Local Rules of the
United States District Courts for the
Southern and Eastern Districts of New York

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Local Rules of the
United States District Courts for the
Southern and Eastern Districts of New York

Table of Contents

Page

LOCAL CIVIL RULES

1.1. Application of Rules 1
1.2. Clerk's Office 1
1.3. Admission to the Bar 1
1.4. Withdrawal or Displacement of Attorney of Record 5
1.5. Discipline of Attorneys 5
1.6. Duty of Attorneys in Related Cases 11
1.7. Fees of Clerks and Reporters 12
1.8. Photographs, Radio, Recordings, Television 12
1.9. Disclosure of Interested Parties - ***Repealed*** 12
1.10. Acceptable Substitutes for Affidavits 13
5.1. Filing of Discovery Materials 13
5.2. Electronic Service and Filing of Documents 13
5.3. Service by Overnight Delivery and Fax 14
6.1. Service and Filing of Motion Papers 14
6.2. Orders on Motions 16
6.3. Motions for Reconsideration or Reargument 16
6.4. Computation of Time 17
7.1. Memoranda of Law 17
7.1 (a). Memoranda of Law Required 17
7.1 (b). Length of Briefs on Appeals from Bankruptcy Court 17
7.1 (c). Service on Pro Se Litigants of Cited Unpublished Opinions 17
7.1.1. Disclosure Statement 18
7.2. Specification of Statutes or Rules 18
11.1. Form of Pleadings, Motions, and Other Papers 18
12.1. Notice to Pro Se Litigants Opposing Motions to Dismiss or for Judgment on the Pleadings Treated as Motions for Summary Judgment 19
16.1. Exemptions from Mandatory Scheduling Order 20
16.2. Entry and Modification of Mandatory Scheduling Orders by Magistrate Judges 20
23.1. Fees in Stockholder and Class Actions 21
23.1.1. Fees in Shareholder Derivative Actions 21
24.1. Notice of Claim of Unconstitutionality 22
26.1. Address of Party and Original Owner of Claim to Be Furnished 22
26.2. Assertion of Claim of Privilege 23

26.3. Uniform Definitions in Discovery Requests 24
26.4. Opt-Out From Certain Provisions of Federal Rule of Civil Procedure 26 (Southern District Only) - Repealed December 1, 2000 26
26.5. Cooperation Among Counsel in Discovery (Eastern District Only) 26
26.6. Form Discovery Requests (Eastern District Only) 26
26.7. Discovery Requests to Be Read Reasonably (Eastern District Only) 27
30.1. Counsel Fees on Taking Depositions More Than 100 Miles From Courthouse 27
30.2. Opt-Out From Certain Provisions of Federal Rule of Civil Procedure 30 (Southern District Only) - Repealed December 1, 2000 27
30.3. Telephonic Depositions (Eastern District Only) 28
30.4. Persons Attending Depositions (Eastern District Only) 28
30.5. Depositions of Witnesses Who Have No Knowledge of the Facts (Eastern District Only) 28
30.6. Conferences Between Deponent and Defending Attorney (Eastern District Only) 29
30.7. Document Production at Depositions (Eastern District Only) 29
31.1. Opt-Out From Certain Provisions of Federal Rule of Civil Procedure 31 (Southern District Only) - Repealed December 1, 2000 29
33.1. Answering Interrogatory by Reference to Records 29
33.2. Standard Discovery in Prisoner Pro Se Actions 30
33.3. Interrogatories (Southern District Only) 32
33.4. Opt-Out From Certain Provisions of Federal Rule of Civil Procedure 33 (Southern District Only) - Repealed December 1, 2000 33
34.1. Opt-Out From Certain Provisions of Federal Rule of Civil Procedure 34 (Southern District Only) - Repealed December 1, 2000 33
36.1. Opt-Out From Certain Provisions of Federal Rule of Civil Procedure 36 (Southern District Only) - Repealed December 1, 2000 33
37.1. Verbatim Quotation of Discovery Materials 33
37.2. Mode of Raising Discovery Disputes With the Court (Southern District Only) 34
37.3. Mode of Raising Discovery and Other Non-Dispositive Pretrial Disputes With the Court (Eastern District Only) 34
39.1. Custody of Exhibits 36
39.2. Order of Summation 36
47.1. Assessment of Jury Costs 37
53.1. Masters 37
54.1. Taxable Costs 38
54.2. Security for Costs 41
54.3. Entering Satisfaction of Money Judgment 41
55.1. Certificate of Default 42
55.2. Default Judgment 42
56.1. Statements of Material Facts on Motion for Summary Judgment 43

56.2. Notice to Pro Se Litigant Who Opposes a Summary Judgment 44
58.1. Remand by an Appellate Court 45
65.1.1. Sureties 45
67.1. Order for Deposit in Interest-Bearing Account 47
72.1. Powers of Magistrate Judges 47
72.2. Reference to Magistrate Judge (Eastern District Only) 48
73.1. Consent Jurisdiction Procedure 49
77.1. Submission of Orders, Judgments and Decrees 49
81.1. Removal of Cases from State Courts 50
83.1. Transfer of Cases to Another District 50
83.2. Settlement of Actions by or on Behalf of Infants or Incompetents, Wrongful Death Actions [, *and Conscious Pain and Suffering Actions* (EDNY only)] 50
83.3. Habeas Corpus 52
83.4. Proceedings to Stay the Deportation of Aliens in Deportation and Exclusion Cases 53
83.5. Three-Judge Court 55
83.6. Publication of Advertisements 56
83.7. Notice of Sale 57
83.8. Filing of Notice of Appeal 58
83.9. Contempt Proceedings in Civil Cases 58
83.10. Court-Annexed Arbitration (Eastern District Only) 60
83.11. Court-Annexed Mediation (Eastern District Only) 68
83.12. Alternative Dispute Resolution (Southern District Only) 75

LOCAL ADMIRALTY AND MARITIME RULES

A.1. Application of Rules 79
B.1. Affidavit That Defendant Is Not Found Within the District 79
B.2. Notice of Attachment 79
C.1. Intangible Property 80
C.2. Publication of Notice of Action and Arrest; Sale 80
C.3. Notice Required for Default Judgment in Action In Rem 81
D.1. Return Date in Possessory, Petitory, and Partition Actions 82
E.1. Adversary Hearing Following Arrest, Attachment or Garnishment 82
E.2. Intervenors' Claims 82
E.3. Claims by Suppliers for Payment of Charges 83
E.4. Preservation of Property 84

LOCAL CRIMINAL RULES

1.1. Application of Rules 85
1.2. Applications for Ex Parte Orders 85
12.1. Service and Filing of Motion Papers 85
12.4. Disclosure Statement 86

16.1. Conference of Counsel 86
23.1. Free Press-Fair Trial Directives 87
34.1. Post-Trial Motions 91
44.1. Notice of Appearance 91
45.1. Computation of Time 92
58.1. Powers of Magistrate Judges 92
58.2. Petty Offenses--Collateral and Appearance 93

RULES FOR THE DIVISION OF BUSINESS AMONG DISTRICT JUDGES
SOUTHERN DISTRICT 94
1. Individual Assignment System 94
2. Assignment Committee 94
3. Part I 95
4. Civil Actions or Proceedings (Filing and Assignment) 95
5. Civil Proceedings in Part I 96
6. Criminal Actions or Proceedings (Filing and Assignment) 97
7. Criminal Proceedings 98
8. Arraignments and Assignments in Criminal Cases 99
9. Cases Certified for Prompt Trial or Disposition 100
10. Motions 101
11. Amendments of *Pro Se* Petitions for Collateral Relief from Convictions 101
12. Assignments to New Judges 102
13. Assignments to Senior Judges 103
14. Assignments to Visiting Judges 103
15. Transfer of Related Cases 104
16. Transfer of Cases by Consent 105
17. Transfers from Senior Judges 105
18. Transfer Because of Disqualification, etc. 106
19. Transfer of Cases Because of Death, Resignation, Prolonged Illness, Disability, Unavoidable Absence, or Excessive Backlog of a Judge 106
20. Transfer of Cases to the Suspense Docket 106
21. Designation of White Plains Cases 107
22. Reassignment of Cases 108
23. Removed Actions and Bankruptcy Matters 108
24. Caseload of White Plains Judge(s) 109
25. Prisoner Civil Rights Actions and *Habeas Corpus* Petitioners 109
26. Filing at Either Courthouse 109
27. Related Cases 109
28. High-Security Criminal Case 110
29. Part I 110
30. Naturalization 110

31. Jury Assignments 110
32. Court Hours 110
33. Emergency Matters 111

EASTERN DISTRICT 112
50.1 Categories and Classification of Cases; Information on Cases and Parties 112
50.2 Assignment of Cases 114
50.3 Related Cases; Motion for Consolidation of Cases 117
50.4 Reassignment of Cases 118
50.5 Miscellaneous Judge 119
50.6 Calendars 119
50.7 Conference 120

VARIOUS RULES TABLES
Local Civil Rules Derivation Table 121
Local Civil Rules Conversion Table 123
Local General Rules Conversion Table 125
Local Magistrate Judge Rules Conversion Table 125
E.D.N.Y. Standing Orders Conversion Table 126
Local Admiralty and Maritime Rules Derivation Table 127
Local Admiralty and Maritime Rules Conversion Table 127
Local Criminal Rules Derivation Table 128
Local Criminal Rules Conversion Table 128

LOCAL CIVIL RULES

Local Civil Rule 1.1. Application of Rules

These Local Civil Rules apply in civil actions as defined in Federal Rules of Civil Procedure 1 and 2.

Local Civil Rule 1.2. Clerk's Office

The offices of the clerk are open from 8:30 a.m. to 5:00 p.m. Monday through Friday and closed on Saturdays, Sundays, and legal holidays. A night depository with an automatic time and date stamp shall be maintained by the clerk of the Southern District in the Pearl Street Courthouse and by the clerk of the Eastern District in the Brooklyn Courthouse. After regular business hours, papers for the district court only may be deposited in the night depository. Such papers will be considered as having been filed in the district court as of the time and date stamped thereon, which shall be deemed presumptively correct.

[Source: Former Local General Rule 1.]

Local Civil Rule 1.3. Admission to the Bar

(a) A member in good standing of the bar of the state of New York, or a member in good standing of the bar of the United States District Court in Connecticut or Vermont and of the bar of the State in which such district court is located, provided such district court by its rule extends a corresponding privilege to members of the bar of this court, may be admitted to practice in this court on compliance with the following provisions:

In the first instance, each applicant for admission is required to file an application for admission in electronic form on the Court's Web site (www.nysd.uscourts.gov). This one application will be utilized both to admit and then to provide the applicant to the bar of this Court with a password and login for use on the court's Electronic Case Filing (ECF) system. The applicant shall adhere to all applicable rules of admission.

The applicant shall (a) complete the application on-line, (b) submit the application electronically, (c) print and sign a copy of the application, and (d) file the printed application and fee with the clerk, together with a certificate(s) of good standing and a supporting affidavit(s).

After submitting the application in electronic form, each applicant for admission shall file with the clerk, at least ten (10) days prior to hearing (unless, for good cause shown, the judge shall shorten the time), the signed paper copy of the verified written petition for admission stating: (1) applicant's residence and office address; (2) the time when, and courts where, admitted; (3) applicant's legal training and experience; (4) whether applicant has ever been held in contempt of court, and, if so, the nature of the contempt and the final disposition thereof; (5) whether applicant has ever been censured, suspended, disbarred or denied admission or readmission by any court, and, if so, the facts and circumstances connected therewith; (6) that applicant has read and is familiar with (a) the provisions of the Judicial Code (Title 28, U.S.C.) which pertain to the jurisdiction of, and practice in, the United States District Courts; (b) the Federal Rules of Civil Procedure; (c) the Federal Rules of Criminal Procedure; (d) the Federal Rules of Evidence; (e) the Local Rules of the United States District Court for the Southern and Eastern Districts of New York; and (f) the New York State Lawyer's Code of Professional Responsibility as adopted from time to time by the

Appellate Divisions of the State of New York; and (7) that applicant will faithfully adhere to all rules applicable to applicant's conduct in connection with any activities in this court.

The petition shall be accompanied by a certificate of the clerk of the court for each of the states in which the applicant is a member of the bar, which has been issued within thirty (30) days and states that the applicant is a member in good standing of the bar of that state court. The petition shall also be accompanied by an affidavit of an attorney of this court who has known the applicant for at least one year, stating when the affiant was admitted to practice in this court, how long and under what circumstances the attorney has known the applicant, and what the attorney knows of the applicant's character and experience at the bar. Such petition shall be placed at the head of the calendar and, on the call thereof, the attorney whose affidavit accompanied the petition shall personally move the admission of the applicant. If the petition is granted, the applicant shall take the oath of office and sign the roll of attorneys.

A member of the bar of the state of New York, Connecticut, or Vermont who has been admitted to the bar of this court pursuant to this subsection and who thereafter voluntarily resigns from membership in the bar of the state pursuant to which he was admitted to the bar of this court, and who does not within 30 days of that voluntary resignation file an affidavit with the clerk of this court indicating that such person remains eligible to be admitted to the bar of this court pursuant to other provisions of this subsection (as because he is still a member of the bar of another eligible state and, where applicable, a corresponding district court), shall be deemed to have voluntarily resigned from the bar of this court as of the sa ne date the member resigned from the bar of the underlying state, provided that such resignation shall not be deemed to deprive this court of jurisdiction to

impose discipline on this person, pursuant to Rule 1.5 infra, for conduct preceding the date of such resignation.

(b) A member in good standing of the bar of either the Southern or Eastern District of New York may be admitted to the bar of the other district without formal application (1) upon filing in that district a certificate of the Clerk of the United States District Court for the district in which the applicant is a member of the bar, which has been issued within thirty (30) days and states that the applicant is a member in good standing of the bar of that court and (2) upon taking the oath of office, signing the roll of attorneys of that district, and paying the fee required in that district.

(c) A member in good standing of the bar of any state or of any United States District Court may be permitted to argue or try a particular case in whole or in part as counsel or advocate, upon motion and upon filing with the Clerk of the District Court a certificate of the court for each of the states in which the applicant is a member of the bar, which has been issued within thirty (30) days and states that the applicant is a member in good standing of the bar of that state court. Only an attorney who has been so admitted or who is a member of the bar of this court may enter appearances for parties, sign stipulations or receive payments upon judgments, decrees or orders.

(d) If an attorney who is a member of the bar of this court, or who has been authorized to appear in a case in this court, changes his or her residence or office address, the attorney shall immediately notify the clerk of the court, in addition to serving and filing a notice of change of address in each pending case in which the attorney has appeared.

[Source: Former Local General Rule 2.]

Local Civil Rule 1.4. Withdrawal or Displacement of Attorney of Record

An attorney who has appeared as attorney of record for a party may be relieved or displaced only by order of the court and may not withdraw from a case without leave of the court granted by order. Such an order may be granted only upon a showing by affidavit or otherwise of satisfactory reasons for withdrawal or displacement and the posture of the case, including its position, if any, on the calendar.

[Source: Former Local General Rule 3 (c).]

Local Civil Rule 1.5. Discipline of Attorneys

(a) **Committee on Grievances.** The chief judge shall appoint a committee of the board of judges known as the Committee on Grievances, which under the direction of the chief judge shall have charge of all matters relating to the discipline of attorneys. The chief judge shall appoint a panel of attorneys who are members of the bar of this court to advise or assist the Committee on Grievances. At the direction of the Committee on Grievances or its chair, members of this panel of attorneys may investigate complaints, may prepare and support statements of charges, or may serve as members of hearing panels.

(b) **Grounds for Discipline or Other Relief.** Discipline or other relief, of the types set forth in paragraph (c) below, may be imposed, by the Committee on Grievances, after notice and opportunity to respond as set forth in paragraph (d) below, if any of the following grounds is found by clear and convincing evidence:

(1) Any member of the bar of this court has been convicted of a felony or misdemeanor in any federal court, or in a court of any state or territory.

(2) Any member of the bar of this court has been disciplined by any federal court or by a court of any state or territory.

(3) Any member of the bar of this court has resigned from the bar of any federal court or of a court of any state or territory while an investigation into allegations of misconduct by the attorney was pending.

(4) Any member of the bar of this court has an infirmity which prevents the attorney from engaging in the practice of law.

(5) In connection with activities in this court, any attorney is found to have engaged in conduct violative of the New York State Lawyer's Code of Professional Responsibility as adopted from time to time by the Appellate Divisions of the State of New York, and as interpreted and applied by the United States Supreme Court, the United States Court of Appeals for the Second Circuit, and this court.

(6) Any attorney not a member of the bar of this court has appeared at the bar of this court without permission to do so.

(c) **Types of Discipline or Other Relief.**

(1) In the case of an attorney admitted to the bar of this court, discipline imposed pursuant to paragraph (b)(1), (b)(2), (b)(3), or (b)(5) above may consist of a letter of reprimand or admonition, censure, suspension, or an order striking the name of the attorney from the roll of attorneys admitted to the bar of this court.

(2) In the case of an attorney not admitted to the bar of this court, discipline imposed pursuant to paragraph (b)(5) or (b)(6) above may consist of a letter of reprimand or

admonition, censure, or an order precluding the attorney from again appearing at the bar of this court.

(3) Relief required pursuant to paragraph (b)(4) above shall consist of suspending the attorney from practice before this court.

(d) **Procedure.**

(1) If it appears that there exists a ground for discipline set forth in paragraph (b)(1), (b)(2), or (b)(3), notice thereof shall be served by the Committee on Grievances upon the attorney concerned by first class mail, directed to the address of the attorney as shown on the rolls of this court and to the last known address of the attorney (if any) as shown in the complaint and any materials submitted therewith. Service shall be deemed complete upon mailing in accordance with the provisions of this paragraph.

In all cases in which any federal court or a court of any state or territory has entered an order disbarring or censuring an attorney or suspending the attorney from practice, whether or not on consent, the notice shall be served together with an order by the clerk of this court, to become effective twenty-four days after the date of service upon the attorney, disbarring or censuring the attorney or suspending the attorney from practice in this court upon terms and conditions comparable to those set forth by the other court of record. In all cases in which an attorney has resigned from the bar of any federal court or of a court of any state or territory while an investigation into allegations of misconduct by the attorney was pending, even if the attorney remains admitted to the bar of any other court, the notice shall be served together with an order entered by the clerk for this court, to become effective twenty-four days after the date of service upon the attorney, deeming the attorney to have

resigned from the bar of this court. Within twenty days of the date of service of either order, the attorney may file a motion for modification or revocation of the order. Any such motion shall set forth with specificity the facts and principles relied upon by the attorney as showing cause why a different disposition should be ordered by this court. The timely filing of such a motion will stay the effectiveness of the order until further order by this court. If good cause is shown to hold an evidentiary hearing , the Committee on Grievances may proceed to impose discipline or to take such other action as justice and this rule may require.

In all other cases, the notice shall be served together with an order by the Committee on Grievances directing the attorney to show cause in writing why discipline should not be imposed. If the attorney fails to respond in writing to the order to show cause, or if the response fails to show good cause to hold an evidentiary hearing, the Committee on Grievances may proceed to impose discipline or to take such other action as justice and this rule may require. If good cause is shown to hold an evidentiary hearing, the Committee on Grievances may direct such a hearing pursuant to paragraph (d)(4) below.

(2) In the case of a ground for discipline set forth in paragraph (b)(2) or (b)(3) above, discipline may be imposed unless the attorney concerned establishes by clear and convincing evidence (i) that there was such an infirmity of proof of misconduct by the attorney as to give rise to the clear conviction that this court could not consistent with its duty accept as final the conclusion of the other court, or (ii) that the procedure resulting in the investigation or discipline of the attorney by the other court was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process, or (iii) that the imposition of discipline by this court would result in grave injustice.

(3) Complaints in writing alleging any ground for discipline or other relief set forth in paragraph (b) above shall be directed to the chief judge, who shall refer such complaints to the Committee on Grievances. The Committee on Grievances, by its chair, may designate an attorney, who may be selected from the panel of attorneys established pursuant to paragraph (a) above, to investigate the complaint, if it deems investigation necessary or warranted, and to prepare a statement of charges, if the Committee deems that necessary or warranted. Complaints, and any files based on them, shall be treated as confidential unless otherwise ordered by the chief judge for good cause shown.

(4) A statement of charges alleging a ground for discipline or other relief set forth in paragraph (b)(4), (b)(5), or (b)(6) shall be served upon the attorney concerned by certified mail, return receipt requested, directed to the address of the attorney as shown on the rolls of this court and to the last known address of the attorney (if any) as shown in the complaint and any materials submitted therewith, together with an order by the Committee on Grievances directing the attorney to show cause in writing why discipline or other relief should not be imposed. Upon the respondent attorney's answer to the charges the matter will be designated by the Committee on Grievances for a prompt evidentiary hearing before a magistrate judge of the court or before a panel of three attorneys, who may be selected from the panel of attorneys established pursuant to paragraph (a) above. The magistrate judge or panel of attorneys conducting the hearing may grant such pre-hearing discovery as they determine to be necessary, shall hear witnesses called by the attorney supporting the charges and by the respondent attorney, and may consider such other evidence included in the record of the hearing as they deem relevant and material. The magistrate judge or panel of attorneys

conducting the hearing shall report their findings and recommendations in writing to the Committee on Grievances and shall serve them upon the respondent attorney and the attorney supporting the charges. After affording the respondent attorney and the attorney supporting the charges an opportunity to respond in writing to such report, or if no timely answer is made by the respondent attorney, or if the Committee on Grievances determines that the answer raises no issue requiring a hearing, the Committee on Grievances may proceed to impose discipline or to take such action as justice and this rule may require.

(e) **Reinstatement.** Any attorney who has been suspended or precluded from appearing in this court or whose name has been struck from the roll of the members of the bar of this court may apply in writing to the chief judge, for good cause shown, for the lifting of the suspension or preclusion or for reinstatement to the rolls. The chief judge shall refer such application to the Committee on Grievances. The Committee on Grievances may refer the application to a magistrate judge or hearing panel of attorneys (who may be the same magistrate judge or panel of attorneys who previously heard the matter) for findings and recommendations, or may act upon the application without making such a referral. Absent extraordinary circumstances, no such application will be granted unless the attorney seeking reinstatement meets the requirements for admission set forth in Local Civil Rule 1.3(a).

(f) **Remedies for Misconduct.** The remedies provided by this rule are in addition to the remedies available to individual judges and magistrate judges under applicable law with respect to lawyers appearing before them. Individual judges and magistrate judges may also refer any matter to the chief judge for referral to the Committee on Grievances to consider the imposition of discipline or other relief pursuant to this rule.

(g) **Notice to Other Courts.** When an attorney is known to be admitted to practice in the court of any state or territory, or in any other federal court, and has been convicted of any crime or disbarred, precluded from appearing, suspended or censured in this court, the clerk shall send to such other court or courts a certified copy of the judgment of conviction or order of disbarment, preclusion, suspension or censure, a certified copy of the court's opinion, if any, and a statement of the attorney's last known office and residence address.

[Source: Former Local General Rule 4.]

Local Civil Rule 1.6. Duty of Attorneys in Related Cases

(a) It shall be the continuing duty of each attorney appearing in any civil or criminal case to bring promptly to the attention of the clerk all facts which said attorney believes are relevant to a determination that said case and one or more pending civil or criminal cases should be heard by the same judge, in order to avoid unnecessary duplication of judicial effort. As soon as the attorney becomes aware of such relationship, said attorney shall notify the clerk in writing, who shall transmit that notification to the judges to whom the cases have been assigned.

(b) If counsel fails to comply with Local Civil Rule 1.6(a), the court may assess reasonable costs directly against counsel whose action has obstructed the effective administration of the court's business.

[Source: Former Local General Rule 5.]

Local Civil Rule 1.7. Fees of Clerks and Reporters

(a) The clerk shall not be required to render any service for which a fee is prescribed by statute or by the Judicial Conference of the United States unless the fee for the particular service is paid to the clerk in advance or the court orders otherwise.

(b) Every attorney appearing in any proceeding who orders a transcript of any trial, hearing, or any other proceeding, is obligated to pay the cost thereof to the court reporters of the court upon rendition of the invoice unless at the time of such order, the attorney, in writing, advises the court reporter that only the client is obligated to pay.

[Source: Former Local General Rule 6.]

Local Civil Rule 1.8. Photographs, Radio, Recordings, Television

No one other than court officials engaged in the conduct of court business shall bring any camera, transmitter, receiver, portable telephone or recording device into any courthouse or its environs without written permission of a judge of that court.

Environs as used in this rule shall include the entire United States Courthouse property, including all entrances to and exits from the buildings.

[Source: Former Local General Rule 7.]

Local Civil Rule 1.9. Disclosure of Interested Parties - *REPEALED* March 3, 2003

[See Rule 7.1 of the Federal Rules of Civil Procedure]

Local Civil Rule 1.10. Acceptable Substitutes for Affidavits

In situations in which any local rule provides for an affidavit or a verified statement, the following are acceptable substitutes: (a) a statement subscribed under penalty of perjury as prescribed in 28 U.S.C. § 1746; or (b) if accepted by the court as a substitute for an affidavit or a verified statement, (1) a statement signed by an attorney or by a party not represented by an attorney pursuant to Federal Rule of Civil Procedure 11, or (2) an oral representation on the record in open court.

Local Civil Rule 5.1. Filing of Discovery Materials

A party seeking relief under Rules 26 through 37 inclusive of the Federal Rules of Civil Procedure, or making any other motion or application, shall quote or attach only those portions of the depositions, interrogatories, requests for documents, requests for admissions, or other discovery or disclosure materials, together with the responses and objections thereto, that are the subject of the discovery motion or application, or are cited in papers submitted in connection with any other motion or application. See also Local Rule 37.1.

[Source: Former Local Civil Rule 18]

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.

[Adopted March 19, 2003]

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, and in the Eastern District Court of New York by that Court's Administrative Order 97-12, in re: Electronic Filing Procedures.

[Adopted March 19, 2003]

Local Civil Rule 6.1. - Service and Filing of Motion Papers

Unless otherwise provided by statute or rule, or unless otherwise ordered by the court in an individual rule or in a direction in a particular case, upon any motion, the notice of motion,

supporting affidavits, and memoranda shall be served and filed as follows:

(a) On all motions and exceptions under Rules 26 through 37 inclusive and Rule 45(c)(3) of the Federal Rules of Civil Procedure, (1) the notice of motion, supporting affidavits, and memoranda of law shall be served by the moving party on all other parties that have appeared in the action, (2) any opposing affidavits and answering memoranda of law shall be served within four business days after service of the moving papers, and (3) any reply affidavits and reply memoranda of law shall be served within one business day after service of the answering papers.

(b) On all civil motions, petitions, applications, and exceptions other than those described in Rule 6.1(a), and other than petitions for writs of habeas corpus, (1) the notice of motion, supporting affidavits, and memoranda of law shall be served by the moving party on all other parties that have appeared in the action, (2) any opposing affidavits and answering memoranda shall be served within ten business days after service of the moving papers, and (3) any reply affidavits and memoranda of law shall be served within five business days after service of the answering papers.

(c) The parties and their attorneys shall only appear to argue the motion if so directed by the court by order or by individual rule or upon application.

(d) No *ex parte* order, or order to show cause to bring on a motion, will be granted except upon a clear and specific showing by affidavit of good and sufficient reasons why a procedure other than by notice of motion is necessary, and stating whether a previous application for similar relief has been made.

[Source: Former Local Civil Rules 3(c)(1), (2), and (4) and 6(b)]

Local Civil Rule 6.2. Orders on Motions

A memorandum signed by the court of the decision on a motion that does not finally determine all claims for relief, or an oral decision on such a motion, shall constitute the order unless the memorandum or oral decision directs the submission or settlement of an order in more extended form. The notation in the docket of a memorandum or oral decision that does not direct the submission or settlement of an order in more extended form shall constitute the entry of the order. Where an order in more extended form is required to be submitted or settled, the notation in the docket of such order shall constitute the entry of the order.

[Source: Former Local Civil Rule 6(a)]

Local Civil Rule 6.3. Motions for Reconsideration or Reargument

A notice of motion for reconsideration or reargument ***of a court order determining a motion*** shall be served within ten (10) days after ***the entry*** of the court's determination of the original motion, ***or in the case of a court order resulting in a judgment, within ten (10) days after the entry of the judgment.*** There shall be served with the notice of motion a memorandum setting forth concisely the matters or controlling decisions which counsel believes the court has overlooked. The time periods for the service of answering and reply memoranda, if any, shall be governed by Local Civil Rule 6.1(a) or (b), as in the case of the original motion. No oral argument shall be heard unless the court directs that the matter shall be reargued orally. No affidavits shall be filed by any party unless directed by the court.

[Adopted March 25, 2004]

Local Civil Rule 6.4. Computation of Time

In computing any period of time prescribed or allowed by the Local Civil Rules or the Local Admiralty and Maritime Rules, the provisions of Federal Rule of Civil Procedure 6(a) and 6(e) shall apply unless otherwise stated.

Local Civil Rule 7.1 Memoranda of Law

Local Civil Rule 7.1(a) Memoranda of Law Required

Except as otherwise permitted by the court, all motions and all oppositions thereto shall be supported by a memorandum of law, setting forth the points and authorities relied upon in support of or in opposition to the motion, and divided, under appropriate headings, into as many parts as there are points to be determined. Willful failure to comply with this rule may be deemed sufficient cause for the denial of a motion or for the granting of a motion by default.

Local Civil Rule 7.1(b) Length of Briefs on Appeals from Bankruptcy Court

Unless otherwise ordered by the district judge to whom the appeal is assigned, appellate briefs on bankruptcy appeals shall not exceed 25 pages and reply briefs shall not exceed 10 pages.

[Effective April 11, 2008]

Civil Rule 7.1(c) Service on Pro Se Litigants of Unpublished Opinions Cited

In cases involving a pro se litigant, counsel shall, when serving a memorandum of law (or other submissions to the Court), provide the pro se litigant (but not other counsel or the Court) with

printed copies of decisions cited therein that are unreported or reported exclusively on computerized databases.

[Effective April 11, 2008]

Local Civil Rule 7.1.1 Disclosure Statement

For purposes of Fed. R. Civ. P. 7.1.(b)(2), "promptly" shall mean "within ten business days," that is, parties are required to file supplemental disclosure statement within ten business days of the time there is any change in the information required in a disclosure statement filed pursuant to those rules.

[Source: Former Local Civil Rule 3(b)]

Local Civil Rule 7.2. Specification of Statutes or Rules

Upon any motion based upon rules or statutes, the notice of motion or order to show cause shall specify the rules or statutes upon which the motion is predicated.

[Source: Former Local Civil Rule 3(d)]

Local Civil Rule 11.1. Form of Pleadings, Motions, and Other Papers

(a) Every pleading, written motion, and other paper must (1) be plainly written, typed, printed, or copied without erasures or interlineations which materially deface it, (2) bear the docket number and the initials of the judge and any magistrate judge before whom the action or proceeding is pending, and (3) have the name of each person signing it clearly printed or typed directly below the signature.

[Source: Former Local Civil Rule 1]

Local Civil Rule 12.1 - Notice to Pro Se Litigant Who Opposes a Rule 12 Motion Supported by Maters Outside the Pleadings

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 following notice 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 this rule, the notice must be served and filed within ten days of the court's ruling.

Notice To Pro Se Litigant Who Opposes a Rule 12 Motion Supported by Matters Outside the Pleadings

The defendant in this case has moved to dismiss or for judgment on the pleadings pursuant to Rule 12(b) or 12(c) of the Federal Rules of Civil Procedure, and has submitted additional written materials. This means that the defendant has asked the court to decide this case without a trial, based on these written materials. You are warned that the Court may treat this motion as a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. For this reason, THE CLAIMS YOU ASSERT IN YOUR COMPLAINT MAY BE DISMISSED WITHOUT A TRIAL IF YOU DO NOT RESPOND TO THIS MOTION by filing sworn affidavits or other papers as required by Rule 56(e). An affidavit is a sworn statement of fact based on personal knowledge that

would be admissible in evidence at trial. The full text of Rule 56 of the Federal Rules of Civil Procedure is attached.

In short, Rule 56 provides that you may NOT oppose the defendant's motion simply by relying upon the allegations in your complaint. Rather, you must submit evidence, such as witness statements or documents, countering the facts asserted by the defendant and raising issues of fact for trial. Any witness statements must be in the form of affidavits. You may submit your own affidavit and/or the affidavits of others. You may submit affidavits that were prepared specifically in response to defendant's motion.

If you do not respond to the motion on time with affidavits or documentary evidence contradicting the facts asserted by the defendant, the court may accept defendant's factual assertions as true. Judgment may then be entered in defendant's favor without a trial.

If you have any questions, you may direct them to the Pro Se Office.

Local Civil Rule 16.1. Exemptions from Mandatory Scheduling Order

Matters involving habeas corpus petitions, social security disability cases, motions to vacate sentences, forfeitures, and reviews from administrative agencies are exempted from the mandatory scheduling order required by Federal Rule of Civil Procedure 16(b).

[Source: Former Local Civil Rule 45 (Eastern District Only)]

Local Civil Rule 16.2. Entry and Modification of Mandatory Scheduling Orders by Magistrate Judges

In any case referred to a magistrate judge by a district judge, the magistrate judge may make scheduling orders pursuant to Federal Rule of Civil Procedure 16(b), and may modify for good cause shown scheduling orders previously entered.

[Source: Former Local Magistrate Judge Rule 15 (Eastern District Only and Southern District Only Versions)]

Local Civil Rule 23.1. Fees in Stockholder and Class Actions

Fees for attorneys or others shall not be paid upon recovery or compromise in a derivative or class action on behalf of a corporation or class except as allowed by the court after a hearing upon such notice as the court may direct. The notice shall include a statement of the names and addresses of the applicants for such fees and the amounts requested respectively and shall disclose any fee sharing agreements with anyone. Where the court directs notice of a hearing upon a proposed voluntary dismissal or settlement of a derivative or class action, the above information as to the applications shall be included in the notice.

Local Civil Rule 23.1.1 Fees in Shareholder Derivative Actions

Fees for attorneys or others shall not be paid upon recovery or compromise in a derivative action on behalf of a corporation except as allowed by the court after a hearing upon such notice as the court may direct. The notice shall include a statement of the names and addresses of the applicants for such fees and the amounts requested respectively and shall disclose any fee sharing agreements with anyone. Where the court directs notice of a hearing upon a proposed voluntary

dismissal or settlement of a derivative action, the above information as to the applications shall be included in the notice.

[Source: Former Local Civil Rule 5(a)]

Local Civil Rule 24.1. Notice of Claim of Unconstitutionality

(a) If, in any action to which neither the United States nor any agency, officer or employee thereof is a party, a party draws in question the constitutionality of an act of Congress affecting the public interest, such party shall notify the court in writing of the existence of such question so as to enable the court to comply with 28 U.S.C. § 2403(a).

(b) If, in any action to which neither a State nor any agency, officer or employee thereof is a party, a party draws in question the constitutionality of a statute of such State affecting the public interest, such party shall notify the court in writing of the existence of such question so as to enable the court to comply with 28 U.S.C. § 2403(b).

Local Civil Rule 26.1. Address of Party and Original Owner of Claim to Be Furnished

A party shall furnish to any other party, within five (5) days after a demand, a verified statement setting forth that party's post office address and residence, and like information as to partners if a partnership is involved and, if a corporation or an unincorporated association, the name, post office addresses and residences of its principal officers. In the case of an assigned claim, the statement shall include the post office address and residence of the original owner of the claim and of any assignee.

[Source: Former Local Civil Rule 2]

Local Civil Rule 26.2. Assertion of Claim of Privilege

(a) Where a claim of privilege is asserted in objecting to any means of discovery or disclosure, including but not limited to a deposition, and an answer is not provided on the basis of such assertion,

(1) The attorney asserting the privilege shall identify the nature of the privilege (including work product) which is being claimed and, if the privilege is governed by state law, indicate the state's privilege rule being invoked; and

(2) The following information shall be provided in the objection, unless divulgence of such information would cause disclosure of the allegedly privileged information:

(A) For documents: (i) the type of document, *e.g.*, letter or memorandum; (ii) the general subject matter of the document; (iii) the date of the document; and (iv) such other information as is sufficient to identify the document for a subpoena duces tecum, including, where appropriate, the author of the document, the addressees of the document, and any other recipients shown in the document, and, where not apparent, the relationship of the author, addressees, and recipients to each other;

(B) For oral communications: (i) the name of the person making the communication and the names of persons present while the communication was made and, where not apparent, the relationship of the persons present to the person making the communication; (ii) the date and place of communication; and (iii) the general subject matter of the communication.

(b) Where a claim of privilege is asserted during a deposition, and information is not provided on the basis of such assertion, the information set forth in paragraph (a) above shall be furnished (1) at the deposition, to the extent it is readily available from the witness being deposed or otherwise, and (2) to the extent the information is not readily available at the deposition, in writing within ten business days after the deposition session at which the privilege is asserted, unless otherwise ordered by the court.

(c) Where a claim of privilege is asserted in response to discovery or disclosure other than a deposition, and information is not provided on the basis of such assertion, the information set forth in paragraph (a) above shall be furnished in writing at the time of the response to such discovery or disclosure, unless otherwise ordered by the court.

[Source: Former Local Civil Rule 46(e)(2) (Southern District Only); Eastern District Standing Order 21]

Local Civil Rule 26.3. Uniform Definitions in Discovery Requests

(a) The full text of the definitions and rules of construction set forth in paragraphs (c) and (d) is deemed incorporated by reference into all discovery requests. No discovery request shall use broader definitions or rules of construction than those set forth in paragraphs (c) and (d). This rule shall not preclude (1) the definition of other terms specific to the particular litigation, (2) the use of abbreviations, or (3) a more narrow definition of a term defined in paragraph (c).

(b) This rule is not intended to broaden or narrow the scope of discovery permitted by the Federal Rules of Civil Procedure.

(c) The following definitions apply to all discovery requests:

(1) **Communication.** The term "communication" means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

(2) **Document.** The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a), including, without limitation, electronic or computerized data compilations. A draft or non-identical copy is a separate document within the meaning of this term.

(3) **Identify (with respect to persons).** When referring to a person, "to identify" means to give, to the extent known, the person's full name, present or last known address, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

(4) **Identify (with respect to documents).** When referring to documents, "to identify" means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s) and recipient(s).

(5) **Parties.** The terms "plaintiff" and "defendant" as well as a party's full or abbreviated name or a pronoun referring to a party mean the party and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries or affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation.

(6) **Person.** The term "person" is defined as any natural person or any business, legal or governmental entity or association.

(7) **Concerning.** The term "concerning" means relating to, referring to, describing, evidencing or constituting.

(d) The following rules of construction apply to all discovery requests:

(1) **All/Each.** The terms "all" and "each" shall be construed as all and each.

(2) **And/Or.** The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

(3) **Number.** The use of the singular form of any word includes the plural and vice versa.

[Source: Former Local Civil Rule 47]

Local Civil Rule 26.4. Opt-Out From Certain Provisions of Federal Rule of Civil Procedure 26 (Southern District Only) - Repealed December 1, 2000

Local Civil Rule 26.5. Cooperation Among Counsel in Discovery (Eastern District Only)

Counsel are expected to cooperate with each other, consistent with the interests of their clients, in all phases of the discovery process and to be courteous in their dealings with each other, including in matters relating to scheduling and timing of various discovery procedures.

[Source: Eastern District Standing Order 1]

Local Civil Rule 26.6. Form Discovery Requests (Eastern District Only)

Attorneys using form discovery requests shall review them to ascertain that they are relevant

to the subject matter involved in the particular case. Discovery requests which are not relevant to the subject matter involved in the particular case shall not be used.

[Source: Eastern District Standing Orders 15, 18]

Local Civil Rule 26.7. Discovery Requests to Be Read Reasonably (Eastern District Only)

Discovery requests shall be read reasonably in the recognition that the attorney serving them generally does not have the information being sought and the attorney receiving them generally does have such information or can obtain it from the client.

[Source: Eastern District Standing Orders 16(b), 19(b)]

Local Civil Rule 30.1. Counsel Fees on Taking Depositions More Than 100 Miles From Courthouse

When a proposed deposition upon oral examination, including a deposition before action or pending appeal, is sought to be taken at a place more than one hundred (100) miles from the courthouse, the court may by order provide that prior to the examination, the applicant pay the expense (including a reasonable counsel fee) of the attendance of one attorney for each adversary party at the place where the deposition is to be taken. The amounts so paid, unless otherwise directed by the court, shall be a taxable cost in the event that the applicant recovers costs of the action or proceeding.

[Source: Former Local Civil Rule 15(a)]

Local Civil Rule 30.2. Opt-Out From Certain Provisions of Federal Rule of Civil Procedure 30 (Southern District Only) - Repealed December 1, 2000

Local Civil Rule 30.3. Telephonic Depositions (Eastern District Only)

The motion of a party to take the deposition of an adverse party by telephone will presumptively be granted. Where the opposing party is a corporation, the term "adverse party" means an officer, director, managing agent or corporate designee pursuant to Federal Rule of Civil Procedure 30(b)(6).

[Source: Eastern District Standing Order 8]

Local Civil Rule 30.4. Persons Attending Depositions (Eastern District Only)

A person who is a party in the action may attend the deposition of a party or witness. A witness or potential witness in the action may attend the deposition of a party or witness unless otherwise ordered by the court.

[Source: Eastern District Standing Order 9]

Local Civil Rule 30.5. Depositions of Witnesses Who Have No Knowledge of the Facts (Eastern District Only)

(a) Where an officer, director or managing agent of a corporation or a government official is served with a notice of deposition or subpoena regarding a matter about which he or she has no knowledge, he or she may submit reasonably before the date noticed for the deposition an affidavit to the noticing party so stating and identifying a person within the corporation or government entity having knowledge of the subject matter involved in the pending action.

(b) The noticing party may, notwithstanding such affidavit of the noticed witness, proceed with the deposition, subject to the witness's right to seek a protective order.

[Source: Eastern District Standing Order 10]

Local Civil Rule 30.6. Conferences Between Deponent and Defending Attorney (Eastern District Only)

An attorney for a deponent shall not initiate a private conference with the deponent during the actual taking of a deposition, except for the purpose of determining whether a privilege should be asserted.

[Source: Eastern District Standing Order 13]

Local Civil Rule 30.7. Document Production at Depositions (Eastern District Only)

Consistent with the requirements of Federal Rules of Civil Procedure 30 and 34, a party seeking production of documents of another party in connection with a deposition should schedule the deposition to allow for the production of the documents in advance of the deposition. If documents which have been so requested are not produced prior to the deposition, the party noticing the deposition may either adjourn the deposition until after such documents are produced or, without waiving the right to have access to the documents, may proceed with the deposition.

[Source: Eastern District Standing Order 14]

Local Civil Rule 31.1. Opt-Out From Certain Provisions of Federal Rule of Civil Procedure 31 (Southern District Only) - Repealed December 1, 2000

Local Civil Rule 33.1. Answering Interrogatory by Reference to Records

Whenever a party answers any interrogatory by reference to records from which the answer may be derived or ascertained, as permitted in Federal Rule of Civil Procedure 33(d):

(a) The specifications of documents to be produced shall be in sufficient detail to permit the interrogating party to locate and identify the records and to ascertain the answer as readily as could the party from whom discovery is sought.

(b) The producing party shall also make available any computerized information or summaries thereof that it either has, or can adduce by a relatively simple procedure, unless these materials are privileged or otherwise immune from discovery.

(c) The producing party shall also provide any relevant compilations, abstracts or summaries in its custody or readily obtainable by it, unless these materials are privileged or otherwise immune from discovery.

(d) Unless otherwise ordered by the court, the documents shall be made available for inspection and copying within ten days after service of the answers to interrogatories or at a date agreed upon by the parties.

[Source: Former Local Civil Rule 46(f) (Southern District Only)]

Local Civil Rule 33.2. Standard Discovery in Prisoner Pro Se Actions

(a) This rule shall apply in any action commenced pro se in which the plaintiff's complaint includes any claim described in paragraph (b) of this rule and in which any named defendant, including one or more current or former employees of New York State or New York City, is represented by the Office of the Attorney General or the Office of the Corporation Counsel and is sued in matters arising out of events alleged to have occurred while the plaintiff was in the custody of either the Department of Corrections of the City of New York or the New York State Department of Correctional Services. In each such action in the Southern District of New York, such defendants

shall, except as otherwise set forth herein, respond to the standing discovery requests adopted by the court, in accordance with the instructions and definitions set forth in the standing requests, unless otherwise ordered by the court. In each such action in the Eastern District of New York, such defendants shall respond to the standing discovery requests if so ordered by the court.

(b) The claims to which the standard discovery requests shall apply are Use of Force Cases, Inmate Against Inmate Assault Cases and Disciplinary Due Process Cases, as defined below, in which the events alleged in the complaint have occurred while the plaintiff was in the custody of either the Department of Corrections of the City of New York or the New York State Department of Correctional Services.

(1) "Use of Force Case" refers to an action in which the complaint alleges that any employee of the Department used physical force against the plaintiff in violation of the plaintiff's rights.

(2) "Inmate against Inmate Assault Case" refers to an action in which the complaint alleges that any defendant was responsible for the plaintiff's injury resulting from physical contact with another inmate.

(3) "Disciplinary Due Process Case" refers to an action in which (i) the complaint alleges that a defendant violated or permitted the violation of a right or rights in a disciplinary proceeding against plaintiff, and (ii) the punishment imposed upon plaintiff as a result of that proceeding was placement in a special housing unit for more than 100 days.

(c) If a response to the requests is required to be made on behalf of an individual defendant, represented by the Office of the Corporation Counsel or the Office of the Attorney General, it shall be made on the basis of information and documents within the possession, custody or control of the

New York City Department of Corrections or New York State Department of Correctional Services in accordance with the instructions contained in the requests. If no defendant is represented by the Office of Corporation Counsel of the City of New York or the Office of the Attorney General, responses based upon such information need not be made pursuant to this local rule, without prejudice to such other discovery procedures as the plaintiff shall initiate.

(d) The requests, denominated Plaintiff's Interrogatories and Requests for Production of Documents, shall be answered within 120 days of service of the complaint on any named defendant except (i) as otherwise ordered by the court, for good cause shown, which shall be based upon the facts and procedural status of the particular case and not upon a generalized claim of burden, expense or relevance or (ii) as otherwise provided in the instructions to the requests. The responses to the requests shall be served upon the plaintiff and shall be filed with the Pro Se Office of the court. Copies of the requests are available through the Pro Se Office of the court.

(e) Except upon permission of the court, for good cause shown, the requests shall constitute the sole form of discovery available to plaintiff during the 120-day period as designated above.

(f) If the Pro Se Office determines that this rule applies, it shall provide copies of the standard requests to those pro se plaintiffs for service upon defendants together with the summons and complaint.

Local Civil Rule 33.3. Interrogatories (Southern District Only)

(a) Unless otherwise ordered by the court, at the commencement of discovery, interrogatories will be restricted to those seeking names of witnesses with knowledge of information relevant to the subject matter of the action, the computation of each category of damage alleged, and the existence,

custodian, location and general description of relevant documents, including pertinent insurance agreements, and other physical evidence, or information of a similar nature.

(b) During discovery, interrogatories other than those seeking information described in paragraph (a) above may only be served (1) if they are a more practical method of obtaining the information sought than a request for production or a deposition, or (2) if ordered by the court.

(c) At the conclusion of other discovery, and at least 30 days prior to the discovery cut-off date, interrogatories seeking the claims and contentions of the opposing party may be served unless the court has ordered otherwise.

[Source: Former Local Civil Rule 46 (Southern District Only)]

Local Civil Rule 33.4. Opt-Out From Certain Provisions of Federal Rule of Civil Procedure 33 (Southern District Only) - Repealed December 1, 2000

Local Civil Rule 34.1. Opt-Out From Certain Provisions of Federal Rule of Civil Procedure 34 (Southern District Only) - Repealed December 1, 2000

Local Civil Rule 36.1. Opt-Out From Certain Provisions of Federal Rule of Civil Procedure 36 (Southern District Only) - Repealed December 1, 2000

Local Civil Rule 37.1. Verbatim Quotation of Discovery Materials

Upon any motion or application involving discovery or disclosure requests or responses under Rule 37 of the Federal Rules of Civil Procedure, the moving party shall specify and quote or set forth verbatim in the motion papers each discovery request and response to which the motion or application is addressed. The motion or application shall also set forth the grounds upon which the

moving party is entitled to prevail as to each request or response. Local Civil Rule 5.1 also applies to the motion or application.

[Source: Former Local Civil Rule 3(e)]

Local Civil Rule 37.2. Mode of Raising Discovery Disputes With the Court (Southern District Only)

No motion under Rules 26 through 37 inclusive of the Federal Rules of Civil Procedure shall be heard unless counsel for the moving party has first requested an informal conference with the court and such request has either been denied or the discovery dispute has not been resolved as a consequence of such a conference.

[Source: Former Local Civil Rule 3(l) (Southern District Only)]

Local Civil Rule 37.3. Mode of Raising Discovery and Other Non-Dispositive Pretrial Disputes With the Court (Eastern District Only)

(a) **Premotion Conference.** Prior to seeking judicial resolution of a discovery or non-dispositive pretrial dispute, the attorneys for the affected parties or non-party witness shall attempt to confer in good faith in person or by telephone in an effort to resolve the dispute.

(b) **Disputes Arising During Depositions.** Where the attorneys for the affected parties or a non-party witness cannot agree on a resolution of a discovery dispute that arises during a deposition, they shall, to the extent practicable, notify the court by telephone and seek a ruling while the deposition is in progress. If a prompt ruling cannot be obtained, and the dispute involves an instruction to the witness not to answer a question, the instruction not to answer may stand and the

deposition shall continue until a ruling is obtained pursuant to the procedure set forth in paragraph (c) below.

(c) **Other Discovery and Non-Dispositive Pretrial Disputes.** Where the attorneys for the affected parties or non-party witness cannot agree on a resolution of any other discovery dispute or non-dispositive pretrial dispute, or if they are unable to obtain a telephonic ruling on a discovery dispute that arises during a deposition as provided in paragraph (b) above, they shall notify the court, at the option of the attorney for any affected party or non-party witness, either by telephone conference with all affected parties on the line or by letter not exceeding three pages in length outlining the nature of the dispute and attaching relevant materials. Within three days of receiving such a letter, any opposing affected party or non-party witness may submit a responsive letter not exceeding three pages attaching relevant materials. Except for the letters and attachments authorized herein, or where a ruling which was made exclusively as a result of a telephone conference is the subject of *de novo* review pursuant to paragraph (d) hereof, papers shall not be submitted with respect to a dispute governed by this rule unless the court has so directed.

(d) **Motion for Reconsideration.** A ruling made exclusively as a result of a telephone conference may be the subject of *de novo* reconsideration by a letter not exceeding five pages in length attaching relevant materials submitted by any affected party or non-party witness. Within three days of receiving such a letter, any other affected party or non-party witness may submit a responsive letter not exceeding five pages in length attaching relevant materials.

(e) **Decision of the Court.** The court shall record or arrange for the recording of the court's decision in writing. Such written order may take the form of an oral order read into the record of a

deposition or other proceeding, a handwritten memorandum, a handwritten marginal notation on a letter or other document, or any other form the court deems appropriate.

[Source: Eastern District Standing Orders 6, 11(c)]

Local Civil Rule 39.1. Custody of Exhibits

(a) Except in proceedings before a master or commissioner, and unless the court orders otherwise, exhibits shall not be filed with the clerk, but shall be retained in the custody of the respective attorneys who produced them in court.

(b) Exhibits which have been filed with the clerk shall be removed by the party responsible for them (1) if no appeal is taken, within ninety (90) days after a final decision is rendered, or (2) if an appeal has been taken, within thirty (30) days after the final disposition of the appeal. Parties failing to comply with this rule shall be notified by the clerk to remove their exhibits and upon their failure to do so within thirty (30) days, the clerk may dispose of them as the clerk may see fit.

[Source: Former Local Civil Rule 24(a), (d)]

Local Civil Rule 39.2. Order of Summation

After the close of evidence in civil trials, the order of summation shall be determined in the discretion of the court.

[Source: Former Local Civil Rule 44]

Local Civil Rule 47.1. Assessment of Jury Costs

All counsel in civil cases shall seriously discuss the possibility of settlement a reasonable time prior to trial. The court may, in its discretion, assess the parties or counsel with the cost of one day's attendance of the jurors if a case is settled after the jury has been summoned or during trial, the amount to be paid to the clerk of the court. For purposes of this rule, a civil jury is considered summoned for a trial as of Noon of the business day prior to the designated date of the trial.

[Source: Former Local Civil Rule 22]

Local Civil Rule 53.1. Masters

(a) Oath. Every person appointed pursuant to Rule 53 shall before entering upon his or her duties take and subscribe an oath, which, except as otherwise prescribed by statute or rule, shall be the same as the oath prescribed for judges pursuant to 28 U.S.C. § 453, with the addition of the words "in conformance with the order of appointment" after the words "administer justice." Such an oath may be taken before any federal or state officer authorized by federal law to administer oaths, and shall be filed in the office of the clerk.

(b) May Sit Outside District. A person appointed pursuant to Rule 53 may sit within or outside the district. When the person appointed is requested to sit outside the district for the convenience of a party and there is opposition by another party, he or she may make an order for the holding of the hearing, or a part thereof, outside the district, upon such terms and conditions as shall be just. Such order may be reviewed by the court upon motion of any party, served within ten (10) days after service on all parties by the master of the order.

[Source: Former Local Civil Rules 19(a) and (b) and 20]

Local Civil Rule 54.1. Taxable Costs

(a) **Request to Tax Costs.** Within thirty (30) days after the entry of final judgment, or, in the case of an appeal by any party, within thirty (30) days after the final disposition of the appeal, unless this period is extended by the court for good cause shown, any party seeking to recover costs shall file with the clerk a request to tax costs annexing a bill of costs and indicating the date and time of taxation. Costs will not be taxed during the pendency of any appeal. Any party failing to file a request to tax costs within this thirty (30) day period will be deemed to have waived costs. The request to tax costs shall be served upon each other party not less than three (3) days (if service is made by hand delivery) or six (6) days (if service is made by any means other than hand delivery) before the date and time fixed for taxation. The bill of costs shall include an affidavit that the costs claimed are allowable by law, are correctly stated and were necessarily incurred. Bills for the costs claimed shall be attached as exhibits.

(b) **Objections to Bill of Costs.** A party objecting to any cost item shall serve objections in writing prior to or at the time for taxation. The clerk will proceed to tax costs at the time noticed and allow such items as are properly taxable. In the absence of written objection, any item listed may be taxed within the discretion of the clerk.

(c) **Items Taxable as Costs**

(1) **Transcripts.** The cost of any part of the original trial transcript that was necessarily obtained for use in this court or on appeal is taxable. The cost of a transcript of court proceedings prior to or subsequent to trial is taxable only when authorized in advance or ordered by the court.

(2) **Depositions.** Unless otherwise ordered by the court, the original transcript of a deposition, plus one copy, is taxable if the deposition was used or received in evidence at the trial, whether or not it was read in its entirety. Costs for depositions are also taxable if they were used by the court in ruling on a motion for summary judgment or other dispositive substantive motion. Costs for depositions taken solely for discovery are not taxable. Counsel's fees and expenses in attending the taking of a deposition are not taxable except as provided by statute, rule (including Local Civil Rule 30.1), or order of the court. Fees, mileage, and subsistence for the witness at the deposition are taxable at the same rates as for attendance at trial if the deposition taken was used or received in evidence at the trial.

(3) **Witness Fees, Mileage and Subsistence.** Witness fees and mileage pursuant to 28 U.S.C. § 1821 are taxable if the witness testifies. Subsistence pursuant to 28 U.S.C. § 1821 is taxable if the witness testifies and it is not practical for the witness to return to his or her residence from day to day. No party to the action may receive witness fees, mileage, or subsistence. Fees for expert witnesses are taxable only to the extent of fees for ordinary witnesses unless prior court approval was obtained.

(4) **Interpreting Costs.** The reasonable fee of a competent interpreter, and the reasonable cost of special interpretation services pursuant to 28 U.S.C. § 1828, are taxable if the fee of the witness involved is taxable. The reasonable fee of a translator is also taxable if the document translated is used or received in evidence.

(5) **Exemplifications and Copies of Papers.** A copy of an exhibit is taxable if the original was not available and the copy was used or received in evidence. The cost of copies

used for the convenience of counsel or the court are not taxable. The fees for a search and certification or proof of the non-existence of a document in a public office is taxable.

(6) **Maps, Charts, Models, Photographs and Summaries.** The cost of photographs, 8" x 10" in size or less, is taxable if used or received in evidence. Enlargements greater than 8" x 10" are not taxable except by order of court. Costs of maps, charts, and models, including computer generated models, are not taxable except by order of court. The cost of compiling summaries, statistical comparisons and reports is not taxable.

(7) **Attorney Fees and Related Costs.** Attorney fees and disbursements and other related fees and paralegal expenses are not taxable except by order of the court.

(8) **Fees of Masters, Receivers, Commissioners and Court Appointed Experts.** Fees of masters, receivers, commissioners, and court appointed experts are taxable as costs, unless otherwise ordered by the court.

(9) **Costs for Title Searches.** A party is entitled to tax necessary disbursements for the expenses of searches made by title insurance, abstract or searching companies, or by any public officer authorized to make official searches and certify to the same, taxable at rates not exceeding the cost of similar official searches.

(10) **Docket and Miscellaneous Fees.** Docket fees, and the reasonable and actual fees of the clerk and of a marshal, sheriff, and process server, are taxable unless otherwise ordered by the court.

[Source: Former Local Civil Rules 11, 12]

Local Civil Rule 54.2. Security for Costs

The court, on motion or on its own initiative, may order any party to file an original bond for costs or additional security for costs in such an amount and so conditioned as it may designate. For failure to comply with the order the court may make such orders in regard to noncompliance as are just, and among others the following: an order striking out pleadings or staying further proceedings until the bond is filed or dismissing the action or rendering a judgment by default against the non-complying party.

[Source: Former Local Civil Rule 39]

Local Civil Rule 54.3. Entering Satisfaction of Money Judgment

Satisfaction of a money judgment recovered or registered in this district shall be entered by the clerk as follows:

(a) Upon the payment into the court of the amount thereof, plus interest, and the payment of the clerk's and marshal's fees, if any;

(b) Upon the filing of a satisfaction executed and acknowledged by: (1) the judgment creditor; or (2) the judgment creditor's legal representatives or assigns, with evidence of their authority; or (3) the judgment creditor's attorney if within ten (10) years of the entry of the judgment or decree;

(c) If the judgment creditor is the United States, upon the filing of a satisfaction executed by the United States Attorney;

(d) Pursuant to an order of satisfaction entered by the court; or

(e) Upon the registration of a certified copy of a satisfaction entered in another district.

[Source: Former Local Civil Rule 13]

Local Civil Rule 55.1. Certificate of Default

A party applying for a certificate of default by the clerk pursuant to Federal Rule of Civil Procedure 55(a) shall submit an affidavit showing (1) that the party against whom a notation of default is sought is not an infant, in the military, or an incompetent person; (2) that the party has failed to plead or otherwise defend the action; and (3) that the pleading to which no response has been made was properly served.

[Source: Former Local Civil Rule 10(a)]

Local Civil Rule 55.2. Default Judgment

(a) **By the Clerk.** Upon issuance of a clerk's certificate of default, if the claim to which no response has been made only sought payment of a sum certain, and does not include a request for attorney's fees or other substantive relief, and if a default judgment is sought against all remaining parties to the action, the moving party may request the clerk to enter a default judgment, by submitting an affidavit showing the principal amount due and owing, not exceeding the amount sought in the claim to which no response has been made, plus interest, if any, computed by the party, with credit for all payments received to date clearly set forth, and costs, if any, pursuant to 28 U.S.C. § 1920.

(b) **By the Court.** In all other cases the party seeking a judgment by default shall apply to the court as described in Federal Rule of Civil Procedure 55(b)(2), and shall append to the

application (1) the clerk's certificate of default, (2) a copy of the claim to which no response has been made, and (3) a proposed form of default judgment.

[Source: Former Local Civil Rule 10]

Local Civil Rule 56.1. Statements of Material Facts on Motion for Summary Judgment

(a) Upon any motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure, there shall be annexed to the notice of motion a separate, short and concise statement, ***in numbered paragraphs***, of the material facts as to which the moving party contends there is no genuine issue to be tried. Failure to submit such a statement may constitute grounds for denial of the motion.

(b) The papers opposing a motion for summary judgment shall include ***a correspondingly numbered paragraph responding to each numbered paragraph in the statement of the moving party, and if necessary, additional paragraphs containing*** a separate, short and concise statement of ***additional*** material facts as to which it is contended that there exists a genuine issue to be tried.

(c) ***Each numbered paragraph in the statement of*** material facts set forth in the statement required to be served by the moving party will be deemed to be admitted ***for purposes of the motion*** unless ***specifically*** controverted by ***a correspondingly numbered paragraph in*** the statement required to be served by the opposing party.

(d) Each statement ***by the movant or opponent pursuant to Rule 56.1(a) and (b), including each statement controverting any statement of material fact,*** must be followed by citation to evidence which would be admissible, set forth as required by Federal Rule of Civil Procedure 56(e).

[Adopted March 25, 2004]

Local Civil Rule 56.2. Notice to Pro Se Litigant Who Opposes a Summary Judgment

Any represented party moving for summary judgment against a party proceeding *pro se* shall serve and file as a separate document, together with the papers in support of the motion, a "Notice To Pro Se Litigant Who Opposes a Motion For Summary Judgment" in the form indicated below. Where the pro se party is not the plaintiff, the movant shall amend the form notice as necessary to reflect that fact.

Notice To Pro Se Litigant Who Opposes a Motion For Summary Judgment

The defendant in this case has moved for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. This means that the defendant has asked the court to decide this case without a trial, based on written materials, including affidavits, submitted in support of the motion. THE CLAIMS YOU ASSERT IN YOUR COMPLAINT MAY BE DISMISSED WITHOUT A TRIAL IF YOU DO NOT RESPOND TO THIS MOTION by filing sworn affidavits and other papers as required by Rule 56(e) of the Federal Rules of Civil Procedure and by Local Civil Rule 56.1. An affidavit is a sworn statement of fact based on personal knowledge that would be admissible in evidence at trial. The full text of Rule 56 of the Federal Rules of Civil Procedure and Local Civil Rule 56.1 is attached.

In short, Rule 56 provides that you may NOT oppose summary judgment simply by relying upon the allegations in your complaint. Rather, you must submit evidence, such as witness statements or documents, countering the facts asserted by the defendant and raising material issues

of fact for trial. Any witness statements must be in the form of affidavits. You may submit your own affidavit and/or the affidavits of others. You may submit affidavits that were prepared specifically in response to defendant's motion for summary judgment.

If you do not respond to the motion for summary judgment on time with affidavits or documentary evidence contradicting the material facts asserted by the defendant, the court may accept defendant's factual assertions as true. Judgment may then be entered in defendant's favor without a trial.

If you have any questions, you may direct them to the Pro Se Office.

Local Civil Rule 58.1. Remand by an Appellate Court

Any order or judgment of an appellate court, when filed in the office of the clerk of the district court, shall automatically become the order or judgment of the district court and be entered as such by the clerk without further order, except if such order or judgment of the appellate court requires further proceedings in the district court other than a new trial, an order shall be entered making the order or judgment of the appellate court the order or judgment of the district court.

[Source: Former Local Civil Rule 42]

Local Civil Rule 65.1.1. Sureties

(a) Whenever a bond, undertaking or stipulation is required, it shall be sufficient, except as otherwise prescribed by law, if the instrument is executed by the surety or sureties only.

(b) Except as otherwise provided by law, every bond, undertaking or stipulation must be secured by: (1) the deposit of cash or government bonds in the amount of the bond, undertaking or

stipulation; or (2) the undertaking or guaranty of a corporate surety holding a certificate of authority from the Secretary of the Treasury; or (3) the undertaking or guaranty of two individual residents of the district in which the case is pending, each of whom owns real or personal property within the district worth double the amount of the bond, undertaking or stipulation, over all his or her debts and liabilities, and over all obligations assumed by said surety on other bonds, undertakings or stipulations, and exclusive of all legal exemptions.

(c) Except as otherwise provided by law, all bonds, undertakings and stipulations of corporate sureties holding certificates of authority from the Secretary of the Treasury, where the amount of such bonds or undertakings has been fixed by a judge or by court rule or statute, may be approved by the clerk.

(d) In the case of a bond, or undertaking, or stipulation executed by individual sureties, each surety shall attach the surety's affidavit of justification, giving the surety's full name, occupation, residence and business addresses, and showing that the surety is qualified as an individual surety under paragraph (b) of this rule.

(e) Members of the bar who have appeared in the case, administrative officers and employees of the court, the marshal, and the marshal's deputies and assistants, shall not act as a surety in any suit, action or proceeding pending in this court.

(f) Whenever a notice of motion to enforce the liability of a surety upon an appeal or a supersedeas bond is served upon the clerk pursuant to Federal Rule of Appellate Procedure 8(b), the party making such motion shall deposit with the clerk the original, three copies, and one additional copy for each surety to be served.

[Source: Former Local Civil Rules 37, 38, 40(b)]

Local Civil Rule 67.1. Order for Deposit in Interest-Bearing Account

(a) Whenever a party seeks a court order for money to be deposited by the clerk in an interest-bearing account, the party shall personally deliver the order to the clerk or financial deputy who will inspect the proposed order for proper form and content and compliance with this rule prior to signature by the judge for whom the order is prepared. After the judge has signed the order, the person who obtained the order shall serve the clerk and the financial deputy with a copy of the order signed by the judge.

(b) Proposed orders directing the clerk to invest such funds in an interest-bearing account or other instrument shall include the following:

(1) The exact United States dollar amount of the principal sum to be invested; and

(2) Wording which directs the clerk to deduct from the income on the investment a fee equal to ten per cent (10%) of the income earned, but not exceeding the fee authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office.

[Source: Former Local Civil Rule 8(c)]

Local Civil Rule 72.1. Powers of Magistrate Judges

In addition to other powers of magistrate judges:

(a) Full-time magistrate judges are hereby specially designated to exercise the jurisdiction set forth in 28 U.S.C. § 636(c).

(b) Magistrate judges are authorized to entertain *ex parte* applications by appropriate representatives of the United States government for the issuance of administrative inspection orders or warrants.

(c) Magistrate judges may issue subpoenas, writs of *habeas corpus ad testificandum* or *ad prosequendum* or other orders necessary to obtain the presence of parties or witnesses or evidence needed for court proceedings, and may sign in forma pauperis orders.

(d) Matters arising under 28 U.S.C. §§ 2254 and 2255 or challenging the conditions of the confinement of prisoners may be referred to a magistrate judge by the judge to whom the case has been assigned. A magistrate judge may perform any or all of the duties imposed upon a judge by the rules governing such proceedings in the United States district courts. In so doing, a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and shall submit to a judge a report containing proposed findings of fact and recommendations for disposition of the matter by the judge. Any order disposing of the petition may only be made by a judge.

[Source: Former Local Magistrate Judge Rules 1, 4, 6, and 10]

Local Civil Rule 72.2. Reference to Magistrate Judge (Eastern District Only)

(a) **Selection of Magistrate Judge.** A magistrate judge shall be assigned to each case upon the commencement of the action, except in those categories of actions set forth in Local Civil Rule 16.1. In any courthouse in this District in which there is more than one magistrate judge such assignment shall be at random on a rotating basis. Except in multi-district cases and antitrust cases,

a magistrate judge so assigned is empowered to act with respect to all non-dispositive pretrial matters unless the assigned district judge orders otherwise.

(b) **Orders Affecting Reference.** The attorneys for the parties shall be provided with copies of all orders affecting the scope of the reference to the magistrate judge.

[Source: Eastern District Standing Order 4(a), (c)]

Local Civil Rule 73.1. Consent Jurisdiction Procedure

(a) When a civil action is filed with the clerk, the clerk shall give the filing party notice of the magistrate judge's consent jurisdiction in a form approved by the court, with sufficient copies to be served with the complaint on adversary parties. A copy of such notice shall be attached to any third-party complaint served by a defendant.

(b) When a completed consent form has been filed, the clerk shall forward the form for final approval to the district judge to whom the case was originally assigned. Once the district judge has approved the transfer and returned the consent form to the clerk for filing, the clerk shall reassign the case for all purposes to the magistrate judge previously designated to receive any referrals or to whom the case has previously been referred for any purpose. If no designation or referral has been made, or in the Eastern District upon application of the parties, the clerk shall select a new magistrate judge at random.

[Source: Former Local Magistrate Judge Rule 8(a) and(c)]

Local Civil Rule 77.1. Submission of Orders, Judgments and Decrees

(a) Proposed orders, judgments and decrees shall be presented to the clerk, and not presented

directly to the judge. Unless the form of order, judgment or decree is consented to in writing, or unless the court otherwise directs, three (3) days' notice of settlement is required. One (1) day's notice is required of all counter-proposals. Unless adopted by the court or submitted for docketing by a party in connection with an anticipated appeal, such proposed orders, judgments or decrees shall not form any part of the record of this action.

(b) The party who obtains entry of an order or judgment shall append to or endorse upon it a list of the names of the parties entitled to be notified of the entry thereof and the names and addresses of their respective attorneys.

[Source: Former Local Civil Rule 8]

Local Civil Rule 81.1. Removal of Cases from State Courts

(a) If the court's jurisdiction is based upon diversity of citizenship, and regardless of whether or not service of process has been effected on all parties, the notice of removal shall set forth (1) in the case of each individual named as a party, the states of citizenship and residence and the address of that party, (2) in the case of each corporation named as a party, the state of incorporation and of its principal place of business, and (3) the date on which each party that has been served was served. If such information or a designated part is unknown to the removing party, the removing party may so state, and in that case plaintiff within twenty (20) days after removal shall file in the office of the clerk a statement of the omitted information.

(b) Unless otherwise ordered by the court, within twenty (20) days after filing the notice of removal, the removing party shall file with the clerk a copy of all records and proceedings in the state court.

[Source: Former Local Civil Rule 25(b), (c)]

Local Civil Rule 83.1. Transfer of Cases to Another District

In a case ordered transferred from this district, the clerk, unless otherwise ordered, shall upon the expiration of five (5) days mail to the clerk of the court to which the case is transferred (1) certified copies of the court's opinion ordering the transfer, of its order, and of the docket entries in the case, and (2) the originals of all other papers on file in the case.

[Source: Former Local Civil Rule 26]

Local Civil Rule 83.2. Settlement of Actions by or on Behalf of Infants or Incompetents, Wrongful Death Actions, [*and Conscious Pain and Suffering Actions* (EDNY only)]

(a) **Settlement of Actions by or on Behalf of Infants or Incompetents.**

(1) An action by or on behalf of an infant or incompetent shall not be settled or compromised, or voluntarily discontinued, dismissed or terminated, without leave of the court embodied in an order, judgment or decree. The proceeding upon an application to settle or compromise such an action shall conform, as nearly as may be, to the New York State statutes and rules, but the court, for cause shown, may dispense with any New York State requirement.

(2) The court shall authorize payment to counsel for the infant or incompetent of a reasonable attorney's fee and proper disbursements from the amount recovered in such an action, whether realized by settlement, execution or otherwise and shall determine the said fee and disbursements, after due inquiry as to all charges against the fund.

(3) The court shall order the balance of the proceeds of the recovery or settlement to be distributed as it deems may best protect the interest of the infant or incompetent.

(b) **Settlement of Wrongful Death Actions [*and Actions for Conscious Pain and Suffering* (EDNY only)].**

In an action for wrongful death [*or conscious pain and suffering* (EDNY only)]:

(1) Where required by statute or otherwise, the court shall apportion the avails of the action, and shall approve the terms of any settlement.

(2) The court shall approve an attorney's fee only upon application in accordance with the provisions of the New York State statutes and rules.

[Source: Former Local Civil Rules 28, 29]

Local Civil Rule 83.3. Habeas Corpus

Unless otherwise provided by statute, applications for a writ of habeas corpus made by persons under the judgment and sentence of a court of the State of New York shall be filed, heard and determined in the district court for the district within which they were convicted and sentenced; provided, however, that if the convenience of the parties and witnesses requires a hearing in a different district, such application may be transferred to any district which is found by the assigned judge to be more convenient. The clerks of the Southern and Eastern District Courts are authorized and directed to transfer such applications to the District herein designated for filing, hearing and determination.

[Source: Former Local Civil Rule 32(d)]

Local Civil Rule 83.4. Proceedings to Stay the Deportation of Aliens in Deportation and Exclusion Cases

(a) **The Petition or Complaint.**

(1) Any application to stay an alien's deportation must be verified and, if made by someone other than the alien, must show either that the applicant has been authorized by the alien to make the application, or that the applicant is the parent, child, spouse, brother, sister, attorney or next friend of the alien.

(2) The application must state in detail why the alien's deportation is invalid. This shall include a statement setting forth the reasons why a stay is warranted, including a description of the irreparable harm that the alien will suffer if the application is not granted. The application shall also state in what manner the applicable administrative remedies have been exhausted or why such exhaustion is not required and whether any prior application to the court for the same or similar relief has been made.

(3) The application shall recite the source of the factual allegations it contains. If the Immigration and Naturalization Service has been requested to grant the alien, the alien's attorney or the alien's representative access to the alien's records and access has been refused, the application shall state who made the request to review the records, when and to whom it was made, and by whom access was refused. In the event it is claimed that insufficient time was available to examine the alien's records, the application shall state when the alien was informed of his deportation and why he has been unable to examine the records since that time.

(4) Every application to stay the alien's deportation shall contain the alien's immigration file number or other identifying information supplied to the applicant, and the decision, if any, the alien seeks the court to review. In the event this decision was oral, the application shall state the nature of the relief requested, who denied the request, the reasons for the denial and the date the request was denied.

(5) The application shall also state the basis upon which the applicant believes that this court has jurisdiction over the custodian of the alien.

(b) **Commencement of the Proceeding.** In any proceeding to stay the deportation of an alien, the original verified petition or complaint shall be filed with the clerk. In addition to service pursuant to Federal Rule of Civil Procedure 4, a copy of the petition or complaint, and application for a writ of habeas corpus or order to show cause shall be delivered to the United States attorney prior to the issuance of any writ or order staying the deportation; if the United States attorney's office is closed, delivery shall be made before 10:00 a.m. the following business day, unless the court otherwise directs.

(c) **Procedure for Issuance of an Order or Writ.**

(1) In the event the court determines to stay temporarily an alien's deportation, it shall briefly set forth why the order or writ was issued, endorse upon the order or writ the date and time it was issued, and set the matter for prompt hearing on the merits.

(2) All orders or writs temporarily enjoining an alien's expulsion shall expire by their terms within such time after entry, not to exceed ten (10) days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the government consents to an extension for a longer period.

(d) Service of the writ or order upon the United States attorney's office within the time specified by the court shall be sufficient service to stay an alien's deportation.

(e) After delivery of an alien for deportation to the master of a ship or the commanding officer of an airplane, the writ or order staying the alien's deportation shall be addressed to and served upon only such master or commanding officer. Notice to the respondent, or the United States attorney's office, of the allowance of the writ or issuance of the order shall not operate to stay an alien's deportation if the alien is no longer in the government's custody. Service of the writ or order may not be made upon a master after the ship has left on her voyage or upon a commanding officer once the airplane has closed its doors and left the terminal.

[Source: Former Local Civil Rules 30, 31]

Local Civil Rule 83.5. Three-Judge Court

Whenever upon an application for injunctive relief counsel is of opinion that the relief is such as may be granted only by a three-judge court, the petition shall so state, and the proposed order to show cause (whether or not containing a stay), or the notice of motion, shall include a request for a hearing before a three-judge court. Upon the convening of a three-judge court, in addition to the original papers on file, there shall be submitted three additional copies of all papers filed with the court.

[Source: Former Local Civil Rule 34]

Local Civil Rule 83.6. Publication of Advertisements

(a) All advertisements except notices of sale of real estate or of any interest in land shall be published in a newspaper which has a general circulation in this district or a circulation reasonably calculated to give public notice of a legal publication. The court may direct the publication of such additional advertisement as it may deem advisable.

(b) Unless otherwise ordered, notices for the sale of real estate or of any interest in land shall be published in a newspaper of general circulation in the county in which the real estate or the land in question is located.

[Source: Former Local Civil Rule 35]

Local Civil Rule 83.7. Notice of Sale

In any civil action, the notice of any proposed sale of property directed to be made by any order or judgment of the court, unless otherwise ordered by the court, need not set out the terms of sale specified in the order or judgment, and the notice will be sufficient if in substantially the following form:

UNITED STATES DISTRICT COURT
..... DISTRICT OF NEW YORK

[CAPTION] [Docket No. and Judge's Initials]

NOTICE OF SALE

Pursuant to .....(Order or Judgment)..... of the United States Court for the ..... District of New York, filed in the office of the clerk on .....(Date)..... in the case entitled .....(Name and Docket Number)..... the undersigned will sell at .....(Place of Sale)..... on .....(Date and Hour of Sale)..... the property in said .....(Order or Judgment)..... described and therein directed to be sold, to which .....(Order or Judgment)..... reference is made for the terms of sale and for a description of the property which may be briefly described as follows:

DATED:

_____
Signature and Official Title

The notice need not describe the property by metes and bounds or otherwise in detail and will be sufficient if in general terms it identifies the property by specifying its nature and location. However, it shall state: the approximate acreage of any real estate outside the limits of any town or city; the street, lot and block number of any real estate within any town or city; and a general statement of the character of any improvements upon the property.

[Source: Former Local Civil Rule 36]

Local Civil Rule 83.8. Filing of Notice of Appeal

A notice of appeal shall state the names of the several parties to the judgment, and the names and addresses of their respective attorneys of record. Upon the filing of the notice of appeal the appellant shall furnish the clerk with three additional copies thereof, as well as a sufficient number of further copies thereof to enable the clerk to comply with the provisions of Federal Rule of Appellate Procedure 3(a).

[Source: Former Local Civil Rule 40(a)]

Local Civil Rule 83.9. Contempt Proceedings in Civil Cases

(a) A proceeding to adjudicate a person in civil contempt, including a case provided for in Federal Rules of Civil Procedure 37(b)(1) and 37(b)(2)(D), shall be commenced by the service of a notice of motion or order to show cause. The affidavit upon which such notice of motion or order to show cause is based shall set out with particularity the misconduct complained of, the claim, if any, for damages occasioned thereby and such evidence as to the amount of damages as may be available to the moving party. A reasonable counsel fee, necessitated by the contempt proceedings, may be included as an item of damage. Where the alleged contemnor has appeared in the action by an attorney, the notice of motion or order to show cause and the papers upon which it is based may be served upon said attorney; otherwise service shall be made personally, in the manner provided for by the Federal Rules of Civil Procedure for the service of a summons. If an order to show cause is sought, such order may, upon necessity shown, embody a direction to the United States marshal to arrest the alleged contemnor and hold such person unless bail is posted in an amount fixed by the order, conditioned on the appearance of such person in all further proceedings on the motion, and

further conditioned that the alleged contemnor will hold himself or herself amenable to all orders of the court for surrender.

(b) If the alleged contemnor puts in issue his or her alleged misconduct or the damages thereby occasioned, said person shall upon demand be entitled to have oral evidence taken, either before the court or before a master appointed by the court. When by law such alleged contemnor is entitled to a trial by jury, said person shall make written demand before the beginning of the hearing on the application; otherwise the alleged contemnor will be deemed to have waived a trial by jury.

(c) If the alleged contemnor is found to be in contempt of court, an order shall be entered (1) reciting or referring to the verdict or findings of fact upon which the adjudication is based; (2) setting forth the amount of damages, if any, to which the complainant is entitled; (3) fixing the fine, if any, imposed by the court, which fine shall include the damages found and naming the person to whom such fine shall be payable; (4) stating any other conditions, the performance of which will operate to purge the contempt; and (5) directing, where appropriate, the arrest of the contemnor by the United States marshal and confinement until the performance of the condition fixed in the order and the payment of the fine, or until the contemnor be otherwise discharged pursuant to law. Upon such an order, no person shall be detained in prison by reason of the non-payment of the fine for a period exceeding six months. A certified copy of the order committing the contemnor shall be sufficient warrant to the marshal for the arrest and confinement of the contemnor. The complainant shall also have the same remedies against the property of the contemnor as if the order awarding the fine were a final judgment.

(d) If the alleged contemnor is found not guilty of the charges, said person shall be discharged from the proceedings and, in the discretion of the court, may have judgment against the complainant for costs and disbursements and a reasonable counsel fee.

[Source: Former Local Civil Rule 43]

Local Civil Rule 83.10. Court-Annexed Arbitration (Eastern District Only)

(a) **Certification of Arbitrators.**

(1) The Chief Judge or a judge or judges authorized by the Chief Judge to act (hereafter referred to as the certifying judge) shall certify as many arbitrators as may be determined to be necessary under this rule.

(2) An individual may be certified to serve as an arbitrator if he or she: (A) has been for at least five years a member of the bar of the highest court of a state or a District of Columbia, (B) is admitted to practice before this court, and (C) is determined by the certifying judge to be competent to perform the duties of an arbitrator.

(3) Each individual certified as an arbitrator shall take the oath or affirmation required by Title 28, U.S.C. § 453 before serving as an arbitrator.

(4) A list of all persons certified as arbitrators shall be maintained in the Office of the Clerk.

(b) **Compensation and Expenses of Arbitrators**An arbitrator shall be compensated $250 for services in each case. If an arbitration hearing is protracted, the certifying judge may entertain a petition for additional compensation. If a party requests three arbitrators then each arbitrator shall

be compensated $100 for service. The fees shall be paid by or pursuant to the order of the Court subject to the limits set by the Judicial Conference of the United States.

(c) **Immunity of Arbitrators.** Arbitrators shall be immune from liability or suit with respect to their conduct as such to the maximum extent permitted by applicable law.

(d) **Civil Cases Eligible for Compulsory Arbitration.**

(1) The Clerk of Court shall, as to all cases filed after January 1, 1986, designate and process for compulsory arbitration all civil cases (excluding social security cases, tax matters, prisoners' civil rights cases and any action based on an alleged violation of a right secured by the Constitution of the United States or if jurisdiction is based in whole or in part on Title 28, U.S.C. § 1343) wherein money damages only are being sought in an amount not in excess of $150,000.00 exclusive of interest and costs.

(2) The parties may by written stipulation agree that the Clerk of Court shall designate and process for court-annexed arbitration any civil case that is not subject to compulsory arbitration hereunder.

(3) For purposes of this Rule only, in all civil cases damages shall be presumed to be not in excess of $150,000.00 exclusive of interest and costs, unless:

(A) Counsel for plaintiff, at the time of filing the complaint, or in the event of the removal of a case from state court or transfer of a case from another district to this court, within thirty (30) days of the docketing of the case in this district, files a certification with the court that the damages sought exceed $150,000.00, exclusive of interest and costs; or

(B) Counsel for a defendant, at the time of filing a counterclaim or cross-claim files a certification with the court that the damages sought by the counter-claim or cross-claim exceed $150,000.00 exclusive of interest and costs.

(e) **Referral to Arbitration.**

(1) After an answer is filed in a case determined eligible for arbitration, the arbitration clerk shall send a notice to counsel setting for the date and time for the arbitration hearing. The date of the arbitration hearing set forth in the notice shall be approximately four months but in no event later than 120 days from the date the answer was filed, except that the arbitration proceeding shall not, in the absence of the consent of the parties, commence until 30 days after the disposition by the district court of any motion to dismiss the complaint, motion for judgment on the pleadings, motion to join necessary parties, or motion for summary judgment, if the motion was filed during a time period specified by the district court. The 120-day and 30-day periods specified in the preceding sentence may be modified by the court for good cause shown. The notice shall also advise counsel that they may agree to an earlier date for the arbitration hearing provided the arbitration clerk is notified with 30 days of the date of the notice. The notice shall also advise counsel that they have 90 days to complete discovery unless the judge to whom the case has been assigned orders a shorter or longer period for discovery. The judge may refer the case to a magistrate for purposes of discovery. In the event a third party has been brought into the action, this notice shall not be sent until an answer has been filed by the third party.

(2) The court shall, *sua sponte*, or on motion of a party, exempt any case from arbitration in which the objectives of arbitration would not be realized

(A) because the case involves complex or novel issues,

(B) because legal issues predominate over factual issues, or

(C) for other good cause.

Application by a party for an exemption from compulsory arbitration shall be made by written letter to the court not exceeding three pages in length, outlining the basis for the request and attaching relevant materials, which shall be submitted no later than 20 days after receipt of the notice to counsel setting forth the date and time for the arbitration hearing. Within three days of receiving such a letter, any opposing affected party may submit a responsive letter not exceeding three pages attaching relevant materials.

(3) Cases not originally designated as eligible for compulsory arbitration, but which in the discretion of the assigned judge, are later found to qualify, may be referred to arbitration. A U.S. District Judge or a U.S. Magistrate Judge, in cases that exceed the arbitration ceiling of $150,000 exclusive of interest and costs, in their discretion, may suggest that the parties should consider arbitration. If the parties are agreeable, an appropriate consent form signed by all parties or their representatives may be entered and filed in the case prior to scheduling an arbitration hearing.

(4) The arbitration shall be held before one arbitrator unless a panel of three arbitrators is requested by a party, in which case one of whom shall be designated as chairperson of the panel. If the amount of controversy, exclusive of interest and costs, if $5,000 or less, the arbitration shall be held before a single arbitrator. The arbitration panel shall be chosen at random by the Clerk of the Court from the lawyers who have been duly

certified as arbitrators. The arbitration panel shall be scheduled to hear not more than three cases.

(5) The judge to whom the case has been assigned shall, 30 days prior to the date scheduled for the arbitration hearing, sign an order setting forth the date and time of the arbitration hearing and the names of the arbitrators designated to hear the case. If a party has filed a motion for judgment on the pleadings, summary judgment or similar relief, the judge shall not sign the order before ruling on the motion, but the filing of such a motion on or after the date of the order shall not stay the arbitration unless the judge so orders.

(6) Upon entry of the order designating the arbitrators, the arbitration clerk shall send to each arbitrator a copy of all pleadings, including the order designating the arbitrators, and the guidelines for arbitrators.

(7) Persons selected to be arbitrators shall be disqualified for bias or prejudice as provided in Title 28, U.S.C. § 144, and shall disqualify themselves in any action which they would be required under title 28, U.S.C. § 455 to disqualify themselves if they were a justice, judge, or magistrate.

(f) **Arbitration Hearing.**

(1) The arbitration hearing shall take place in the United States Courthouse in a courtroom assigned by the arbitration clerk on the date and at the time set forth in the order of the Court. The arbitrators are authorized to change the date and time of the hearing provided the hearing is commenced within 30 days of the hearing date set forth in the order of the Court. Any continuance beyond this 30 day period must be approved by the judge to

whom the case has been assigned. The arbitration clerk must be notified immediately of any continuance.

(2) Counsel for the parties shall report settlement of the case to the arbitration clerk and all members of the arbitration panel assigned to the case.

(3) The arbitration hearing may proceed in the absence of any party who, after notice, fails to be present. In the event, however, that a party fails to participate in the arbitration process in a meaningful manner, the Court may impose appropriate sanctions, including, but no limited to, the striking of any demand for a trial de novo filed by that party.

(4) Rule 45 of the Federal Rules of Civil Procedure shall apply to subpoenas for attendance of witnesses and the production of documentary evidence at an arbitration hearing under this Rule. Testimony at an arbitration hearing shall be under oath or affirmation.

(5) The Federal Rules of Evidence shall be used as guides to the admissibility of evidence. Copies or photographs of all exhibits, except those intended solely for impeachment, must be marked for identification and delivered to adverse parties at least ten (10) days prior to the hearing. The arbitrators shall receive exhibits in evidence without formal proof unless counsel has been notified at least five (5) days prior to the hearing that the adverse party intends to raise an issue concerning the authenticity of the exhibit. The arbitrators may refuse to receive in evidence any exhibit, a copy or photograph of which has not been delivered to the adverse party as provided herein.

(6) A party may have a recording and transcript made of the arbitration hearing, but that party shall make all necessary arrangements and bear all expenses thereof.

(g) **Arbitration Award and Judgment.**

(1) The arbitration award shall be filed with the court promptly after the hearing is concluded and shall be entered as the judgment of the court after the 30 day period for requesting a trial de novo pursuant to Section (g) has expired, unless a party has demanded a trial de novo. The judgment so entered shall be subject to the same provisions of law and shall have the same force and effect as a judgment of the court in a civil action, except that it shall not be appealable. In a case involving multiple claims and parties, any segregable part of an arbitration award as to which an aggrieved party has not timely demanded a trial de novo shall become part of the final judgment with the same force and effect as a judgment of the court in a civil action, except that it shall not be appealable.

(2) The contents of any arbitration award shall not be made known to any judge who might be assigned the case,

(A) except as necessary for the court to determine whether to assess costs or attorneys fees,

(B) until the district court has entered final judgment in the action or the action has been otherwise terminated, or

(C) except for purposes of preparing the report required by section 903(b) of the Judicial Improvement and Access to Justice Act.

(3) Costs may be taxed as part of any arbitration award pursuant to Title 28, U.S.C. § 1920.

(h) **Trial De Novo.**

(1) Within 30 days after the arbitration award is entered on the docket, any party may demand in writing a trial de novo in the district court. Such demand shall be filed with the arbitration clerk, and served by the moving party upon all counsel of record or other parties. Withdrawal of a demand for a trial de novo shall not reinstate the arbitrators' award and the case shall proceed as if it had not been arbitrated.

(2) Upon demand for a trial de novo and the payment to the clerk required by paragraph (4) of this section, the action shall be placed on the calendar of the court and treated for all purposes as if it had not been referred to arbitration, and any right of trial by jury that a party would otherwise have shall be preserved inviolate.

(3) At the trial de novo, the court shall not admit evidence that there had been an arbitration proceeding, the nature or amount of the award, or any other matter concerning the conduct of the arbitration proceeding.

(4) Upon making a demand for trial de novo the moving party shall, unless permitted to proceed in forma pauperis, deposit with the clerk of the court an amount equal to the arbitration fees of the arbitrators as provided in Section (b). The sum so deposited shall be returned to the party demanding a trial de novo in the event that party obtains a final judgment, exclusive of interest and costs, more favorable than the arbitration award. If the party demanding a trial de novo does not obtain a more favorable result after trial or if the court determines that the party's conduct in seeking a trial de novo was in bad faith, the sum so deposited shall be paid by the Clerk to the Treasury of the United States.

Local Civil Rule 83.11. Court-Annexed Mediation (Eastern District Only)

(a) **Description.** Mediation is a process in which parties and counsel agree to meet with a neutral mediator trained to assist them in settling disputes. The mediator improves communication across party lines, helps parties articulate their interests and understand those of the other party, probes the strengths and weaknesses of each party's legal positions, and identifies areas of agreement and helps generate options for a mutually agreeable resolution to the dispute. In all cases, mediation provides an opportunity to explore a wide range of potential solutions and to address interests that may be outside the scope of the stated controversy or which could not be addressed by judicial action. A hallmark of mediation is its capacity to expand traditional settlement discussions and broaden resolution options, often by exploring litigant needs and interests that may be formally independent of the legal issues in controversy.

(b) **Mediation Procedures.**

(1) Eligible cases. Judges and Magistrate Judges may designate civil cases for inclusion in the mediation program, and when doing so shall prepare an order to that effect. Alternatively, and subject to the availability of qualified mediators, the parties may consent to participation in the mediation program by preparing and executing a stipulation signed by all parties to the action and so-ordered by the Court.

(A) Mediation deadline. Any court order designating a case for inclusion in the mediation program, however arrived at, may contain a deadline not to exceed six months from the date of entry on the docket of that order. This deadline may be extended upon motion to the Court for good cause shown.

(2) Mediators. Parties whose case has been designated for inclusion in the mediation program shall be offered the options of (a) using a mediator from the Court's panel, a listing of which is available in the Clerk's Office; (b) selecting a mediator on their own; or (c) seeking the assistance of a reputable neutral ADR organization in the selection of a mediator.

(A) Court's panel of mediators. When the parties opt to use a mediator from the Court's panel, the Clerk's Office will appoint a mediator to handle the case who (i) has been for at least five years a member of the bar of a state or the District of Columbia; (ii) is admitted to practice before this Court; and (iii) has completed the Court's requirements for mediator training and mediator expertise. If any party so requests, the appointed mediator also shall have expertise in the area of law in the case. The Clerk's Office will provide notice of their appointment to all counsel.

(B) Disqualification. Any party may submit a written request to the Clerk's Office within ten days from the date of the notification of the mediator for the disqualification of the mediator for bias or prejudice as provided in 28 U.S.C. § 144. A denial of such a request by the Clerk's Office is subject to review by the assigned Judge upon motion filed within ten days of the date of the Clerk's Office denial.

(3) Scheduling the mediation. The mediator, however chosen, will contact all attorneys to fix the date and place of the first mediation session, which shall be held within thirty days of the date the mediator was appointed or at such other time as the Court may establish.

(A) The Clerk's Office will provide counsel with copies of the Judge's order referring the case to the mediation program, the Clerk's Office notice of appointment of mediator (if applicable), and a copy of the program procedures.

(4) Written mediation statements. No less than seven days prior to the first mediation session, each party shall submit directly to the mediator a mediation statement not to exceed ten pages double-spaced, not including exhibits, outlining the key facts and legal issues in the case. The statement will also include a description of motions filed and their status, and any other information that will advance settlement prospects or make the mediation more productive. Mediation statements are not briefs and are not filed with the Court, nor shall the assigned Judge or Magistrate Judge have access to them.

(5) Mediation session(s). The mediator meets initially with all parties to the dispute and their counsel in a joint session. The mediator may hold mediation sessions in his/her office, or at the Court, or at such other place as the parties and the mediator shall agree. At this meeting, the mediator explains the mediation process and gives each party an opportunity to explain his or her views about the matters in dispute. There is then likely to be discussion and questioning among the parties as well as between the mediator and the parties.

(A) Separate caucuses. At the conclusion of the joint session, the mediator will typically caucus individually with each party. Caucuses permit the mediator and the parties to explore more fully the needs and interests underlying the stated positions. In caucuses the mediator strives to facilitate settlement on matters in dispute and the possibilities for settlement. In some cases the mediator may offer

specific suggestions for settlement; in other cases the mediator may help the parties generate creative settlement proposals.

(B) Additional sessions. The mediator may conduct additional joint sessions to promote further direct discussion between the parties, or she/he may continue to work with the parties in private caucuses.

(C) Conclusion. The mediation concludes when the parties reach a mutually acceptable resolution, when the parties fail to reach an agreement, on the date the Judge or Magistrate Judge specified as the mediation deadline in their designation order, or in the event no such date has been specified by the Court, at such other time as the parties and/or the mediator may determine. The mediator has no power to impose settlement and the mediation process is confidential, whether or not a settlement is reached.

(6) Settlement. If settlement is reached, in whole or in part, the agreement, which shall be binding upon all parties, will be put into writing and counsel will file a stipulation of dismissal or such other document as may be appropriate. If the case does not settle, the mediator will immediately notify the Clerk's Office, and the case or the portion of the case that has not settled will continue in the litigation process.

(c) **Attendance at Mediation Sessions.**

(1) In all civil cases designated by the Court for inclusion in the mediation program, attendance at one mediation session shall be mandatory: thereafter, attendance shall be voluntary. The Court requires of each party that the attorney who has primary responsibility for handling the trial of the matter attend the mediation sessions.

(2) In addition, the Court may require, and if it does not, the mediator may require the attendance at the mediation session of a party or its representative in the case of a business or governmental entity or a minor, with authority to settle the matter and to bind the party. This requirement reflects the Court's view that the principal values of mediation include affording litigants with an opportunity to articulate their positions and interests directly to the other parties and to a mediator and to hear, first hand, the other party's version of the matters in dispute. Mediation also enables parties to search directly with the other party for mutually agreeable solutions.

(d) **Confidentiality.**

(1) The parties will be asked to sign an agreement of confidentiality at the beginning of the first mediation session to the following effect:

(A) Unless the parties otherwise agree, all written and oral communications made by the parties and the mediator in connection with or during any mediation session are confidential and may not be disclosed or used for any purpose unrelated to the mediation.

(B) The mediator shall not be called by any party as a witness in any court proceeding related to the subject matter of the mediation unless related to the alleged misconduct of the mediator.

(2) Mediators will maintain the confidentiality of all information provided to, or discussed with, them. The Clerk of Court and the ADR Administrator are responsible for program administration, evaluation, and liaison between the mediators and the Court and will maintain strict confidentiality.

(3) No papers generated by the mediation process will be included in Court files, nor shall the Judge or Magistrate Judge assigned to the case have access to them. Information about what transpires during mediation sessions will not at any time be made known to the Court, except to the extent required to resolve issues of noncompliance with the mediation procedures. However, communications made in connection with or during a mediation may be disclosed if all parties and, if appropriate as determined by the mediator, the mediator so agree. Nothing in this section shall be construed to prohibit parties from entering into written agreements resolving some or all of the case or entering and filing with the Court procedural or factual stipulations based on suggestions or agreements made in connection with a mediation.

(e) **Oath and Disqualification of Mediator.**

(1) Each individual certified as a mediator shall take the oath or affirmation prescribed by 28 U.S.C. §453 before serving as a mediator.

(2) No mediator may serve in any matter in violation of the standards set forth in Section 455 of Title 28 of the United States Code. If a mediator is concerned that a circumstance covered by subparagraph (a) of that section might exist, e.g., if the mediator's law firm has represented one or more of the parties, or if one of the lawyers who would appear before the mediator at the mediation session is involved in a case on which an attorney in the mediator's firm is working, the mediator shall promptly disclose that circumstance to all counsel in writing. A party who believes that the assigned mediator has a conflict of interest shall bring this concern to the attention of the Clerk's Office in writing, within ten calendar days of learning the source of the potential conflict or the objection to

such a potential conflict shall be deemed to have been waived. Any objections that cannot be resolved by the parties in consultation with the Clerk's Office shall be referred to the Judge or Magistrate Judge who has designated the case for inclusion in the mediation program.

(3) A party who believes that the assigned mediator has engaged in misconduct in such capacity shall bring this concern to the attention of the Clerk's Office in writing, within ten calendar days of learning of the alleged misconduct or the objection to such alleged misconduct shall be deemed to have been waived. Any objections that cannot be resolved by the parties in consultation with the Clerk's Office shall be referred to the Judge who has designated the case for inclusion in the mediation program.

(f) **Services of the Mediators.**

(1) Participation by mediators in the program is on a voluntary basis, without compensation. Attorneys serving on the Court's panel will be given credit for pro bono work.

(2) Appointment to the Court's panel is for a three year term, subject to renewal. A panelist will not be expected to serve on more than two cases during any twelve month period and will not be required to accept each assignment offered. Repeated rejection of assignments will result in the attorney being dropped from the panel.

(g) **Immunity of the Mediators.** Mediators shall be immune from liability or suit with respect to their conduct as such to the maximum extent permitted by applicable law.

Local Civil Rule 83.12. Alternative Dispute Resolution (Southern District Only)

Introduction

The Court's existing alternative dispute resolution ("ADR") program of mediation shall continue as set forth below.

(a) **Definition**

Mediation is a confidential ADR process in which a disinterested third party directs settlement discussions but does not evaluate the merits of either side's position or render any judgments. By holding meetings, defining issues, diffusing emotions and suggesting possibilities of resolution, the mediator assists the parties in reaching their own negotiated settlement. The main benefit of mediation is that it can produce creative solutions to complex disputes often unavailable in traditional litigation.

(b) **Administration**

Staff Counsel, appointed by the Clerk of the Court, shall administer the Court's mediation program. The Chief Judge shall appoint one or more judicial officers to oversee the program.

(c) **Service as a Mediator**

An individual may serve as a mediator if he or she: 1) has been a member of the Bar of any state or the District of Columbia for at least five years; 2) is admitted to practice in this Court; and 3) is certified by the Chief Judge or the Judicial Officer appointed by the Chief Judge pursuant to paragraph (b) above to be competent to perform the duties of a mediator. Each individual certified as a mediator shall take the oath or affirmation prescribed by 28 U.S.C. § 453 and complete the training program provided by the Court before serving as a mediator.

(d) **Consideration of Mediation**

In all civil cases eligible for mediation pursuant to paragraph (e), each party shall consider the use of mediation and shall report to the assigned Judge at the initial case management conference whether the party believes mediation may facilitate the resolution of the lawsuit.

(e) **Entry into the Program**

All civil cases other than social security, tax, prisoner civil rights and pro se matters are eligible for mediation, whether assigned to Foley Square or White Plains.

The assigned Judge or Magistrate Judge may determine that a case is appropriate for mediation and may order that case to mediation with or without the consent of the parties. Alternatively, the parties may notify the assigned Judge and Staff Counsel at any time of their desire to mediate by filing a stipulation to that effect signed by all parties. Notification of the date, time and place will be forwarded by Staff Counsel to the parties.

(f) **Scheduling Orders**

In no event is the scheduling of mediation to interfere with any scheduling order of the Court.

(g) **Assignment of the Mediator**

Staff Counsel shall assign a mediator from the individuals certified as mediators and notify the mediator and the parties of the assignment.

(h) **Disqualification**

The mediator shall disqualify himself or herself in any action in which he or she would be required under 28 U.S.C. § 455 to be disqualified if a Justice, Judge or Magistrate Judge. Any party may submit a written request to Staff Counsel within ten days from the date of the notification of the name of the mediator for the disqualification of the mediator for bias or prejudice as provided in

28 U.S.C. § 144. A denial of such a request by Staff Counsel is subject to review by the assigned Judge upon motion filed within ten days of the date of Staff Counsel's denial.

(i) **Submission**

Unless otherwise agreed, upon notification of the scheduled date of the mediation session but in no event less than seven days before the mediation, each party shall prepare and forward to the mediator (but not to the adversary) a memorandum presenting in concise form, not exceeding ten double-spaced pages, the party's contentions as to both liability and damages and the status of any settlement negotiations.

(j) **Mediation Sessions**

The attorney primarily responsible for each party's case shall personally attend the first mediation session and shall be fully authorized to resolve the matter and prepared to discuss all liability issues, damage issues, and the party's settlement position in detail and in good faith. At the discretion of the mediator, the party, if an individual, or a representative of the party, if a corporation, partnership or governmental entity, with knowledge of the facts and full settlement authority, may be required to attend.

The mediation will conclude when the parties reach a resolution of some or all issues in the case or where the mediator concludes that resolution (or further resolution) is impossible. If resolution is reached, a binding agreement shall be signed by all the parties, and a stipulation of discontinuance or other appropriate document filed promptly. Where resolution is not reached, the assigned judge shall be notified promptly.

(k) **Confidentiality**

The entire mediation process shall be confidential. The parties and the mediator shall not disclose information regarding the process, including settlement terms, to the Court or to third persons unless all parties agree. The identity of the mediator shall not be disclosed, including to the Court. However, persons authorized by the Court to administer or evaluate the program shall have access to information and documents necessary to do so, and the parties, counsel and mediators may respond to confidential inquiries or surveys by such persons.

The mediation process shall be treated as a compromise negotiation for purposes of the Federal Rules of Evidence and state rules of evidence. The mediator is disqualified as a witness, consultant, attorney, or expert in any pending or future action relating to the dispute, including actions between persons not parties to the mediation process.

(l) **Compensation of Mediators and Locations of Sessions**

All mediators shall serve without compensation and be eligible for credit for pro bono service. All ADR sessions will take place at the "ADR Center" in the Federal Courthouses in Manhattan or White Plains, as designated.

LOCAL ADMIRALTY AND MARITIME RULES

Local Admiralty Rule A.1. Application of Rules

(a) These Local Admiralty and Maritime Rules apply to the procedure in the claims and proceedings governed by the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure.

(b) The Local Civil Rules also apply to the procedure in such claims and proceedings, except to the extent that they are inconsistent with the Supplemental Rules or with these Local Admiralty and Maritime Rules.

[Source: Former Local Admiralty Rule 1 and Supplemental Rule 1]

Local Admiralty Rule B.1. Affidavit That Defendant Is Not Found Within the District

The affidavit required by Supplemental Rule B(1) to accompany the complaint, and the affidavit required by Supplemental Rule B(2)(c), shall list the efforts made by and on behalf of the plaintiff to find and serve the defendant within the district.

[Source: Maritime Law Association Model Rule (b)(1)]

Local Admiralty Rule B.2. Notice of Attachment

In an action where any property of a defendant is attached, the plaintiff shall give prompt notice to the defendant of the attachment. Such notice shall be in writing, and may be given by telex, telegram, cable, fax, or other verifiable electronic means.

[Source: Former Local Admiralty Rule 10(b)]

Local Admiralty Rule C.1. Intangible Property

The summons issued pursuant to Supplemental Rule C(3) shall direct the person having control of freight or proceeds of property sold or other intangible property to show cause at a date which shall be at least ten (10) days after service (unless the court, for good cause shown, shortens the period) why the intangible property should not be delivered to the court to abide the judgment. The person who is served may deliver or pay over to the marshal the intangible property proceeded against to the extent sufficient to satisfy the plaintiff's claim. If such delivery or payment is made, the person served is excused from the duty to show cause.

[Source: Former Local Admiralty Rule 2]

Local Admiralty Rule C.2. Publication of Notice of Action and Arrest; Sale

(a) The notice required by Supplemental Rule C(4) shall be published at least once and shall contain (1) the fact and date of the arrest, (2) the caption of the case, (3) the nature of the action, (4) the amount demanded, (5) the name of the marshal, (6) the name, address, and telephone number of the attorney for the plaintiff, and (7) a statement that claimants must file their claims with the clerk of this court within ten (10) days after notice or first publication (whichever is earlier) or within such additional time as may be allowed by the court and must serve their answers within twenty (20) days after the filing of their claims. The notice shall also state that all interested persons should file claims and answers within the times so fixed otherwise default will be noted and condemnation ordered.

(b) Except in the event of private sale pursuant to 28 U.S.C. §§ 2001 and 2004, or unless otherwise ordered as provided by law, notice of sale of the property after condemnation in suits in rem shall be published daily for at least six (6) days before sale.

[Source: Former Local Admiralty Rule 3(a), (c)]

Local Admiralty Rule C.3. Notice Required for Default Judgment in Action In Rem

(a) **Notice Required in General.** A party seeking a default judgment in an action in rem must satisfy the court that due notice of the action and arrest of the property has been given:

(1) By publication as required in Supplemental Rule C(4) and Local Admiralty Rule C.2;

(2) By service upon the master or other person having custody of the property; and

(3) By service under Federal Rule of Civil Procedure 5(b) upon every other person who has not appeared in the action and is known to have an interest in the property.

(b) **Notice Required to Persons With Recorded Interests.**

(1) If the defendant property is a vessel documented under the laws of the United States, plaintiff must attempt to notify all persons named in the certificate of ownership issued by the United States Coast Guard, or other designated agency of the United States, as holding an ownership interest in or as holding a lien in or as having filed a notice of claim of lien with respect to the vessel.

(2) If the defendant property is a vessel numbered as provided in 46 U.S.C. § 12301(a), plaintiff must attempt to notify the persons named in the records of the issuing authority.

(3) If the defendant property is of such character that there exists a governmental registry of recorded property interests or security interests in the property, the plaintiff must attempt to notify all persons named in the records of each such registry.

[Source: Maritime Law Association Model Rule (c)(3)]

Local Admiralty Rule D.1. Return Date in Possessory, Petitory, and Partition Actions

In an action under Supplemental Rule D, the court may order that the claim and answer be filed on a date earlier than twenty (20) days after arrest, and may by order set a date for expedited hearing of the action.

[Source: Maritime Law Association Model Rule (d)(1)]

Local Admiralty Rule E.1. Adversary Hearing Following Arrest, Attachment or Garnishment

The adversary hearing following arrest or attachment or garnishment that is called for in Supplemental Rule E(4)(f) shall be conducted by a judicial officer within three court days, unless otherwise ordered.

[Source: Maritime Law Association Model Rule (e)(8)]

Local Admiralty Rule E.2. Intervenors' Claims

(a) **Presentation of Claim.** When a vessel or other property has been arrested, attached, or garnished, and is in the hands of the marshal or custodian substituted therefor, anyone having a claim against the vessel or property is required to present the claim by filing an intervening complaint, and not by filing an original complaint, unless otherwise ordered by a judicial officer. Upon the

satisfaction of the requirements of Federal Rule of Civil Procedure 24, the clerk shall forthwith deliver a conformed copy of the complaint to the marshal, who shall deliver the copy to the vessel or custodian of the property. Intervenors shall thereafter be subject to the rights and obligations of parties, and the vessel or property shall stand arrested, attached, or garnished by the intervenor.

(b) **Sharing Marshal's Fees and Expenses.** An intervenor shall have a responsibility to the first plaintiff, enforceable on motion, consisting of the intervenor's share of the marshal's fees and expenses in the proportion that the intervenor's claim bears to the sum of all the claims. If a party plaintiff permits vacation of an arrest, attachment, or garnishment, remaining plaintiffs share the responsibility to the marshal for the fees and expenses in proportion to the remaining claims and for the duration of the marshal's custody because of each claim.

[Source: Maritime Law Association Model Rule (e)(11)]

Local Admiralty Rule E.3. Claims by Suppliers for Payment of Charges

A person who furnishes supplies or services to a vessel, cargo, or other property in custody of the court who has not been paid and claims the right to payment as an expense of administration shall submit an invoice to the clerk in the form of a verified claim at any time before the vessel, cargo or other property is released or sold. The supplier must serve copies of the claim on the marshal, substitute custodian if one has been appointed, and all parties of record. The court may consider the claims individually or schedule a single hearing for all claims.

[Source: Maritime Law Association Model Rule (e)(12)(d)]

Local Admiralty Rule E.4. Preservation of Property

Whenever property is attached or arrested pursuant to the provisions of Supplemental Rule E(4)(b) that permit the marshal or other person having the warrant to execute the process without taking actual possession of the property, and the owner or occupant of the property is thereby permitted to remain in possession, the court, on motion of any party or on its own motion, may enter any order necessary to preserve the value of the property, its contents, and any income derived therefrom, and to prevent the destruction, removal or diminution in value of such property, contents and income.

LOCAL CRIMINAL RULES

Local Criminal Rule 1.1. Application of Rules

(a) These Local Criminal Rules apply in criminal proceedings.

(b) In addition to these Local Criminal Rules, Local Civil Rules 1.2 through 1.10, 39.1, 58.1, and 67.1 apply in criminal proceedings.

Local Criminal Rule 1.2. Applications for Ex Parte Orders

Any application for an ex parte order shall state whether a previous application for similar relief has been made and, if so, shall state (a) the nature of the previous application, (b) the judicial officer to whom such application was presented, and (c) the disposition of such application.

Local Criminal Rule 12.1. Service and Filing of Motion Papers

Unless otherwise provided by statute or rule, or unless otherwise ordered by the court in an individual rule or in a direction in a particular case, upon any motion, the papers shall be served and filed as follows:

(a) All papers in support of the motion shall be served by the moving party on all other parties that have appeared in the action.

(b) Any opposing papers shall be served within ten business days after service of the motion papers.

(c) Any reply papers shall be served within five business days after service of the opposing papers.

(d) All papers in support of or in opposition to a motion shall be filed, with proof of service specifying the means of service, within a reasonable time after service. The parties and their attorneys shall only appear to argue the motion if so directed by the court by order or by individual rule or upon application.

Local Criminal Rule 12.4 Disclosure Statement

For purposes of Fed. R. Crim. P. 12.4 (b)(2), "promptly" shall mean "within ten business days," that is, parties are required to file supplemental disclosure statement within ten business days of the time there is any change in the information required in a disclosure statement filed pursuant to those rules.

[Source: Former Local Criminal Rule 3(a)]

Local Criminal Rule 16.1. Conference of Counsel

No motion addressed to a bill of particulars or answers or to discovery and inspection shall be heard unless counsel for the moving party files with the court simultaneously with the filing of the moving papers an affidavit certifying that said counsel has conferred with counsel for the opposing party in an effort in good faith to resolve by agreement the issues raised by the motion without the intervention of the court and has been unable to reach such an agreement. If some of the issues raised by the motion have been resolved by agreement, the affidavit shall specify the issues remaining unresolved.

[Source: Former Local Criminal Rule 3(d)]

Local Criminal Rule 23.1. Free Press-Fair Trial Directives

(a) It is the duty of the lawyer or law firm, and of non-lawyer personnel employed by a lawyer's office or subject to a lawyer's supervision, private investigators acting under the supervision of a criminal defense lawyer, and government agents and police officers, not to release or authorize the release of non-public information or opinion which a reasonable person would expect to be disseminated by means of public communication, in connection with pending or imminent criminal litigation with which they are associated, if there is a substantial likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

(b) With respect to a grand jury or other pending investigation of any criminal matter, a lawyer participating in or associated with the investigation (including government lawyers and lawyers for targets, subjects, and witnesses in the investigation) shall refrain from making any extrajudicial statement which a reasonable person would expect to be disseminated by means of public communication that goes beyond the public record or that is not necessary to inform the public that the investigation is underway, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, to warn the public of any dangers or otherwise to aid in the investigation, if there is a substantial likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the administration of justice.

(c) During a jury trial of any criminal matter, including the period of selection of the jury, no lawyer or law firm associated with the prosecution or defense shall give or authorize any extrajudicial statement or interview relating to the trial or the parties or issues in the trial which a reasonable person would expect to be disseminated by means of public communication if there is

a substantial likelihood that such dissemination will interfere with a fair trial; except that the lawyer or the law firm may quote from or refer without comment to public records of the court in the case.

(d) Statements concerning the following subject matters presumptively involve a substantial likelihood that their public dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice within the meaning of this rule:

(1) The prior criminal record (including arrests, indictments or other charges of crime), or the character or reputation of the accused, except that the lawyer or law firm may make a factual statement of the accused's name, age, residence, occupation and family status; and if the accused has not been apprehended, a lawyer associated with the prosecution may release any information necessary to aid in the accused's apprehension or to warn the public of any dangers the accused may present;

(2) The existence or contents of any confession, admission or statement given by the accused, or the refusal or failure of the accused to make any statement;

(3) The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;

(4) The identity, testimony or credibility of prospective witnesses, except that the lawyer or law firm may announce the identity of the victim if the announcement is not otherwise prohibited by law;

(5) The possibility of a plea of guilty to the offense charged or a lesser offense;

(6) Information the lawyer or law firm knows is likely to be inadmissible at trial and would if disclosed create a substantial likelihood of prejudicing an impartial trial; and

(7) Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

(e) Statements concerning the following subject matters presumptively do not involve a substantial likelihood that their public dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice within the meaning of this rule:

(1) An announcement, at the time of arrest, of the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit and use of weapons), the identity of the investigating and arresting officer or agency and the length of investigation;

(2) An announcement, at the time of seizure, stating whether any items of physical evidence were seized and, if so, a description of the items seized (but not including any confession, admission or statement);

(3) The nature, substance or text of the charge, including a brief description of the offense charged;

(4) Quoting or referring without comment to public records of the court in the case;

(5) An announcement of the scheduling or result of any stage in the judicial process, or an announcement that a matter is no longer under investigation;

(6) A request for assistance in obtaining evidence; and

(7) An announcement, without further comment, that the accused denies the charges, and a brief description of the nature of the defense.

(f) Nothing in this rule is intended to preclude the formulation or application of more restrictive rules relating to the release of information about juvenile or other offenders, to preclude the holding of hearings or the lawful issuance of reports by legislative, administrative or investigative

bodies, or to preclude any lawyer from replying to charges of misconduct that are publicly made against said lawyer.

(g) All court supporting personnel, including, among others, marshals, deputy marshals, court clerks, bailiffs and court reporters and employees or sub-contractors retained by the court-appointed official reporters, are prohibited from disclosing to any person, without authorization by the court, information relating to a pending grand jury proceeding or criminal case that is not part of the public records of the court. The divulgence by such court supporting personnel of information concerning grand jury proceedings, *in camera* arguments and hearings held in chambers or otherwise outside the presence of the public is also forbidden.

(h) The court, on motion of either party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties and witnesses likely to interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses and any other matters which the court may deem appropriate for inclusion in such order. In determining whether to impose such a special order, the court shall consider whether such an order will be necessary to ensure an impartial jury and must find that other, less extreme available remedies, singly or collectively, are not feasible or would not effectively mitigate the pretrial publicity and bring about a fair trial. Among the alternative remedies to be considered are: change of venue, postponing the trial, a searching voir dire, emphatic jury instructions, and sequestration of jurors.

(i) Any lawyer who violates the terms of this rule may be disciplined pursuant to Local Civil Rule 1.5.

[Source: Former Local Criminal Rule 7]

Local Criminal Rule 34.1. Post-Trial Motions

Post-trial motions in criminal cases, including motions for correction or reduction of sentence under Federal Rule of Criminal Procedure 35, or to suspend execution of sentence, or in arrest of judgment under Federal Rule of Criminal Procedure 34, shall be referred to the trial judge. If the trial judge served by designation and assignment under 28 U.S.C. §§ 291-296, and is absent from the district, such motions may be referred to said judge for consideration and disposition.

[Source: Former Local Criminal Rule 3(c)]

Local Criminal Rule 44.1. Notice of Appearance

(a) Attorneys representing defendants in criminal cases shall file a notice of appearance in the clerk's office and serve a copy on the United States attorney. Once such a notice of appearance has been filed, the attorney may not withdraw except upon prior order of the court pursuant to Local Civil Rule 1.4.

(b) Within twenty (20) days after an attorney files and serves a notice of appearance in a criminal case, said attorney shall submit to the Clerk of the District Court a certificate of the court for at least one of the states in which the attorney is a member of the bar, which has been issued within thirty (30) days and states that the attorney is a member in good standing of the bar of that state court. If the Clerk is satisfied that the submitted certificate shows the attorney to be a member

in good standing of the bar of a state described in Local Civil Rule 1.3(a), said attorney need not file and serve any further certification to the Clerk pursuant to this rule in connection with any subsequent appearances in this court.

[Source: Former Local Criminal Rule 1]

Local Criminal Rule 45.1. Computation of Time

In computing any period of time prescribed or allowed by the Local Criminal Rules, the provisions of Federal Rule of Criminal Procedure 45(a) and 45(e) shall apply unless otherwise stated.

Local Criminal Rule 58.1. Powers of Magistrate Judges

In addition to other powers of magistrate judges:

(a) Full-time magistrate judges are hereby specially designated to exercise the jurisdiction set forth in 18 U.S.C. § 3401. Unless there is a pending related indictment before a district judge, the clerk shall automatically refer misdemeanor cases initiated by information or indictment or transferred to the district under Federal Rule of Criminal Procedure 20 to a magistrate judge for arraignment. A petition by the government that the trial of a misdemeanor proceed before a district judge pursuant to 18 U.S.C. § 3401(f) shall be filed prior to arraignment of the defendant.

(b) Magistrate judges are hereby authorized to exercise the jurisdiction set forth in 18 U.S.C. § 3184.

(c) Magistrate judges may issue subpoenas, writs of *habeas corpus ad testificandum* or *ad prosequendum* or other orders necessary to obtain the presence of parties or witnesses or evidence needed for court proceedings, and may sign in forma pauperis orders.

[Source: Former Local Magistrate Judge Rules 2, 5, 6, and 9]

Local Criminal Rule 58.2. Petty Offenses--Collateral and Appearance

(a) A person who is charged with a petty offense as defined in 18 U.S.C. § 19, or with violating any regulation promulgated by any department or agency of the United States government, may, in lieu of appearance, post collateral in the amount indicated in the summons or other accusatory instrument, waive appearance before a United States magistrate judge, and consent to forfeiture of collateral.

(b) For all other petty offenses the person charged must appear before a magistrate judge.

[Source: Former Local Magistrate Judge Rule 11]

RULES FOR THE DIVISION OF BUSINESS AMONG DISTRICT JUDGES

SOUTHERN DISTRICT

These rules are adopted for the internal management of the case load of the court and shall not be deemed to vest any rights in litigants or their attorneys and shall be subject to such amendments from time to time as shall be approved by the court.

Rule 1. Individual Assignment System

This court shall operate under an individual assignment system to assure continuous and close judicial supervision of every case. Each civil and criminal action and proceeding, except as otherwise provided, shall be assigned by lot to one judge for all purposes. The system shall be administered by an assignment committee in such a manner that all active judges, except the chief judge, shall be assigned substantially an equal share and kind of the work of the court over a period of time. There shall be assigned or transferred to the chief judge such matters as the chief judge is willing and able to undertake, consistent with the chief judge's administrative duties.

Rule 2. Assignment Committee

An assignment committee is established for the administration of the assignment system. The committee shall consist of the chief judge and two other active judges selected by the chief judge, each to serve for one year. The chief judge shall also select two other active judges, each to serve for a period of one year, as alternate members of the committee.

The assignment committee shall supervise and rule upon all problems relating to assignments under this system, in accordance with these rules, as amended from time to time by the board of judges.

Rule 3. Part I

Part I is established for hearing and determining certain emergency and miscellaneous matters in civil and criminal cases and for processing criminal actions and proceedings through the pleading stage. Judges shall choose assignment to Part I from an appropriate schedule, in order of their seniority, for periods not to exceed three weeks in each year. The assignment committee may, on consent of the judges affected, change such assignments, if necessary, to meet the needs of the court.

Part I shall be open from 10:00 a.m. to 5:00 p.m. Monday through Friday except on holidays and a magistrate judge shall be available at the courthouse on Saturdays up to 12:00 p.m. The judge presiding in Part I shall be available for emergency matters.

The judge presiding in Part I may fix such other times for any proceeding as necessary.

Rule 4. Civil Actions or Proceedings (Filing and Assignment)

(a) Filing with the Clerk.

All civil actions and proceedings shall be numbered consecutively by year upon the filing of the first document in the case.

When a complaint or the first document is filed in a civil action or proceeding, counsel shall complete and file an information and designation form, in triplicate, indicating: (1) the title of the action; (2) the residence address and county of each plaintiff and defendant; (3) the basis of federal jurisdiction; (4) whether the action is a class action; (5) a brief statement of the nature of the action

and amount involved; (6) whether the action is claimed to be a related case within the meaning of Rule 15, and if so, the docket number and name of the judge assigned to the earlier filed related action; (7) the category of the case; (8) the name of the sentencing judge, if brought under 28 U.S.C. § 2255; and (9) the name, address and telephone number of the attorney of record and of the attorney's firm, if any. Forms for this purpose will be on file in the office of the clerk of the court and shall be furnished to counsel.

(b) Assignment by the Clerk by Lot.

All civil actions and proceedings, except applications for leave to proceed *in forma pauperis*, upon being filed and all appeals from the bankruptcy court upon being docketed in this court shall be assigned by lot within each designated category to one judge for all purposes.

An action, case or proceeding may not be dismissed and thereafter refiled for the purpose of obtaining a different judge. If an action, case or proceeding, or one essentially the same, is dismissed and refiled, it shall be assigned to the same judge. It is the duty of every attorney appearing to bring the facts of the refiling to the attention of the clerk.

Rule 5. Civil Proceedings in Part I

Admissions to the bar and civil matters other than emergencies shall be heard on Tuesdays commencing at 11:00 a.m. Naturalization proceedings shall be conducted on Friday, commencing at 11:00 a.m.

(a) Miscellaneous Civil Matters.

The judge presiding in Part I shall hear and determine all miscellaneous proceedings in civil matters, such as application for naturalization, for admission to the bar, for relief relating to orders

and subpoenas of administrative agencies and shall purge jurors in the central jury part as and when required. When a modification or further action on such determination is sought, it shall be referred to the judge who made the original determination even though said judge is no longer sitting in Part I.

(b) Civil Emergency Matters.

The Part I judge shall hear and determine all emergency matters in civil cases which have been assigned to a judge when the assigned judge is absent or has expressly referred the matter to Part I because said judge is unavailable due to extraordinary circumstances. Depending on which procedures the Part I judge deems the more efficient, the Part I judge may either dispose of an emergency matter only to the extent necessary to meet the emergency, or, on consent of the assigned judge and notice to the clerk, transfer the action to himself or herself for all further proceedings.

(c) Subsequent Emergency Proceedings.

If a civil emergency matter is brought before the Part 1 judge and the judge concludes that for lack of emergency or otherwise the proceeding should not be determined in Part I the party who brought the proceeding shall not present the same matter again to any other Part I judge unless relevant circumstances have changed in the interim in which case the party shall advise the judge of the prior proceedings and changed circumstances.

Rule 6. Criminal Actions or Proceedings (Filing and Assignment)

(a) Filing With the Clerk.

Criminal actions shall be numbered consecutively by year upon the filing of the indictment or information. The number of a superseding indictment or information shall be preceded by the

the letter "S".

When an indictment or information is filed, the United States attorney shall simultaneously file the original and two copies of the indictment or information. The United States attorney shall also supply an information and designation form, in triplicate, indicating: (1) the category of crime charged and the number of counts; (2) the maximum penalty for each count; (3) a statement as to whether the defendant is in custody and, if so where; (4) the name and telephone extension of the assistant United States attorney in charge of the case; and (5) all other data required by the information and designation form.

Rule 7. Criminal Proceedings

Indictments designated for Foley Square may be returned by the grand jury to the magistrate judge presiding in the criminal part, in open court. Indictments designated for White Plains may be returned by the grand jury to the magistrate judge presiding in the White Plains Courthouse, or in his or her absence, before any available judge.

The judge presiding in Part I shall:

(a) Conduct all preliminary criminal proceedings, such as empaneling the grand jury.

(b) Hear and determine, except for matters referable to a magistrate judge and so referred, all proceedings in criminal actions before the entry of a plea, except as provided in Rule 8(c), 8(d) and 8(e).

(c) Hear and determine all emergency matters in criminal cases which have been assigned to a judge when the assigned judge is absent or has expressly referred the matter to Part I because said judge is unavailable due to extraordinary circumstances.

(d) Hear and determine all matters relating to proceedings before the grand jury. When a modification or further action on such determination is sought, however, it shall be referred to the judge who made the original determination even though said judge is no longer sitting in Part 1.

Rule 8. Arraignments and Assignments in Criminal Cases

(a) Assignments.

In a criminal case, after an indictment has been returned by the Grand Jury or a notice has been filed by the United States Attorney's Office of an intention to file an information upon the defendant's waiver of indictment, the magistrate judge on duty will randomly draw the name of a judge in open court from the criminal wheel, and assign the case to said judge for all purposes thereafter. Said notice to file an information upon the defendant's waiver of indictment shall be signed by the Unites States Attorney's Office and by the defendant's attorney. Waiver of indictment cases will not be assigned a criminal docket number until the waiver has been accepted by the assigned judge. Sealed indictments will be assigned a criminal docket number upon filing, but a judge will not be selected until such time that the indictment is unsealed.

(b) Arraignments.

The United States Attorney's Office will promptly contact the judge to whom the case is assigned and request the scheduling of a pretrial conference at which the defendant will be arraigned.

(c) Waiver of Indictments.

If any person offers to waive indictment, the judge to whom the case has been assigned will conduct such proceedings as may be required by law to establish that the waiver is both knowing and voluntary before an information is filed. The judge shall then arraign the defendant and call on the

defendant to enter a plea. If the defendant fails to waive indictment and is subsequently indicted on the same or similar charges, the case shall be assigned by the clerk to the same judge to whom the original information was assigned.

(d) Assignment of Superseding Indictments and Informations.

A superseding indictment or information will be assigned directly and immediately for the entry of a plea and all further proceedings to the same judge to whom the original indictment or information was assigned.

(e) This rule applies to Foley Square. The judges in the White Plains Courthouse will continue to follow such procedures as they find convenient.

Rule 9. Cases Certified for Prompt Trial or Disposition

Immediately after assignment to a judge, civil and criminal actions shall be screened by the assignment committee for the purpose of identifying cases which are likely to be subject to delays and which, because of exceptional and special circumstances, demand extraordinary priority, prompt disposition, and immediate judicial supervision in the public interest.

When a case has been so identified by the assignment committee, the committee shall certify that the case requires extraordinary priority and a prompt trial or other disposition within sixty (60) days and shall so advise the judge to whom the case has been assigned. The judge so assigned shall advise the assignment committee whether said judge can accord the case the required priority. In the event the judge so assigned advises the assignment committee that he or she cannot accord the required priority, the case shall immediately be assigned to another judge by lot and the same procedure followed until the case is assigned to a judge able to accord it the required priority. The

name of the judge to be so assigned shall be drawn by lot in the same manner as other civil and criminal actions are initially assigned.

Rule 10. Motions

(a) Civil Motions.

Civil motions shall be made within the time required by the Federal Rules of Civil Procedure and the Civil Rules of this court. Motions shall be made returnable before the assigned judge.

(b) Criminal Motions.

Motions in criminal actions shall be made returnable before the assigned judge at such time as said judge directs. Criminal motions must be made within the time required by the Federal Rules of Criminal Procedure and the Criminal Rules of this court, except that the time for motions otherwise required by such rules to be made before the entry of a plea shall be made within ten (10) days after the entry of a plea, or at such other time as the assigned judge directs.

Rule 11. Amendments of *Pro Se* Petitions for Collateral Relief from Convictions

(a) Federal Convictions.

When a *pro se* motion for collateral relief under 28 U.S.C. § 2255 is filed, the *pro se* clerk shall first ascertain whether the petition is in proper form and, if not, take appropriate steps to have it corrected. The petition shall be submitted for all further proceedings to the judge who accepted the plea or sentenced the defendant, whichever is applicable. The judge may either act on the application without responsive papers or advise the United States attorney of the date when answering or reply papers are due.

If the judge concerned is deceased; is a visiting judge who declines to entertain the application within a reasonable time because of illness, disqualification, disability or prolonged absence; or a senior judge who elects not to entertain the application, the application shall be assigned by lot.

(b) State Convictions.

When a *pro se* petition for collateral relief from a state conviction is filed, the *pro se* clerk shall first ascertain whether the petition is in proper form and if not take proper steps to have it corrected. If the petitioner seeks to leave to proceed *in forma pauperis*, the petition shall be first submitted to the *pro se* law clerk for study and, where appropriate, a recommendation shall be submitted to a magistrate judge designated by the chief judge for intermediate review and ultimate submission to the chief judge for disposition.

If the petition is not dismissed by the chief judge, the papers shall be sent to the *pro se* clerk for further processing. The *pro se* clerk shall ascertain if the petition is related to any prior application and, if so, advise the clerk, who shall assign the case directly to the judge who last acted upon the related application. If the related application was before a deceased or a retired judge, or if the application is unrelated to any prior application, the clerk shall assign the case by lot.

Rule 12. Assignments to New Judges

When a new judge is inducted, the assignment committee shall transfer to the new judge an equal share of all cases then pending (including cases on the suspense docket). The cases shall be taken equally, by lot, from the dockets of each of the judges' most recent chronological list of cases which have been designated by the transferor as eligible for transfer. No case shall be transferred

without the consent of the transferor judge. The assignment committee shall also direct the clerk to add the name of the new judge to the random selection system for assigning new cases to active judges.

Rule 13. Assignments to Senior Judges

If a senior judge is willing and able to undertake assignment of new cases for all purposes, said judge shall advise the assignment committee of the number and categories of new cases which said judge is willing and able to undertake. New cases in the requested number in each category shall then be assigned to said judge in the same manner as new cases are assigned to active judges.

If a senior judge is willing and able to undertake assignment of pending cases from other judges, said judge may (1) accept assignment of all or any part of any case from any judge on mutual consent, or (2) advise the assignment committee of the number, status and categories of pending cases which said judge is willing to undertake. Such cases will be drawn by lot from current lists provided to the assignment committee by the judges wishing to transfer cases under this rule. If a senior judge does not terminate any action so transferred, it shall be reassigned to the transferor judge.

Rule 14. Assignments to Visiting Judges

When a visiting judge is assigned to this district, said judge shall advise the assignment committee of the number and categories of pending cases which said judge is required or willing to accept. The assignment committee shall then transfer to said judge the required number of cases in each category by drawing them equally and by lot from each judge's list of cases ready for trial, but

no case shall be so transferred without the consent of the transferor judge. If the visiting judge does not terminate the action, it shall be reassigned to the transferor judge.

Rule 15. Transfer of Related Cases

(a) Subject to the limitations set forth below, a civil case will be deemed related to one or more other civil cases and will be transferred for consolidation or coordinated pretrial proceedings when the interests of justice and efficiency will be served. In determining relatedness, a judge will consider whether (i) a substantial saving of judicial resources would result; or (ii) the just efficient and economical conduct of the litigations would be advanced; or (iii) the convenience of the parties or witnesses would be served. Without intending to limit the criteria considered by the judges of this court in determining relatedness, a congruence of parties or witnesses or the likelihood of a consolidated or joint trial or joint pre-trial discovery may be deemed relevant.

(b) Criminal cases are not treated as related to civil cases or vice versa. Criminal cases are not treated as related unless a motion is granted for a joint trial. Bankruptcy appeals are not considered related merely because they arise from the same bankruptcy proceeding.

(c) When a civil case is being filed or removed, the person filing or removing shall disclose on an appropriate form, to be furnished by the Clerk's Office, any contention of relatedness. A copy of such form shall be served with the complaint or notice of removal. A case filed or removed and designated as related shall be forwarded to the judge before whom the earlier filed case is then pending who shall accept or reject the case in his or her sole discretion. Cases rejected by the judge as being not related shall be assigned by random selection. Any party believing its case to be related to another may apply on notice in writing to the judge assigned in its case for transfer to the judge

having the related case with the lowest docket number. If the assigned judge believes the case should be transferred, he or she shall refer the question to the judge who would receive the transfer. In the event of disagreement among the assigned judges, a judge (but not a party) may refer the question to the assignment committee. Litigants will not be heard by the assignment committee.

(d) Motions in civil and criminal cases to consolidate, or for a joint trial, are regulated by the Federal Rules. A defendant in a criminal case may move on notice to have all of his or her sentences in this district imposed by a single judge. All such motions shall be noticed for hearing before the judge having the lowest docket number, with courtesy copies to be provided to the judge or judges having the cases with higher docket numbers.

(e) Nothing contained in this rule limits the use of Rule 1, *infra,* for reassignment of all or part of any case from the docket of one judge to that of another by agreement of the respective judges.

Rule 16. Transfer of Cases by Consent

Any active or senior judge, upon written advice to the assignment committee, may transfer directly any case or any part of any case on said judge's docket to any consenting active or senior judge except where Rule 18 applies.

Rule 17. Transfers from Senior Judges

When an active judge becomes a senior judge, or later as the judge chooses, the judge may keep as much of his or her existing docket as said judge desires and furnish the assignment committee with a list of all cases which the judge desires to have transferred. The assignment committee will distribute these cases as equally as is feasible, by lot, to each active judge.

Rule 18. Transfer Because of Disqualification, etc.

In case the assigned judge is disqualified or upon request, if said judge has presided at a mistrial or former trial of the case, upon written notice to it, the assignment committee shall transfer the case by lot.

Rule 19. Transfer of Cases Because of Death, Resignation, Prolonged Illness, Disability, Unavoidable Absence, or Excessive Backlog of a Judge

The assignment committee shall, in the case of death or resignation, and may, in the event of prolonged illness, disability, unavoidable absence of an assigned judge, or the build up of an excessive backlog, transfer any case or cases pending on the docket of such judge by distributing them as equally as is feasible by lot, to all remaining active judges and to such senior judges who are willing and able to undertake them.

Rule 20. Transfer of Cases to the Suspense Docket

A civil case which, for reasons beyond the control of the court, can neither be tried nor otherwise terminated shall be transferred to the suspense docket. In the event the case becomes activated, it shall be restored to the docket of the transferor judge if available, otherwise it shall be reassigned by lot.

Note: The following provisions of the Plan of Operation for the White Plains Courthouse, as amended, are reprinted here, for information, since they affect the Division of the Business of the Court.

Rule 21. Designation of White Plains Cases

(a) Civil.

At the time of filing, the plaintiffs attorney shall designate on the civil cover sheet whether the case should be assigned to White Plains or Foley Square.

A civil case shall be designated for assignment to White Plains if:

(i) The claim arose in whole or in major part in the Counties of Dutchess, Orange, Putnam, Rockland, Sullivan and Westchester (the "Northern Counties") and at least one of the parties resides in the Northern Counties; or

(ii) The claim arose in whole or in major part in the Northern Counties and none of the parties resides in this District.

A civil case may also be designated for assignment to White Plains if:

(iii) The claim arose outside this district and at least some of the parties reside in the Northern Counties; or

(iv) At least half of the parties reside in the Northern Counties.

All civil cases other than those specified in the foregoing paragraphs (i), (ii), (iii), and (iv) shall be designated for assignment to Foley Square.

(b) Criminal.

The U.S. attorney designates on the criminal cover sheet that the case is to be assigned to White Plains if the crime was allegedly committed in whole or predominant part in the Northern counties.

Defendants in any [criminal] case designated for White Plains may be arraigned at the White Plains Courthouse before a district judge if one is present and available, at any hour on any business

day by prior arrangement with the United States attorney or the Court. If no district judge is available in the White Plains Courthouse, such arraignment may be conducted before a magistrate judge at White Plains. If neither a judge nor a magistrate judge [at White Plains] and likely to remain unavailable until the next date of arraignment in Foley Square, such defendants shall be arraigned in Part I.

Bail applications in any case designated for White Plains may be heard before the magistrate judge at White Plains, or, if he/she is unavailable, before a judge in White Plains, or in Part I if no magistrate judge or judge is available.

Rule 22. Reassignment of Cases

The judge to whom the case is assigned may reassign it in the interest of justice or sound judicial administration. If the Judge to whom the case is assigned determines that it should be reassigned, it is sent to the clerk for reassignment. If upon reassignment there is a dispute as to the proper place of holding court, it will be referred to the Assignment Committee for final determination. If the case is reassigned, it will be reassigned as if it were a new filing, but will retain its original case number. [Amended January 23, 2008]

Rule 23. Removed Actions and Bankruptcy Matters

Actions removed from a state court in New York County or Bronx County will be assigned to Foley Square. Actions removed from a state court in any of the other counties within the district will be assigned to White Plains. In either case, the attorney for the defendant may move for reassignment as provided in the section entitled Reassignment of Cases.

Bankruptcy appeals from the White Plains and Poughkeepsie bankruptcy courts are also assigned to said judge(s).

Rule 24. Caseload of White Plains Judge(s)

Any judge reassigned to White Plains retains his or her existing caseload.

Rule 25. Prisoner Civil Rights Actions and *Habeas Corpus* Petitioners

Cases from the prisoner petitions wheel (wheel 5), including prisoner civil rights cases, are assigned proportionately to all judges of the court, whether sitting at White Plains or Foley Square. Nonprisoner civil rights cases (wheel 4) are assigned in accordance with the designation by the plaintiffs attorney unless reassigned as provided herein.

District judges assigned to White Plains will receive writs of *habeas corpus* arising out of state convictions obtained in the counties of Westchester, Rockland, Putnam, Dutchess, Orange and Sullivan; and those arising out of state convictions in the counties of Bronx and New York will be assigned to Judges in the Foley Square Courthouse.

Rule 26. Filing at Either Courthouse

Complaints and all subsequent papers are accepted at either the Foley Square or the White Plains Courthouse, regardless of the place for which the case is designated, and summons is issued from either place of holding court.

Rule 27. Related Cases

Related cases are heard at the place of holding court where the earliest case was filed.

Rule 28. High-Security Criminal Case

If the White Plains judge(s) determine(s) that the White Plains facility is inadequate for a particular case, the case is tried at Foley Square or returned for reassignment.

Rule 29. Part I

The judge(s) assigned full-time to White Plains do not sit in Part I in Foley Square.

Rule 30. Naturalization

The court does not hold naturalization proceedings in White Plains.

Rule 31. Jury Assignments

Jury panels are assigned to White Plains on an as-needed basis from the master jury wheel. Jury panels for White Plains are drawn from the following counties: Dutchess, Orange, Putnam, Rockland, Sullivan and Westchester.

Rule 32. Court Hours

The offices of the clerk are open from 8:30 a.m. to 5:00 p.m., Monday through Friday. The offices of the clerk are closed Saturdays, Sundays and legal holidays. After hours, papers may be submitted for filing in a night depository located at 500 Pearl Street, New York, New York, at the Worth Street (north) entrance. These papers will be considered filed at 8:30 a.m. the following business day.

Rule 33. Emergency Matters

In the absence of a judge at the White Plains Courthouse, emergency matters are heard in Part I at the Foley Square Courthouse.

GUIDELINES FOR THE DIVISION OF BUSINESS AMONG DISTRICT JUDGES

EASTERN DISTRICT

ADOPTED PURSUANT TO 28 U.S.C. § 137

These rules are adopted for the internal management of the case load of the court and shall not be deemed to vest any rights in litigants or their attorneys and shall be subject to such amendments from time to time as shall be approved by the court.

50.1 Categories and Classification of Cases; Information on Cases and Parties

(a) Categories of Cases.

Cases shall be divided into the following main categories:

(1) Civil.

(A) Regular.

(B) Multidistrict litigation.

(2) Criminal.

(3) Miscellaneous.

(b) Information Sheet.

The party filing the initial paper in a civil or criminal case shall complete and attach an information sheet. The information sheet shall be placed in the case file.

Where it appears to the Court that the filing party's reasons for joinder of parties are not apparent from the face of the complaint, the Clerk of Court is authorized to request a written

explanation consistent with Federal Rule of Civil Procedure 19 and any other appropriate Federal Rule. The response of the filing party will be docketed and a copy forwarded to the assigned judicial officer.

(c) Disclosure of Interested Parties.

To enable judges and magistrates to evaluate possible disqualification or recusal, counsel for a private (nongovernmental) party shall submit at the time of initial pleading a certificate identifying any corporate parent, subsidiaries, or affiliates of that party.

(d) Long Island Cases.

(1) A criminal case shall be designated a "Long Island case" if the crime was allegedly committed wholly or in substantial part in Nassau or Suffolk County.

(2) A civil case shall be designated a Long Island case if the cause arose wholly or in substantial part in Nassau or Suffolk County.

(3) As provided in 50.2(f) a party may move to designate a case as a Long Island case or to cancel such designation on the grounds that such action will serve the convenience of the parties and witnesses or is otherwise in the interests of justice.

(e) Miscellaneous Cases.

All matters that do not receive a civil or criminal docket number shall be given a miscellaneous docket number and assigned to the miscellaneous judge. The matter will continue to be assigned to that judge after he or she ceases to be miscellaneous judge.

50.2 Assignment of Cases

(a) Time of Assignment.

The clerk shall assign a civil case upon the filing of the initial pleading. In a criminal case after an indictment is returned or after an information (including a juvenile information under 18 U.S.C. § 5032) or a motion to transfer under 18 U.S.C. § 5032 has been filed, the United States Attorney shall refer the case to the clerk who shall then assign the case. The United States attorney shall arrange with the judge to whom the case is assigned, or if that judge is absent or unavailable as provided in 50.5, with the miscellaneous judge, to have the defendant arraigned and a plea entered as promptly as practicable.

(b) Random Selection Procedure.

All cases shall be randomly assigned by the clerk or his designee in public view in one of the clerk's offices in such a manner that each active judge shall receive as nearly as possible the same number of cases, except as provided in paragraph (h) Where a party or his counsel requests prior to selection that he or she be present at the selection, the clerk shall make reasonable efforts to comply with the request. In Brooklyn civil cases a magistrate judge shall be drawn at the same time and in the same manner as a judge. All Long Island civil cases shall be assigned to the Long Island magistrate judge. The parties to any Long Island case assigned to a Brooklyn judge may stipulate that the case be assigned to the Long Island magistrate judge, for pretrial purposes.

(c) Assignment of Civil Cases.

There shall be separate Brooklyn, Uniondale and Hauppauge civil assignment wheels. At least quarterly the Chief Judge shall fix the proportion of cases to be assigned to the Long Island courthouses so as to distribute the civil cases relatively equally among all the active judges.

(d) Assignment of Criminal Cases.

(1) There shall be a Brooklyn criminal and a Long Island criminal assignment wheel.

(2) There shall be a Brooklyn and Long Island criminal misdemeanor assignment wheels for the random assignment of these matters to a magistrate.

(e) Place of Trial.

Except in emergencies a case shall be tried at the place to which it has been assigned.

(f) Objection.

Any objection by a party to designation of a judge or to place of trial shall be made by letter or motion to the judge assigned

(1) in a criminal case, within ten days from arraignment or from initial notice of appearance, whichever is earlier; or

(2) in a civil case, within the time allowed to respond to the complaint.

(g) Special Cases.

(1) The miscellaneous judge shall send all narcotics addict commitment cases involving "eligible individuals" as defined by 28 U.S.C. § 2901(g) to the clerk for assignment as provided in paragraph (b).

(2) *Pro se* applications or claims by persons in custody shall be filed without prepayment of fees upon receipt, prior to decision on their *in forma pauperis* petitions.

(3) Multidistrict litigation is to be assigned to the judge selected by the multidistrict litigation panel; subject to reassignment by the Chief Judge of the Eastern District of New York, according to the usual reassignment rules of the district, to adjust caseload distribution in the interests of justice.

(h) Chief Judge; Senior Judges; Temporarily Overloaded Judges; Notice of Removal from Wheel.

The chief judge and each senior judge shall indicate from time to time to the clerk the percentage of a full caseload that he or she elects to have assigned. The chief judge, with the consent of a judge, may remove that judge from any wheel temporarily to reduce the number of pending cases and prevent delay in the disposition of cases by a judge who is then overburdened by cases or due to ill health. The chief judge shall return that judge to the wheel only on consent of the judge. The clerk shall upon request inform any attorney or party of the identity of judges whose names have been removed from a wheel.

(i) Visiting Judge.

The chief judge shall approve the assignment or transfer of cases to a visiting judge.

(j) Proceedings After Assignment.

All proceedings in a case after assignment shall be conducted by the assigned judge, except as provided by these guidelines.

(k) Recusal.

A judge or magistrate judge may recuse himself or herself at any time in accordance with U.S.C. § 455. This guideline takes precedence over any other guideline.

(l) Appeals-Assignment on Reversal or Remand.

(1) In a criminal case upon reversal of a judgment and a direction for retrial or resentence, on receipt of the mandate of the appellate court the clerk shall randomly select a different judge to preside over the case. Notwithstanding this provision the chief judge

may order the case assigned to the original presiding judge to avoid placing an excessive burden on another judge.

(2) In a civil case upon reversal the case shall remain assigned to the judge who was previously assigned, unless the chief judge or his designee orders otherwise.

50.3 Related Cases: Motion for Consolidation of Cases

(a) "Related" Case Defined.

A case is "related" to another for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge.

(b) Civil Cases.

By way of illustration and not limitation, a civil case may be deemed "related" to an earlier case when the civil case: (A) relates to property involved in an earlier case, or (B) involves the same factual issue or grows out of the same transaction as does an earlier case, or (C) involves the validity or infringement of a patent already in suit in a prior case.

(c) Criminal Cases.

Criminal cases are "related" only when (A) a superseding indictment is filed, or (B) more than one indictment or information is filed against the same defendant or defendants, or (C) when an application is filed by a person in custody that relates to a prior action. Other cases will be deemed "related" only upon written application by a party, upon not less than ten days' notice to each other party, to the judge presiding over the earlier assigned case. The application will be granted only if substantial saving of judicial resources is likely to result from assigning both cases to the same judge, or is otherwise in the interest of justice.

(d) Designation of Related Case; Service of Civil Information Sheet.

If the party filing a case believes it to be related to a prior case, whether pending or closed, the party shall so indicate on the information sheet, specifying for each such case the title and the

docket number, if any. A copy of the information sheet shall be served with the summons and complaint or petition for removal of the action. A case designated by the filing party as related shall be forwarded by the Clerk's Office to the judge before whom the earlier filed case is or was pending, together with a memorandum stating that the case has been assigned as a related case and identifying the prior case to which it is asserted to be related. The memorandum shall be filed in the record and noted in the docket. Cases determined by the judge not to be related shall be reassigned by random selection. Each attorney in a case has an ongoing duty to advise the clerk in writing upon learning of any facts indicating that his or her case may be related to any other pending case.

(e) Assignment of Related Cases.

Related cases shall be assigned by the clerk to the judge to whom was assigned the case with the lowest docket number in the series of cases. The clerk shall advise the judge of such assignment of a "related case." In the interest of judicial economy, all habeas corpus petitions filed by the same petitioner shall be deemed related. Likewise, all pro se civil actions filed by the same individual shall be deemed related.

(f) Case Erroneously Assigned as Related.

The designation of cases as related may be corrected sua sponte by the judge to whom they are assigned, by returning to the clerk for reassignment cases erroneously so assigned. The failure to assign related cases appropriately shall be corrected only by agreement of all the judges to whom the related cases are assigned; if they agree, they may transfer the later-filed cases as provided in paragraph (e), and notify the clerk of that action.

(g) Credit for Related Cases.

A related case transferred or assigned to a judge shall be counted as would a newly filed case regularly assigned. A judge shall be assigned an additional case for each case transferred from him or her under this guideline.

50.4 Reassignment of Cases

No case shall be reassigned except in the interest of justice and the efficient disposition of the business of the court. The chief judge may at any time, with the consent of the judges involved,

reassign individual cases. Reassignment of cases to accommodate changes in the complement of judges shall be made in accordance with the order of the Board of Judges.

50.5 Miscellaneous Judge

(a) Duties and Functions.

(1) Hear and determine:

(A) Matters requiring immediate action in cases already assigned to any judge of the court, if that judge is unavailable or otherwise unable to hear the matter only for such immediate emergency action; the case to remain with the assigned judge.

(B) Special proceedings which cannot be assigned in the ordinary course, including motions under Fed. R. Crim. Proc. 41 made prior to indictment;

(C) Any other proceeding not part of or related to a case, including admissions to the bar and naturalization proceedings;

(D) Requests to be excused from service on the grand and petit juries; and

(E) All matters relating to proceedings before the grand jury;

(2) Impanel the grand jury, receive indictments, and refer criminal cases to the clerk for assignment pursuant to 50.2.

(b) Emergency Matters.

The miscellaneous judge shall dispose of matters under paragraph (a)(1) only to the extent necessary and shall continue the case before the assigned judge. All applications for emergency action or relief shall disclose any prior application to a judge for the same or related relief and the outcome thereof.

50.6 Calendars

(a) Numbers; Order of Cases.

The docket number of each case shall be the calendar number. No note of issue shall be required to place the case on the calendar. Each judge shall dispose of cases assigned to him or her as required by law and the efficient administration of justice.

(b) Preferences.

Each judge shall schedule cases appearing on his or her docket in such order as seems just and appropriate, giving preference to the processing and disposition of the following:

(1) *habeas corpus* petitions and motions attacking a federal sentence;

(2) Proceedings involving recalcitrant witnesses before federal courts or grand juries, under 28 U.S.C. § 1846;

(3) Actions for temporary or preliminary injunctive relief; and

(4) Any other action if good cause is shown.

(c) Publication of Calendars.

Each court day the clerk shall post on bulletin boards throughout the courthouse and provide to legal newspapers for publication copies of the judges' calendars.

50.7 Conference

The judge assigned to any case may direct the attorneys to appear to discuss the case informally, to entertain oral motions, to discuss settlement, or to set a schedule for the events in the case, including completion of discovery, pretrial and trial.

VARIOUS RULES TABLES

Local Civil Rules Derivation Table

Rule	Derivation
1.1	New
1.2	Gen. R. 1
1.3	Gen. R. 2
1.4	Gen. R. 3(c)
1.5	Gen. R. 4
1.6	Gen. R. 5(a)
1.7	Gen. R. 6
1.8	Gen. R. 7
1.9	Gen. R. 9
1.10	New
5.1	Civ. R. 18
5.2	New
5.3	New
6.1	Civ. R. 3(c), 6(b)
6.2	Civ. R. 6(a)
6.3	Civ. R. 3(j)
6.4	New
7.1	Civ. R. 3(b)
7.1(a)	7.1
7.1(b)	New
7.1(c)	New
7.2	Civ. R. 3(d)
11.1	Civ. R. 1
12.1	New
16.1	Civ. R. 45 (E.D.N.Y.)
16.2	Mag. J. R. 15
23.1	Civ. R. 5(a)
24.1	Civ. R. 33
26.1	Civ. R. 2
26.2	Civ. R. 46(e)(2) (S.D.N.Y.), E.D.N.Y. S.O. 21
26.3	Civ. R. 47
26.4	Civ. R. 49 (S.D.N.Y.)
26.5	E.D.N.Y. S.O. 1
26.6	E.D.N.Y. S.O. 15, 18
26.7	E.D.N.Y. S.O. 16(b), 19(b)
30.1	Civ. R. 15(a)

30.2 ..... Civ. R. 49 (S.D.N.Y.)
30.3 ..... E.D.N.Y. S.O. 8
30.4 ..... E.D.N.Y. S.O. 9
30.5 ..... E.D.N.Y. S.O. 10
30.6 ..... E.D.N.Y. S.O. 13
30.7 ..... E.D.N.Y. S.O. 14
31.1 ..... Civ. R. 49 (S.D.N.Y.)
33.1 ..... Civ. R. 46(f)(S.D.N.Y.)
33.2 ..... Civ. R. 48 (S.D.N.Y.)
33.3 ..... Civ. R. 46 (S.D.N.Y.)
33.4 ..... Civ. R. 49 (S.D.N.Y.)
34.1 ..... Civ. R. 49 (S.D.N.Y.)
36.1 ..... Civ. R. 49 (S.D.N.Y.)
37.1 ..... Civ. R. 3(e)
37.2 ..... Civ. R. 3(l) (S.D.N.Y.)
37.3 ..... E.D.N.Y. S.O. 6, 11(c)
39.1 ..... Civ. R. 24(a), (d)
39.2 ..... Civ. R. 44
47.1 ..... Civ. R. 22
53.1 ..... Civ. R. 19(a), (b), 20
54.1 ..... Civ. R. 11, 12
54.2 ..... Civ. R. 39
54.3 ..... Civ. R. 13
55.1 ..... Civ. R. 10(a)
55.2 ..... Civ. R. 10
56.1 ..... Civ. R. 3(g)
58.1 ..... Civ. R. 42
65.1.1 ..... Civ. R. 37, 38, 40(b)
67.1 ..... Civ. R. 8(c)
72.1 ..... Mag. J. R. 1, 4, 6, 10
72.2 ..... E.D.N.Y. S.O. 4(a), (c)
73.1 ..... Mag. J. R. 8(a), (c)
77.1 ..... Civ. R. 8
81.1 ..... Civ. R. 25(b), (c)
83.1 ..... Civ. R. 26
83.2 ..... Civ. R. 28. 29
83.3 ..... Civ. R. 32(d)
83.4 ..... Civ. R. 30, 31
83.5 ..... Civ. R. 34
83.6 ..... Civ. R. 35
83.7 ..... Civ. R. 36
83.8 ..... Civ. R. 40(a)
83.9 ..... Civ. R. 43

Local Civil Rules Conversion Table

Prior Rule	New Rule
1	Civ. R. 11.1(a)
2	Civ. R. 26.1
3(b)	Civ. R. 7.1
3(c)	Civ. R. 6.1
3(d)	Civ. R. 7.2
3(e)	Civ. R. 37.1
3(f)	Deleted
3(g)	Civ. R. 56.1
3(h)	Deleted
3(I)	Deleted
3(j)	Civ. R. 6.3
3(l) (S.D.N.Y.)	Civ. R. 37.2 (S.D.N.Y.)
5(a)	Civ. R. 23.1
5(b)	Deleted
6(a)	Civ. R. 6.2
6(b)	Civ. R. 6.1(d)
7	Deleted
8(a), (b)	Civ. R. 77.1
8(c)	Civ. R. 67.1
10(a)	Civ. R. 55.1, 55.2(a)
10(b)	Civ. R. 55.2(b)
11	Civ. R. 54.1
12	Civ. R. 54.1(c)(1)
13	Civ. R. 54.3
15(a)	Civ. R. 30.1
15(b)	Deleted
18	Civ. R. 5.1
19(a), (b)	Civ. R. 53.1
19(d), (e), (f), (g)	Deleted
20	Civ. R. 53.1(a)
21	Deleted
22	Civ. R. 47.1
23	Deleted
24(a)	Civ. R. 39.1(a)
24(b), (c)	Deleted
24(d)	Civ. R. 39.1(b)
25(b), (c)	Civ. R. 81.1
25(d)	Deleted
26	Civ. R. 83.1
27	Deleted

28	Civ. R. 83.2(a)
29	Civ. R. 83.2(b)
30	Civ. R. 83.4
31 (E.D.N.Y.)	Civ. R. 83.4(d), (e)
32(a), (b), (c)	Deleted
32(d)	Civ. R. 83.3
33 (Repealed by S.D.N.Y.)	Civ. R. 24.1
34	Civ. R. 83.5
35	Civ. R. 83.6
36	Civ. R. 83.7
37	Civ. R. 65.1.1
38	Civ. R. 65.1.1
39	Civ. R. 54.2
40(a)	Civ. R. 83.8
40(b)	Civ. R. 65.1.1
42	Civ. R. 58.1
43	Civ. R. 83.9
44	Civ. R. 39.2
45 (E.D.N.Y.)	Civ. R. 16.1
46(a), (b), (c) (S.D.N.Y.)	Civ. R. 33.3
46(d) (S.D.N.Y.)	Deleted
46(e)(1) (S.D.N.Y.)	Deleted
46(e)(2) (S.D.N.Y.)	Civ. R. 26.2
46(f) (S.D.N.Y.)	Civ. R. 33.1
47	Civ. R. 26.3
48 (S.D.N.Y.)	Civ. R. 33.2
49(a), (b) (S.D.N.Y.)	Civ. R. 26.4, 30.2, 31.1, 33.4, 34.1, 36.1
49(c) (S.D.N.Y.)	Civ. R. 5.1(a)

Local General Rules Conversion Table

Prior Rule	New Rule
1	Civ. R. 1.2
2	Civ. R. 1.3
3(a), (b)	Deleted
3(c)	Civ. R. 1.4
4	Civ. R. 1.5
5(a)	Civ. R. 1.6(a)
5(b)	Deleted
5(c)	Civ. R. 1.6(b)
6	Civ. R. 1.7
7	Civ. R. 1.8
8	Deleted
9	Civ. R. 1.9

Local Magistrate Judge Rules Conversion Table

Prior Rule	New Rule
1	Civ. R. 72.1
2	Crim. R. 58.1
3	Deleted
4	Civ. R. 72.1(d)
5	Crim. R. 58.1(a)
6	Civ. R. 58.1(c)
8(a)	Civ. R. 73.1(a)
8(c)	Civ. R. 73.1(b)
8(d), (e)	Deleted
9	Crim. R. 58.1(b)
10	Civ. R. 72.1(b)
11	Crim. R. 58.2
12	Deleted
13	Deleted
14	Deleted
15	Civ. R. 16.2

E.D.N.Y. Standing Orders Conversion Table

Prior Rule	New Rule
1	Civ. R. 26.5 (E.D.N.Y.)
2	Deleted
3	Deleted
4(a)	Civ. R. 72.1(a) (E.D.N.Y.)
4(b)	Deleted
4(c)	Civ. R. 72.1(b) (E.D.N.Y.)
5	Deleted
6	Civ. R. 37.3 (E.D.N.Y.)
7	Deleted
8	Civ. R. 30.3 (E.D.N.Y.)
9	Civ. R. 30.4 (E.D.N.Y.)
10	Civ. R. 30.5 (E.D.N.Y.)
11	Deleted
12	Deleted
13	Civ. R. 30.6 (E.D.N.Y.)
14	Civ. R. 30.7 (E.D.N.Y.)
15	Civ. R. 26.6 (E.D.N.Y.)
16(a)	Deleted
16(b)	26.7 (E.D.N.Y.)
17	Deleted
18	Civ. R. 26.6 (E.D.N.Y.)
19(a)	Deleted
19(b)	Civ. R. 26.7 (E.D.N.Y.)
20	Deleted
21	Civ. R. 26.2

Local Admiralty and Maritime Rules Derivation Table

Prior Rule	New Rule
A.1	Adm. R. 1; Supp. Fed. Adm. R. 1
B.1	Model R. (b)(1)
B.2	Adm. R. 10(b)
C.1	Adm. R. 2
C.2	Adm. R. 3(a), (c)
C.3	Model R. (c)(3)
D.1	Model R. (d)(1)
E.1	Model R. (e)(8)
E.2	Model R. (e)(11)
E.3	Model R. (e)(12)(d)
E.4	New

Local Admiralty and Maritime Rules Conversion Table

Prior Rule	New Rule
1	Adm. R. A.1(a)
2	Adm. R. C.1
3(a)	Adm. R. C.2(a)
3(b)	Deleted
3(c)	Adm. R. C.2(b)
3(d), (e)	Deleted
4	Deleted
5	Deleted
6	Deleted; see Adm. R. C.3
7	Deleted
8	Deleted
9	Deleted
10(a)	Deleted
10(b)	Adm. R. B.2
11	Deleted
12	Deleted
13	Deleted
14	Deleted; see Adm. R. E.3
15	Deleted
16	Deleted

Local Criminal Rules Derivation Table

Prior Rule	New Rule
1.1	New
1.2	New; see Civ. R. 6(b)
12.1	Crim. R. 3(a)
16.1	Crim. R. 3(d)
23.1	Crim. R. 7
34.1	Crim. R. 3(c)
44.1	Crim. R. 1
45.1	New
58.1	Mag. J. R. 2, 5, 6, 9
58.2	Mag. J. R. 11

Local Criminal Rules Conversion Table

Prior Rule	New Rule
1	Crim. R. 44.1
2	Deleted
3(a)	Crim. R. 12.1
3(b)	Deleted
3(c)	Crim. R. 34.1
3(d)	Crim. R. 16.1
4	Deleted
5	Deleted; see Civ. R. 67.1
6	Deleted
7	Crim. R. 23.1