



**United States District Court
Southern District Of New York**

Colleen McMahon
Chief Judge

Edward A. Friedland
District Court Executive

COURT NOTICE TO THE BAR
May 29, 2018

CONTACT
(212) 805-0500

**Eastern and Southern Districts Adopt Revisions to Local Rules
and Invite Public Comment:**

**Local Civil Rule 55.1, Certificate of Default,
Local Civil Rule 67.1, Order for Deposit in Interest Bearing Account,
Local Civil Rule 77.1, Submission of Orders, Judgments and Decrees.**

The United States District Courts for the Eastern and Southern Districts of New York have adopted revisions to the Local Civil Rules and invite public comment.

Local Civil Rule 55.1 has been revised to require a request for a Clerk's Certificate of Default to be filed electronically.

Local Civil Rule 67.1 has been revised to require a proposed Order for Deposit in an interest bearing account to be filed electronically. Revisions have also been made to the rule regarding fees related to interest bearing accounts and new tax administration procedures for such accounts.

Local Civil Rule 77.1 has been revised to remove the prohibition on the electronic filing of proposed orders, judgments and decrees.

The modified Local Rules follow this notice and may also be found at <http://nysd.uscourts.gov>.

Prior to the revised rules taking effect, the public is invited to comment. Comments are to be submitted in writing on or at the close of business on June 28, 2018, to:

Edward A. Friedland
District Court Executive
U.S. District Court for the Southern District of New York
500 Pearl Street, Room 820
New York, NY 10007-1312

or

Douglas C. Palmer
Clerk of Court
U.S. District Court for the Eastern District of New York
225 Cadman Plaza
Brooklyn, NY 11201

The revisions will become effective upon approval by the Second Circuit Judicial Council.

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Local Civil Rule 55.1. Certificate of Default

A party applying for ~~a certificate of default by the Clerk pursuant to~~ entry of default under Fed. R. Civ. P. 55(a) shall ~~submit~~ file:

(a) a request for a Clerk's Certificate of Default; and

(b) an affidavit ~~showing~~ demonstrating that:

- (1) the party against whom a notation of default is sought is not an infant, in the military, or an incompetent person;
- (2) the party has failed to plead or otherwise defend the action; and
- (3) the pleading to which no response has been made was properly served.

A proposed Clerk's Certificate of Default form must be attached to the affidavit.

2018 COMMITTEE NOTE

The revision to Local Rule 55.1 incorporates the revised ECF Rule requiring the electronic filing of a request for a Clerk's Certificate of Default.

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 ~~deliver~~ file the proposed order. ~~directly to the~~ The Clerk ~~or financial deputy who will~~ shall inspect the proposed order for proper form and content and compliance with this rule prior to ~~signature by submission to the Judge for signature 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 consistent with that~~ authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office.

(c) Unless otherwise ordered by the court, ~~interpleader funds shall be deposited in the Disputed Ownership Fund in an interest bearing account. Income generated from fund investments in each case will be distributed after the appropriate fee has been applied and tax withholdings have been deducted from the fund.~~

2018 COMMITTEE NOTE

Local Civil Rule 67.1 contains practical provisions concerning orders for the deposit of money into interest-bearing accounts which supplement the provisions of Fed. R. Civ. P. 67(a). The Committee recommends revision to Local Civil Rule 67.1(a) to conform to the new requirement for the electronic filing and subsequent processing of a proposed order for the deposit of funds. The Committee recommends revision to Local Civil Rule 67.1(b)(2) for consistency with S.D.N.Y. Standing Order M10-1468 [11-MC-173 (LAP)]. The Committee recommends the addition of Local Civil Rule 67.1(c) in order to address the tax administration requirements for certain Court Registry interpleader funds deposited pursuant to 28 U.S.C. § 1335.

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

Proposed orders, judgments and decrees shall be presented as directed by the ECF rules published on the website of each respective Court. Unless the form of order, judgment or decree is consented to in writing, or unless the Court otherwise directs, four (4) 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 the action.~~

2018 COMMITTEE NOTE

Local Rule 77.1 is revised to be consistent with ECF Rules and practice.