b. For violations of these Local Rules or of a specific court order, the court may, in imposing monetary sanctions, order that the monetary sanctions be paid to the ~~non-appropriated fund of the court~~ Miscellaneous Fines, Penalties and Forfeitures, Not Otherwise Classified, fund of the United States Treasury.

### **Criminal Rule 57.1 Sanctions for Noncompliance with Rules**

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- c. For violations of these Local Rules or of a specific court order, the court may, in imposing monetary sanctions, order that the monetary sanctions be paid to the ~~nonappropriated fund of the court~~ Miscellaneous Fines, Penalties and Forfeitures, Not Otherwise Classified, fund of the United States Treasury.

### **Civil Rule 83.3**

#### **Attorneys - Admission to Practice Standards of Conduct - Duties**

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- f. ~~**Distribution of Orders, Notices and Judgments.** The court will distribute orders, notices and judgments to only one attorney per party, the lead attorney. The lead attorney must be:~~
- ~~1. The attorney who appears first whether in court or by filing a pleading or document.~~
  - ~~2. If there are multiple attorneys representing the same party listed on the first document filed, the attorney who signs the document will be considered the lead attorney.~~
  - ~~3. If the lead attorney is a pro hac vice attorney, designated local counsel will also receive copies of orders, notices and judgments from the court.~~
  - ~~4. Designation of a different lead attorney (other than determined pursuant to paragraphs 1 or 2 of this section) may be filed with the~~

~~clerk's office. Only the present lead counsel need sign the designation.~~

~~If there are multiple attorneys representing the same party, it must be the lead attorney's responsibility to distribute orders, notices and judgments as required.~~

**Civil Rule 83.8 Non-appropriated Funds  
Plan for Administration of The  
Court Library Fund and Pro Bono Fund**

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- c.1. Library Fund.** The judges delegate to the clerk authority to authorize expenditures totaling \$500 per month. If any expenditures exceed that amount, the clerk will refer the request to the chief judge who will have the authority to approve individual expenditures not exceeding \$2,500. A Library Fund Committee, consisting of the current chief judge, the immediate former chief judge, and the next chief judge, will have the authority to approve individual expenditures not exceeding \$5,000. In the absence of the immediate former chief judge, the current chief judge will designate another district judge to the Library Fund Committee. Approval by a majority of ~~the~~ active district court judges is needed to authorize individual expenditures in excess of \$5,000. For any check in excess of \$500, the signature of the chief judge as well as the clerk is required.

**Criminal Rule 46.1 Release From Custody**

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- g. Exoneration of Bond and Release of Collateral.** When the judicial officer has exonerated a bond involving collateral of any kind, the defense attorney must file with the court a proposed order for release and/or reconveyance of the collateral. ~~Any proposed order exonerating a bond and reconveying property must be initialed by an Assistant United States Attorney prior to submission of the proposed order to the court. Such order must identify the collateral involved. All motions for release of collateral will be handled by the magistrate judge who set the bond unless bond was set by the district judge or if the district judge orders otherwise. When a defendant moves for release of collateral, and the Assistant United States~~

Attorney does not object, the parties will file a joint motion and proposed order for release and/or reconveyance of the collateral with the assigned magistrate judge. If the Assistant United States Attorney does object, then the defense attorney will file a noticed motion for release and/or reconveyance of the collateral. If the assigned magistrate judge is no longer with the court, then such motions will be filed with the presiding magistrate judge. Any proposed order releasing and/or reconveying property will identify with specificity the collateral involved.

### **Criminal Rule 57.4 United States Magistrate Judges**

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- c.6. Other Duties.** ~~Order the exoneration of forfeiture bonds;~~ Order the exoneration of appearance bonds and the release and/or reconveyance of collateral;

### **Criminal Rule 57.2.1 Related Cases**

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- a.5.** If a defendant is serving a term of probation or supervised release on a case in this district and the defendant is charged with a new offense in this district, the new case is deemed related to the case in which the defendant is on such terms of probation or supervisors supervised release if the defendant is the sole defendant in the new case.

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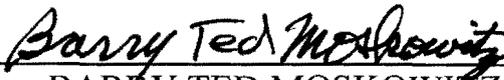
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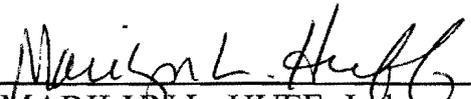
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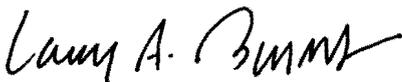
The period for public comment will be until January 12, 2015. Absent further order of this Court, the effective date of the Rules is February 2, 2015. Any comments should be submitted to the Clerk, U.S. District Court, at 333 W. Broadway, Suite 420, San Diego, California 92101. Please note on the envelope: "In Re: Local Rules Amendments."

**IT IS SO ORDERED.**

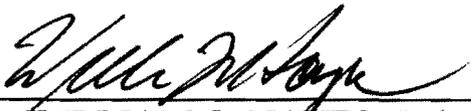
Dated: December 8, 2014

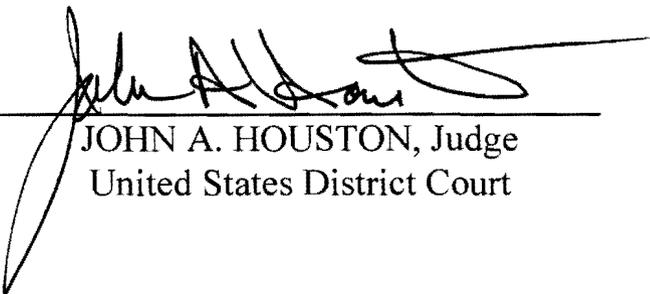
  
BARRY TED MOSKOWITZ,  
Chief Judge  
United States District Court

  
MARILYN L. HUFF, Judge  
United States District Court

  
LARRY A. BURNS, Judge  
United States District Court

  
DANA M. SABRAW, Judge  
United States District Court

  
WILLIAM Q. HAYES, Judge  
United States District Court

  
JOHN A. HOUSTON, Judge  
United States District Court

  
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ROGER T. BENITEZ, Judge  
United States District Court

  
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JANIS L. SAMMARTINO, Judge  
United States District Court

  
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MICHAEL M. ANELLO, Judge  
United States District Court

  
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ANTHONY J. BATTAGLIA, Judge  
United States District Court

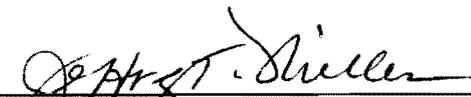
  
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CATHY ANN BENCIVENGO, Judge  
United States District Court

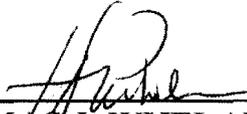
  
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GONZALO P. CURIEL, Judge  
United States District Court

  
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CYNTHIA BASHANT, Judge  
United States District Court

*see attached*  
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GORDON THOMPSON, Judge  
United States District Court

  
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WILLIAM B. ENRIGHT, Judge  
United States District Court

  
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JEFFREY T. MILLER, Judge  
United States District Court



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THOMAS J. WHELAN, Judge  
United States District Court



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M. JAMES LORENZ, Judge  
United States District Court

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ROGER T. BENITEZ, Judge  
United States District Court

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JANIS L. SAMMARTINO, Judge  
United States District Court

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MICHAEL M. ANELLO, Judge  
United States District Court

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ANTHONY J. BATTAGLIA, Judge  
United States District Court

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CATHY ANN BENCIVENGO, Judge  
United States District Court

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GONZALO P. CURIEL, Judge  
United States District Court

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CYNTHIA BASHANT, Judge  
United States District Court

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GORDON THOMPSON, Judge  
United States District Court

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WILLIAM B. ENRIGHT, Judge  
United States District Court

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JEFFREY T. MILLER, Judge  
United States District Court