

**Court Notice**  
**Eastern and Southern Districts of New York**

The Courts have adopted the following joint local civil rules and invite comments.

**Local Civil Rule 5.3 - Service by Overnight Delivery and Fax**

(a) Service upon an attorney of all papers other than a subpoena or a summons and complaint or any other paper required by statute or rule to be served in the same manner as a summons and complaint shall be permitted by dispatching the paper to the attorney by overnight delivery service at the address designated by the attorney for that purpose, or if none is designated, at the attorney's last known address. Service by overnight delivery service shall be complete upon deposit of the paper enclosed in a properly addressed wrapper into the custody of the overnight delivery service for overnight delivery, prior to the latest time designated by the overnight delivery service for overnight delivery. Overnight service shall be deemed service by mail for purposes of Fed. R. Civ. P. 6(e). "Overnight delivery service" means any delivery service which regularly accepts items for overnight delivery.

(b) No papers shall be served by facsimile unless the parties agree in writing in advance to accept service by this means or it is ordered by the assigned judge. Without such prior agreement or order, such attempted service shall be considered void. Service by electronic means other than facsimile shall be governed by the Standing Order relating to Procedures for Electronic Case Filing.

**\_\_\_\_\_ Local Civil Rule 12.1 - Notice to Pro Se Litigants Opposing Motions to Dismiss or for Judgment on the Pleadings Treated as Motions for Summary Judgment**

A represented party moving to dismiss or for judgment on the pleadings against a party proceeding pro se, who refers in support of the motion to matters outside the pleadings as described in Federal Rule of Civil Procedure 12(b) or 12(c), shall serve and file the notice required by Local Civil Rule 56.2 at the time the motion is served. If the court rules that a motion to dismiss or for judgment on the pleadings will be treated as one for summary judgment pursuant to Federal Rule of Civil Procedure 12(b) or 12(c), and the movant has not previously served and filed the notice required by Local Civil Rule 56.2, the notice must be served and filed within ten days of the court's ruling.

## **Local Civil Rule 5.2 - Electronic Service and Filing of Documents**

A paper served and filed by electronic means in accordance with procedures promulgated by the Court is, for purposes of Federal Rule of Civil Procedure 5, served and filed in compliance with the local civil rules of the Southern and Eastern Districts of New York.

In addition to the above, Local Civil Rule 1.9 - Disclosure of Interested Parties, was repealed.

These rules were recommended for adoption by the Joint Committee on Local Rules. The Joint Committee is comprised of attorneys , including representative of various area bar associations, and New York state and city law departments.

All amendments are effective immediately, subject to further comments.

Comments to the above are to be submitted, in writing, on or at the close of business March 31, 2003 to:

Clifford P. Kirsch  
District Court Executive  
U.S. Courthouse  
500 Pearl Street, Room 820  
New York, NY 10007-1312

or

Robert C. Heinemann  
Clerk of Court  
U.S. Courthouse  
225 Cadman Plaza  
Brooklyn, NY 11201