

December 17, 2002

PROPOSED AMENDMENTS TO THE LOCAL RULES TO BECOME EFFECTIVE MARCH 1, 2003

PUBLIC COMMENT PERIOD ENDS JANUARY 17, 2003

The following new and/or amended local rules have been submitted for public comment. New or amended text is redlined and deleted text is stricken. Comments must be submitted in writing to the Clerk of Court, Mary E. D'Andrea P.O. Box 1148, Scranton, PA 18501-1148 by January 17, 2003:

CHAPTER III

SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

LR 5.1 Size and Other Physical Characteristics of Papers and Other Documents.

Papers or other documents filed in this court, except original or true copies of exhibits, shall be on paper approximating eight and one-half (8½) inches by eleven (11) inches in size. Any paper or other document filed shall be sufficient as to format and other physical characteristics if it substantially complies with the following requirements:

(a) Prepared on white paper (except for covers, dividers, and similar sheets) of good quality with typed or printed matter six and one-half (6½) inches by nine and one-half (9½) inches.

(b) The first sheet shall contain a three (3) inch space from the top of the paper for all court stampings, filing notices, etc.

(c) The lettering or typeface shall be clearly legible and shall not be smaller than 14 point word processing font or, if typewritten, shall not be smaller than pica. The text must be double-spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. The font type and size used in footnotes shall be the same as that used in the body of the brief. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there.

(d) The lettering or typeface shall be on only one (1) side of a page, ~~except that exhibits and similar supporting documents may be lettered on both sides of a page.~~

(e) All papers and other documents shall be ~~two hole punched at the top and firmly bound or~~ securely fastened with a paper clip, binder clip or rubber band ~~at the top~~. The use of plastic strips, staples or other such ~~devices~~ fasteners is prohibited, with the exception that administrative and judicial records may be firmly bound.

(f) Exhibits to a brief or motion shall accompany the brief or motion, but shall not be attached to or bound with the brief or motion. Exhibits shall be ~~bound~~ secured separately, using either lettered or numbered ~~tabs~~ separator pages to separate and identify each

exhibit. Each exhibit also shall be identified by letter or number on the top right hand corner of the first page of the exhibit. Exhibits to a complaint in support of a pleading or other paper shall accompany the pleading or other paper but shall not be physically bound thereto may be attached to the complaint, but shall be identified in the same manner as exhibits filed with motions and briefs. In all instances where more than one exhibit is part of the same filing, there shall be a table of contents for the exhibits.

(g) A proposed order shall accompany each motion or other request for relief, and shall be bound separately but shall not be fastened together.

(h) Each motion and each brief shall be a separately bound document.

(i) Exceptions to the provisions of this rule may be made only upon motion and for good cause or in the case of papers filed in litigation commenced *in forma pauperis*.

LR 5.2 Copies of Documents to be Filed with the Clerk.

(a) As to any pleading, motion, memorandum, brief or other document required or permitted to be filed with the court in paper form, there only the original shall be filed with the clerk the original and two (2) copies except that parties shall file an original and one copy of any paper exhibit in excess of 200 pages.

(b) Any document signed by an attorney for filing shall contain under the signature line the name, address, telephone number, fax number, e-mail address (if applicable) and Pennsylvania or other state bar identification number. When listing the bar identification number, the state's postal abbreviation shall be used as a prefix (e.g., PA 12345, NY 246810).

(c) Documents shall not be faxed to a judge without prior leave of court. Documents shall not be faxed to the clerk's office, except in the event of a technical failure with the court's Electronic Case Filing ("ECF") system.

(d) In compliance with the policy of the Judicial Conference of the United States, and in order to promote the electronic access to case records, while at the same time protecting personal privacy and other legitimate interests, a party shall refrain from including or shall redact the following personal data identifiers from documents filed with the clerk, unless otherwise ordered by the court:

1. **Social Security Numbers.** If the Social Security Number of an individual must be included in a document, only the last four digits of that number should be used;
2. **Names of minor children.** If the involvement of a minor child must be mentioned, only that child's initials should be used;
3. **Dates of birth.** If an individual's date of birth is necessary, only the year should be used;
4. **Financial account numbers.** If financial account numbers are relevant, only the last four digits should be recited in the document.

LR 5.4 Service and Filing of Discovery Material.

(a) The parties in *pro se* cases, Health and Human Services cases (Social Security Appeals), and U.S. Government loan cases shall not be obligated to meet and confer prior to instituting discovery. Discovery shall commence no later than thirty (30) days from the date the complaint is served upon the defendant(s).

(b) Interrogatories, requests for disclosures, requests for documents, requests for admissions, and answers and responses thereto shall be served upon other counsel and parties but shall not be filed with the court except as authorized by a provision of the Federal Rules of Civil Procedure or upon an order of the court. The party responsible for serving a discovery request shall retain and become the custodian of the original response. Proof of service or certificates of service of discovery material shall not be filed separately with the clerk. The original of all depositions upon oral examination shall be retained by the party taking such deposition.

(c) If relief is sought under any of the Federal Rules of Civil Procedure, a copy copies of the discovery matters in dispute shall be filed with the court contemporaneously with any motion filed under these rules by the party seeking to invoke the court's relief.

(d) When documentation of discovery not previously in the record is needed for appeal purposes, upon an application and order of the court or by stipulation of counsel, the necessary discovery papers shall be filed with the clerk.

LR 5.6 Filing of Documents by Electronic Means

Documents may be filed, signed and verified by electronic means to the extent and in the manner authorized by the court's Standing Order regarding Electronic Case Filing Policies and Procedures and the ECF User Manual. A document filed by electronic means in compliance with this Local Rule constitutes a written document for the purposes of applying these Local Rules, the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

LR 5.7 Service of Documents by Electronic Means

Documents may be served through the court's transmission facilities by electronic means to the extent and in the manner authorized by the Standing Order regarding Electronic Case Filing Policies and Procedures and the ECF User Manual. 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. Any other party or parties shall be served documents according to these Local Rules, the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

~~**LR 7.2 Service of Pretrial Documents by Movant and Respondent.**~~

~~The movant and respondent shall serve copies of their respective papers upon the opposing party at the time such papers are filed with the clerk.~~

LR 7.5 Submission of Briefs Supporting Pretrial Motions.

Within ten (10) days after the filing of any motion filed prior to trial, the party filing the

same shall file ~~an original and two (2) copies~~ of a brief with the clerk and shall serve copies thereof on all parties. If the motion seeks a protective order, a supporting brief shall be filed with the motion. Unless otherwise ordered by the court, if a supporting ~~legal~~ briefs are is not filed within the time provided in this rule such motion shall be deemed to be withdrawn. A ~~B~~briefs shall not be required: (a) In support of a motion for enlargement of time if the reasons for the request are fully stated in the motion, (b) In support of any motion or a stipulation which has concurrence of all counsel, and the reasons for the motion or the stipulation and the relief sought are fully stated therein, or (c) In support of a motion for appointment of counsel.

LR 7.6 Submission of Briefs or Memoranda Opposing Pretrial Motions.

Any party opposing any motion shall file ~~an original and two (2) copies~~ of a responsive brief, together with any opposing affidavits, deposition transcripts or other documents, within fifteen (15) days after service of the movant's brief. Any respondent who fails to comply with this rule shall be deemed not to oppose such motion.

LR 7.7 Pretrial Reply Briefs or Memoranda.

~~An original and two (2) copies~~ of a A brief in reply to matters argued in respondent's brief may be filed by the moving party within ten (10) days after service of the respondent's brief. No further briefs may be filed without leave of court.

LR 7.8 Contents and Length of Pretrial Briefs.

(a) Contents of Briefs.

Briefs shall contain complete citations of all authorities relied upon, including whenever practicable, citations both to official and unofficial reports. No brief may incorporate by reference all or any portion of any other brief. A copy of any unpublished opinion which is cited must accompany the brief as an attachment. The brief of the moving party shall contain a procedural history of the case, a statement of facts, a statement of questions involved, and argument. The brief of the opposing party may contain a counterstatement of the facts and of the questions involved and a counterhistory of the case. If counterstatements of facts or questions involved are not filed, the statements of the moving party will be deemed adopted. The brief of each party, if more than fifteen (15) pages in length, shall contain a table of contents, with page references, and table of citations of the cases, statutes and other authorities referred to therein, with references to the pages at which they are cited. A brief may address only one motion, except in the case of cross motions for summary judgment.

(b) Length of Briefs

(1) Unless the requirements of Local Rule 7.8 (b)(2) and (3) are met, no brief shall exceed fifteen (15) pages in length.

(2) A brief may exceed fifteen (15) pages so long as it does not exceed 5,000 words. If a brief is filed in accordance with this subsection, counsel, or an unrepresented party, must ~~attach~~ include a certificate (subject to Fed. R. Civ. P. 11) that the brief complies with the word-count limit described in this subsection. The person preparing the certificate may rely on the word count feature of the word-processing system used to prepare the brief.

The certificate must state the actual number of words in the brief.

(3) No brief exceeding the limits described in this rule may be filed without prior authorization. Any motion seeking such authorization shall specify the length of the brief requested and shall be filed at least two (2) working days before the brief is due.

LR 7.21 ~~Service of Post-trial Motions by Movant and Respondent.~~

~~The movant and respondent shall serve copies of their respective papers upon all other parties at the time such papers are filed with the clerk.~~

LR 7.22 ~~LR 7.22~~ **Exhibits and Other Documents Supporting Post-trial Motions.**

When allegations of fact not of record are relied upon in support of a motion, all pertinent affidavits, transcripts of depositions, and other documents must be filed simultaneously with the motion whenever practicable. In any event, such supporting documents must be filed within fifteen (15) days after the motion has been filed, unless otherwise ordered by the court. Affidavits in support of a motion for new trial shall be served with the motion as required by Fed.R.Civ.P.59(c). All other supporting exhibits and documents shall be filed and identified in the manner required by LR 5.1 (f).

LR 7.30 **Post-trial Briefs of Moving Party.**

The ~~An original and two (2) copies of the~~ brief of the moving party shall be filed within thirty (30) days after the filing of the motion, unless upon motion and for good cause shown the court directs otherwise. Unless otherwise ordered by the court, if a supporting legal briefs ~~are~~ is not filed within the time provided in this rule, such motion shall be deemed to be withdrawn.

LR 7.31 **Post-trial Briefs of Respondent.**

The ~~An original and two (2) copies of the~~ brief of the respondent shall be filed within twenty (20) days after service of the brief of the moving party. Unless otherwise ordered by the court, if a responsive legal brief is not filed within the time provided in this rule, the respondent shall be deemed not to oppose such motion.

LR 7.32 **Post-trial Reply Briefs.**

The moving party may file ~~an original and two (2) copies of a~~ reply brief within ten (10) days after service of the brief of the respondent. No further briefs may be filed without leave of court.

LR 7.36 Citation of Supplemental Authorities

If pertinent and significant cases are decided or authorities are enacted, relating to an issue raised in a motion pending before the court, after the party's final brief has been filed--or after oral argument but before decision--the party may file a notice of supplemental authority setting forth the supplemental citations. The notice of supplemental authority shall indicate the motion to which the supplemental authority may be relevant, but it must not include any argument. The body of the notice of supplemental authority may not exceed 100 words.

LR 15.1 Amended Pleadings

(a) Original of Proposed amendment to accompany the motion.

Whenever a party files a motion requesting leave to file an amended pleading, the original of the proposed amended pleading must be retyped or reprinted so that it will be complete in itself including exhibits and shall be attached to filed on paper as a separate document or, in the Electronic Filing System, as an attachment to the motion. If the motion is granted, the clerk shall forthwith detach and file the original-amended pleading. Unless otherwise ordered, an amended pleading that does not add a new defendant shall be deemed to have been served for the purpose of determining the time for response under Fed. R. Civ. P. 15(a), on the date the Court grants leave for its filing. A party granted leave to amend its pleading, when the amended pleading would add a new defendant, shall file and effect service of the amended pleading within thirty (30) days after the date of the Order granting leave for its filing.

(b) Highlighting of amendments.

The party filing the motion requesting leave to file an amended pleading shall attach to the motion provide: (1) the proposed amended pleading as set forth in subsection (a) of this rule, and (2) a copy of the original pleading in which stricken material has been lined through and any new material has been inserted and underlined or set forth in bold-faced type.

LR 16.8.5 Scheduling Mediation Conference.

(a) When the court makes a determination that referral to mediation is appropriate, it shall issue an order referring the case to mediation, appointing the mediator, directing the mediator to establish the date, time and place for the mediation session and setting forth the name, address, and telephone number of the mediator. The order will also direct the mediator to fix the date for the initial mediation session to be a date within thirty (30) days from the date of the order of referral.

(b) The mediation session shall be held before a mediator selected by the assigned judge from the list of mediators certified by the chief judge.

(c) Upon mailing the order of referral, the clerk shall send to provide the mediator with a current docket sheet. The mediator shall advise the clerk as to which documents in the case file the mediator desires copies of for the mediation session. The clerk shall provide the mediator with all requested copies.

(d) Any continuance of the mediation session beyond the thirty (30) day period from the date of the referral order must be approved by the assigned judge.

(e) A person selected as a mediator shall be disqualified for bias or prejudice as provided by 28 U.S.C. § 144, and shall disqualify himself or herself in any action where disqualification would be required under 28 U.S.C. § 455 if he or she were a justice, judge, or magistrate judge. A party may assert the bias or prejudice of an assigned mediator by filing an affidavit with the assigned judge stating that the mediator has a personal bias or prejudice. The judge may in his or her discretion end alternative dispute resolution efforts, refer the case to another mediator, refer the case back to the already selected mediator or initiate another alternative dispute resolution mechanism.

LR 16.8.6 The Mediation Session.

(a) The mediation session shall take place on the date and at the time set forth in the order. The mediation session shall take place in a neutral setting as designated by the mediator. The parties shall not contact or forward documents to the mediator unless the mediator requests the information.

(b) Counsel primarily responsible for the case and any unrepresented party shall attend the mediation session. All parties or principals of parties with decision making authority must attend the mediation session, unless attendance is excused by the mediator for good cause shown, and then shall be available by phone and be prepared to discuss: (1) all liability issues; (2) all damages issues; (3) all equitable and declaratory remedies if such are requested; and (4) the position of the parties relative to settlement. Counsel shall make arrangements with the client to be available by telephone or in person for the purpose of discussing settlement possibilities. Parties may be required to participate during the mediation session at the discretion of the mediator. Willful failure to attend the mediation conference shall be reported to the court and may result in the imposition of sanctions.

(c) No proceeding at any mediation session authorized by this rule (including any statement made or written submissions provided by a party, attorney, or other participant) shall be disclosed to any person not involved in the mediation process, unless otherwise stipulated in writing by all parties and the mediator. None of the proceedings shall be used by any adverse party for any reason in the litigation at issue.

(d) In the event the mediator determines that no settlement is likely to result from the mediation session, the mediator shall terminate the session and promptly thereafter ~~send~~ file a report to the judge to whom the case is assigned stating that there has been compliance with the requirements of this rule, but that no settlement has been reached. In the event that a settlement is achieved at the mediation session, the mediator shall ~~send a written~~ file a report to the judge to whom the case is assigned stating that a settlement has been achieved.

(e) No one shall have a recording or transcript made of the mediation session, including the mediator.

(f) The mediator shall not be called to testify as to what transpired in the mediation session.

~~LR 24.1 Notification of Claim of Unconstitutionality.~~

~~For local rule on notification requirements in actions raising a claim of unconstitutionality, see LR 4.5.~~

LR 26.3 Discovery Motions, Statement of Conference to Resolve Objections.

Counsel for movant in all discovery motions shall file with as a part of the motion a statement certifying that counsel has conferred with counsel for the opposing party in a good faith effort to resolve by agreement the issues raised by the motion without the intervention of the court, together with a detailed explanation why such agreement could not be reached. If part of the issues raised by the motion have been resolved by agreement, the statement shall specify the issues so resolved and the issues remaining unresolved.

LR 30.12 Videotape Depositions, Expenses and Counsel Fees.

At any oral deposition taken outside this district, including a videotape deposition, a

party may apply to the court for an order requiring the party requesting the deposition to pay the opposing party reasonable expenses and counsel fees incident thereto, which may be granted or denied in the discretion of the court.

LR 39.7 Civil Trials, Trial Briefs.

No later than three (3) days before trial, counsel shall file a trial brief and serve copies on all opposing counsel. The trial brief shall contain a succinct statement of the evidence to be presented and the position of the party filing the same with respect to anticipated legal issues, and the legal authorities relied upon to support the same. A trial brief shall conform to the requirements of Local Rule 7.8 as to content and length. ~~Exhibits to a brief shall not be attached to or bound with the brief but shall be bound separately.~~

LR 51.1 Civil Trials, Requests to Instruct the Jury.

Requests to instruct the jury shall not exceed twelve (12) in number without leave of court. Each shall be a single request, on a separate numbered page, indicating the party making the request, and framed so that it can be either affirmed or denied. It shall cite the authority upon which it is based. When the authority relied upon is case law, the reference shall include the page(s) of the decision containing the point being proposed as well as the case citation. ~~The original and two (2) copies~~ requests shall be filed and served no later than three (3) days before trial. Such requests may be supplemented for matters arising during the trial that could not have been reasonably anticipated before trial.

LR 54.3 Bills of Costs.

Bills of costs, unless an extension is granted, shall be filed no later than thirty (30) days after entry of final judgment. All bills of costs requiring taxation shall be taxed by the clerk, subject to an appeal to the court. Any party appellant shall, within five (5) days after notice of such taxation, file a written specification of the items objected to and the grounds of objection. A copy of the specifications and objections shall be served on the opposite party or that party's attorney within five (5) days. An appeal ~~shall~~ may be dismissed for non-compliance with the appeal requirements.

LR 54.4 Taxation of Costs.

Costs shall be taxed in conformity with the provisions of 28 U.S.C. §§ 1920 - 1923 and such other provisions of law as may be applicable and such directives as the court may from time to time issue. Taxable items include:

(1) Clerk's Fees and Service Fees. Clerk's fees (see 28 U.S.C. § 1920) and service fees are allowable by statute. Fees required to remove a case from the state court to federal court are allowed as follows: fees paid to clerk of state court; fees for services of process in state court; costs of documents attached as exhibits to documents necessarily filed in state court, and fees for witnesses attending depositions before removal.

(2) Trial Transcripts. The cost of ~~the~~ an originals of a trial transcript, a daily transcript and of a transcript of matters prior or subsequent to trial, furnished to the court is taxable at the rate authorized by the Judicial Conference when either requested by the court, or prepared pursuant to stipulation. Mere acceptance by the court does not constitute a request. Copies of transcripts for counsel's own use are not taxable in the absence of a

special order of the court.

(3) Deposition Costs. The reporter's charge for the original deposition and/or a copy is taxable whether or not the same is actually received into evidence, and whether or not it is taken solely for discovery, regardless of which party took the deposition. Additional copies are not taxable. The reasonable expenses of the deposition reporter, and the notary, or other official presiding at the taking of the depositions are taxable, including travel and subsistence. Expenses incurred in taking a deposition are not taxable. Fees for the witness at the taking of a deposition are taxable at the same rate as for attendance at trial. Fees for videotaped depositions may not be taxed without prior court approval. The witness need not be under subpoena. A reasonable fee for a necessary interpreter at the taking of a deposition is taxable.

(4) Witness Fees, Mileage and Subsistence. The rate for witness fees, mileage and subsistence are fixed by statute (see 28 U.S.C. § 1821). Such fees are taxable even though the witness does not take the stand provided the witness necessarily attends the court. Such fees are taxable even though the witness attends voluntarily upon request and is not under subpoena. The mileage taxation is that which is traveled based on the most direct route. Mileage fees for travel outside the district shall not exceed 100 miles each way without prior court approval. Witness fees and subsistence are taxable only for the reasonable period during which the witness is within the district. No party shall receive witness fees for testifying in his or her own behalf but this shall not apply where a party is subpoenaed to attend court by the opposing party. Witness fees for officers of a corporation are taxable if the officers are not defendants and recovery is not sought against the officers individually. Fees for expert witnesses are not taxable in a greater amount than that statutorily allowable for ordinary witnesses. Allowance of fees for a witness on deposition shall not depend on whether or not the deposition is admitted into evidence.

(5) Exemplification and Copies of Papers. The cost of an exhibit necessarily attached to a document (or made part of a deposition transcript) required to be filed and served is taxable. The cost of copies submitted in lieu of originals because of the convenience of offering counsel or client are not taxable. The cost of reproducing copies of motions, pleadings, notices and other routine case papers is not taxable. The cost of reproducing the required number of copies of the clerk's record on appeal is allowable.

(6) Maps, Charts, Models, Photographs, Summaries, Computations and Statistical Summaries. The cost of maps and charts are taxable if they are admitted into evidence. The cost of photographs 8" by 10" in size or less, are taxable if admitted into evidence, or attached to documents required to be filed and served on opposing counsel. Enlargements greater than 8" by 10" are not taxable except by order of the court. The cost of models is not taxable except by order of the court. The cost of compiling summaries, computations and statistical comparisons is not taxable.

(7) Interpreter Fees. The reasonable fee of a competent interpreter is taxable if the fee of the witness involved is taxable. The reasonable fee of a competent translator is taxable if the document translated is necessarily filed, or admitted in evidence.

(8) Docket Fees. Docket fees and costs of briefs are taxable pursuant to 28 U.S.C. § 1923.

(9) Other items may be taxed with prior court approval.

(10) The certificate of counsel required by 28 U.S.C. § 1924 and the local rules shall

be prima facie evidence of the facts recited therein. The burden is on the opposing party to establish that a claim is incorrectly stated, unnecessary or unreasonable.

LR 71A.1.5 Standard Form Complaint.

A standard form of complaint may be used for each civil action filed to condemn a tract, economic unit or ownership for which the issue of just compensation is required to be determined in a single lump sum. In the body of the complaint it shall not be necessary to designate the owner or owners of the property concerned, other parties affected by the civil action, or to describe the property concerned in the civil action. The names of the owners, and other parties affected, and the description of the property concerned in the civil action, may be set forth in an exhibit or exhibits incorporated by reference in the standard form of complaint and attached thereto filed with the complaint.

SECTION II CHAPTER I CRIMINAL RULES

LCrR 58.2 Petty Offenses Brought by Violation Notice.

An authorized enforcement officer may initiate a petty offense charge by a violation notice. A separate violation notice shall be used for each separate offense charged. The violation notice form shall be completed by stating the date and time of the offense, the offense charged, the place of the offense, an offense description, the defendant's name and address and other appropriate identification information, and vehicle description information when appropriate. The violation notice shall inform the defendant of the court address and of the date and time of the defendant's court appearance. The date, time and place for the defendant to appear in court shall be inserted by the issuing officer, at the time of issuing the violation notice, on the basis of instructions from the assigned United States Magistrate Judge. The violation notice shall inform the defendant whether the defendant must appear in court or may elect instead to forfeit collateral. The violation notice shall include a statement of probable cause made under penalty of perjury. The original and one copy of the violation notice(s) shall be promptly sent to the Central Violations Bureau by the issuing agency.

LCrR 58.3 Authority for Forfeiture of Collateral in Certain Petty Offenses; Forfeiture of Collateral Cases - Procedures

(a) In the case of a petty offense listed in the court's **Standing Order Re: Forfeiture of Collateral Schedule**, the violation notice shall be completed by the issuing officer so as to contain the collateral forfeiture amount established by the **Forfeiture of Collateral Schedule**, except that if a mandatory appearance is an option under the **Forfeiture of Collateral Schedule** the issuing officer may elect not to insert a collateral forfeiture amount upon the violation notice and to therefore require the appearance of the defendant in court.

The **Forfeiture of Collateral Schedule** does not create or define any offense. Offenses are created and defined by federal statutes or regulations, or assimilated state statutes. A violation notice must refer by citation to the applicable statute(s) or

regulation(s).

(b) The violation notice shall contain instructions for paying the collateral to the Central Violations Bureau. The defendant shall be given a mail-in envelope addressed to the Central Violations Bureau Lock Box by the issuing officer. The violation notice shall contain a check-off option for the defendant to state an election to forfeit collateral or to plead not guilty and to promise to appear in court. The notice shall instruct the defendant to mail the violation notice form stating the defendant's election to the Central Violations Bureau in no more than twenty-one (21) days.

(c) A collateral forfeiture amount shall not be inserted upon a violation notice for any offense not included in the **Forfeiture of Collateral Schedule**.

(d) When an "X" appears next to a listed violation in the **Forfeiture of Collateral Schedule**, the issuing officer may, in his or her discretion, elect not to insert a forfeiture of collateral amount upon the violation notice and therefore require the appearance of the defendant in court. A mandatory appearance may be chosen by the issuing officer when there is good cause for not permitting a collateral forfeiture.

(e) When the charged petty offense is not listed in the **Forfeiture of Collateral Schedule**, or when a mandatory appearance is chosen by the issuing officer for an "X" designated charged petty offense, forfeiture of collateral by the defendant will not be permitted. The appearance of the defendant in court, as provided under Rule 58 of the Federal Rules of Criminal Procedure, is required.

(f) For any petty offense in which the issuing officer does not insert a collateral amount as provided under these Rules and the **Forfeiture of Collateral Schedule**, the defendant shall be issued a violation notice containing the information required in these Rules, except that in the space provided for the amount of collateral there shall be inserted the letters "MA" (Mandatory Appearance). The violation notice shall contain a check-off box stating "You must appear in court." This box shall be checked by the issuing officer in the case of a mandatory appearance violation notice.

(g) Remittance of collateral by a defendant shall be deemed a forfeiture of collateral, unless otherwise ordered by the court. A forfeiture of collateral is taken by the court as an acknowledgment of no contest to the violation notice and as an acknowledgment of guilt. The defendant is deemed convicted of the offense for which collateral is forfeited.

(h)(1) In a case where the defendant does not forfeit collateral and does not appear in court on the date and at the time and place set forth on the violation notice, a Notice to Appear may be issued by the magistrate judge or an arrest warrant may be issued upon a showing of probable cause and of actual notice to the defendant to appear. The court may, upon issuing a Notice to Appear, afford the defendant an additional opportunity to forfeit collateral or may convert the violation notice to a mandatory appearance.

(2) If the defendant does not appear as directed by a Notice to Appear, the magistrate judge may issue an arrest warrant upon a showing of probable cause. The amount of collateral may be increased up to the amount of the maximum fine provided for by law, or collateral forfeiture may be eliminated as an option.