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

Public Comments Received to Proposed Amendments to the July 1, 2024, Edition of the Joint Local Rules

U.S. SOCIAL SECURITY
ADMINISTRATION
Office of the General Counsel
Office of Program Litigation – Office 2

October 6, 2024

Honorable Robert Rogers
Counsel to the Clerk of Court
United States District Court for the Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, New York 10007-1312

Re: Comments to Proposed New Social Security Rule 4.1
Notice of Appearance on Behalf of the Commissioner of Social Security

Honorable Counsel Rogers:

The Social Security Administration, with the concurrence of the Civil Divisions of the U.S. Attorneys' Offices for the Southern and Eastern District of New York, submits the following comments to proposed new Local Social Security Rule 4.1.

Respectfully, because the Joint Notice to the Bar Inviting Public Comment on Proposed Changes to these Rules stated that comments submitted electronically were preferred, we submitted these comments through the electronic form on the SDNY Court's website on October 6, 2024. However, the electronic form did not allow us to paste and submit the screenshots illustrating our proposal that we provided on pages 3 and 4 of this letter. Because we valued the importance of submitting these screenshots with our proposal, we have concurrently submitted these comments in letter form. We respectfully apologize for any inconvenience our concurrent submissions may have caused.

For background, proposed revised Local Civil Rule 1.4(a) states, in relevant part,

> Attorney Appearances. Except as otherwise set forth in this rule, each attorney appearing on behalf of a party must file a notice of appearance promptly on or before the attorney's first appearance in court or filing in the case. The notice of appearance must provide the attorney's name, any firm or organizational affiliation, business address, telephone number, email address, and the name of the party or parties represented.
>
> An attorney who files a case-initiating document, such as a complaint, need not file a separate notice of appearance; such an attorney shall be deemed to have entered a notice of appearance on behalf of the party or parties on whose behalf the filing is made.

The proposed new Local Social Security rules do not discuss the notice of appearance requirement.

We respectfully propose a modification to proposed new Local Social Security Rule 4.1 that would allow attorneys appearing in cases on behalf of the Commissioner of Social Security (Commissioner) to satisfy the requirements of Local Civil Rule 1.4(a) regarding entering their appearance by making an entry on the docket through a new proposed CM/ECF menu option, rather than by preparing and filing a notice of appearance document.

Because of the need to balance the workloads of attorneys for the Commissioner, different attorneys may enter an appearance on behalf of the Commissioner at various stages in a given case. After an attorney enters an appearance to file an answer, another attorney may enter an appearance to file the Commissioner's brief. Yet another attorney may enter an appearance at oral argument, at the decision stage, or at the fees stage. Because different attorneys may enter an appearance at various stages, allowing the Commissioner's attorneys to enter their appearance by making an entry on the docket would eliminate the need to create and upload a notice of appearance as a PDF document each time a new attorney appears for the Commissioner. It would also potentially save the Clerks' Offices time because review of a notice of appearance document would no longer be required.

We propose that this paperless option would apply in represented cases only. When the plaintiff is *pro se*, the attorney for the Commissioner would file a notice of appearance in accordance with proposed revised Local Civil Rule 1.4(a).

Other sister courts within this Circuit have implemented these types of paperless notices of appearance on their CM/ECF sites, including the Northern District of New York (where these docket events have been used for a number of years), the District of Vermont and, most recently, the District of Connecticut. It is anticipated that the change to a paperless notice of appearance will be adopted in the Western District of New York as well, when revised local rules will be published in January 2025.

The paperless notice of appearance would cumulatively save a great deal of time for the filing attorneys as well as the Courts. As the Courts are well aware, there is a very high volume of Social Security cases in both the Eastern and Southern Districts of New York, with hundreds of new cases being filed each year. Eliminating the time it takes for attorneys to prepare and file these documents, and for the Clerks' Offices to review them, would result in increased efficiencies for both the filers and the Courts.

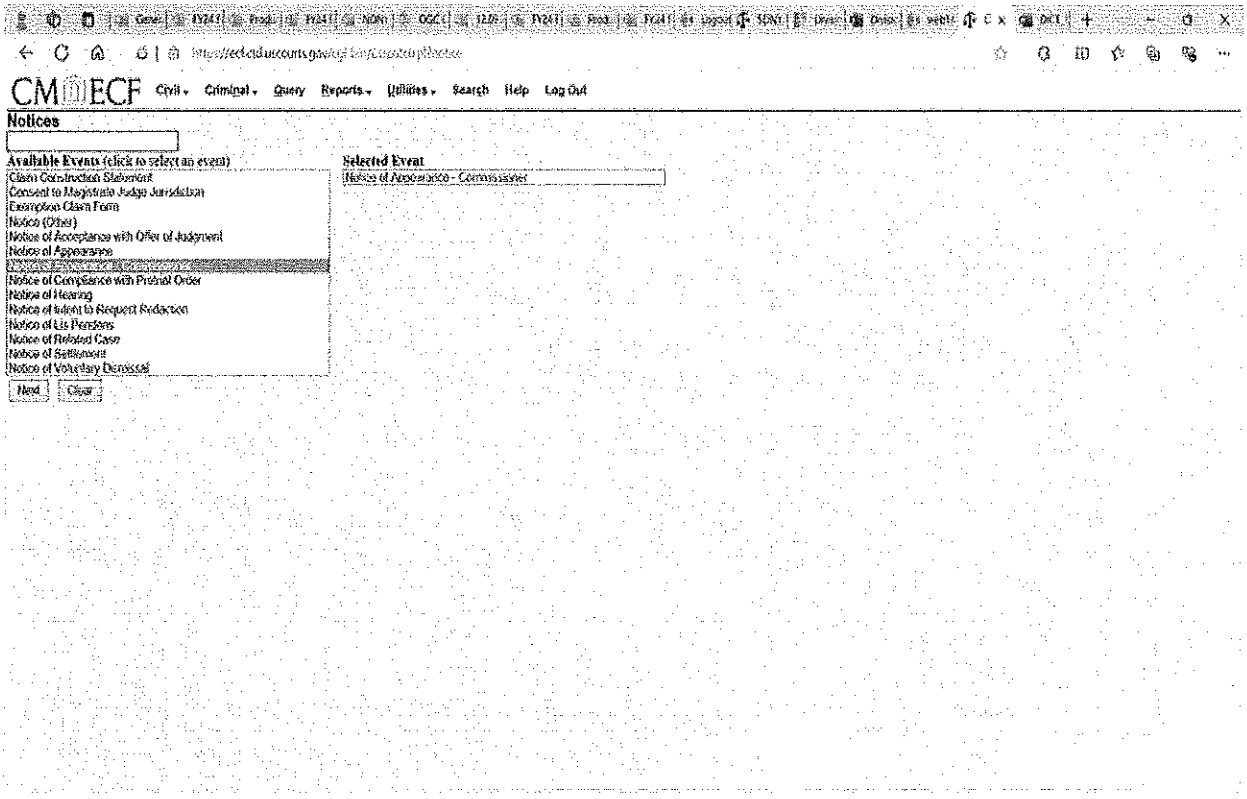
Accordingly, we respectfully recommend that proposed new Local Social Security Rule 4.1 be supplemented with the following language in **bold, underlined text**:

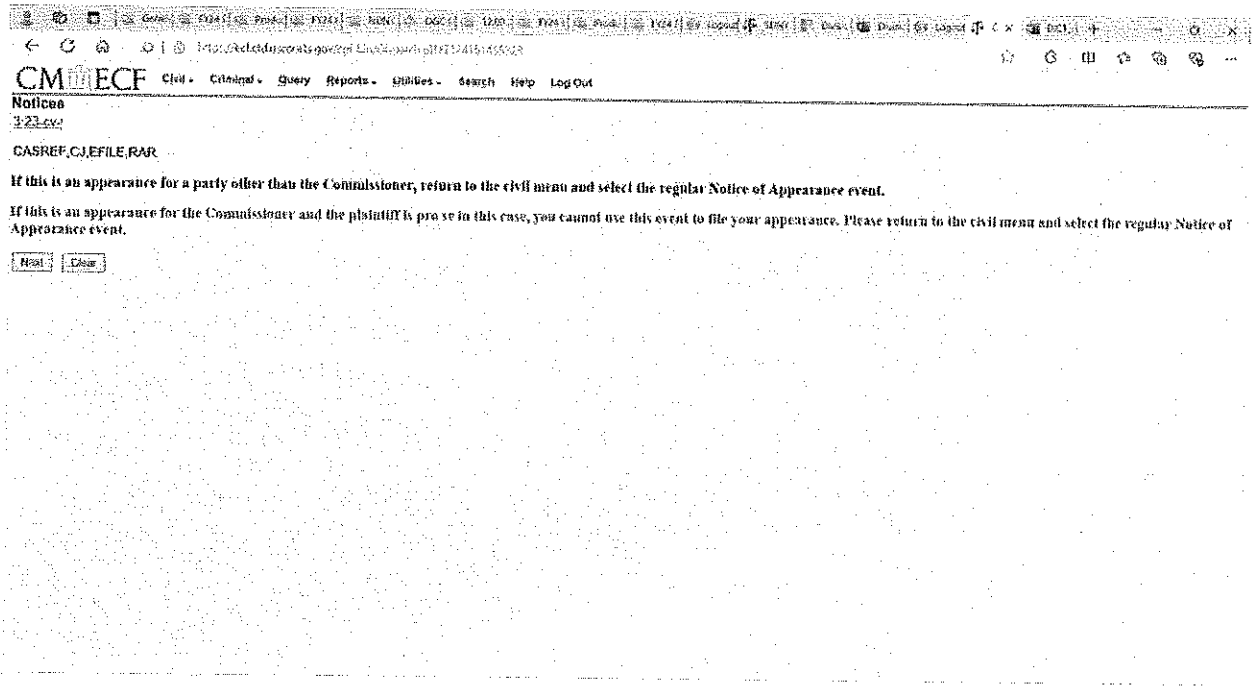
Local Social Security Rule 4.1. **Appearance on Behalf of the Commissioner;** Motions for Extensions of Time and Scheduling Orders

(a) An attorney representing the Commissioner may comply with the notice of appearance filing requirement in Loc. Civ. R. 1.4(a) by making an entry on the docket, except in cases when a plaintiff appears pro se.

(b) Motions for Extensions of Time and Scheduling Orders. Any party seeking an extension of the deadlines set forth in Supplemental Social Security Rules 4, 6, 7, or 8 must, prior to seeking the extension, attempt to meet and confer . . . .

To illustrate, we respectfully submit with this letter proposal screenshots below consisting of docket entries for a paperless notice of appearance on behalf of the Commissioner on the CM/ECF site for the District of Connecticut:





As noted above, we were unable to paste and submit the foregoing screenshots with the electronic version of these comments that we submitted through the SDNY Court's website on October 6, 2024. Therefore, we have submitted these comments concurrently in letter format. Again, we respectfully apologize for any inconvenience our concurrent submissions may have caused.

We greatly appreciate the opportunity to comment on these proposed rules.

Respectfully submitted,

SUZANNE M. HAYNES
Acting Associate General Counsel

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October 4, 2024

Robert Rogers, Esq.
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Proposed Amendments to Local Rules

Dear Mr. Rogers,

We write on behalf of the Managing Attorneys and Clerks Association, Inc. ("MACA") in response to the Joint Notice to the Bar issued by the Eastern and Southern Districts of New York dated July 8, 2024, publishing for comment proposed changes to the Courts' Joint Local Rules.

MACA is comprised of approximately 120 law firms or law offices with litigation practices (primarily large and mid-sized firms). Managing attorneys' and managing clerks' positions within our respective firms and concomitant responsibilities afford us a breadth of understanding of court rules and procedures, clerk's office operations, and the needs of attorneys and litigants. In particular, our members' attorneys litigate frequently in the both the Eastern and Southern District Courts and as a result we are well acquainted with the Joint Local Rules as well as the Courts' respective e-filing rules and other aspects of their practices and procedures.

We welcome many of the changes embodied by the proposed amendments and offer the following suggestions concerning the proposed revisions to Local Civil Rules 6.3, 7.1 and 11.1 and Social Security Rule 5.1 with respect to formatting and page limits of motions and all other pleadings and documents filed with the Courts.

Local Civil Rule 6.3

For the avoidance of doubt and to conform with the content included in the length limits for other briefs in proposed new Local Civil Rule 7.1(c), we recommend the addition of a sentence in proposed revised Local Civil Rule 6.3 stating that the length limits for motions for reconsideration do not include the material expressly excluded from the word and page limits in proposed revised Rule 7.1(c) (*i.e.*, caption, index, table of contents, table of authorities, signatures blocks, required certificates). Specifically, if the Courts adopt our proposed revisions to Local Civil Rule 7.1(c) set forth below, we suggest insertion of the following sentence before the final sentence of revised Rule 6.3:

> "The word and page limits of this Rule do not include the material specified in Local Civil Rule 7.1(c)(2)."

Local Civil Rule 7.1

For the reasons explained in detail below, we urge that Local Rule 11.1 be retained in its entirety. If the Courts accept our recommendation and retain Local Civil Rule 11.1, we recommend that the formatting requirements of Rule 11.1 be incorporated by reference in new subsection (a)(4) of Local Rule 7.1 by revising that subsection to state:

> "(4) All motion papers presented for filing must meet the requirements of Local Civil Rule 11.1."

We believe that the Committee intended for the formatting requirements to apply to opposition and reply motion papers as well as to opening motion papers. To make that clear, we suggest a further revision to subsection (b) to incorporate 7.1(a)(4), as follows:

> "(b) All oppositions and replies with respect to motions must comply with Local Civil Rule 7.1(a)(2)**, (3)** and (~~3~~4) above, and an opposing party who seeks relief that goes beyond the denial of the motion must comply as well with Local Civil Rule 7.1(a)(1) above."

While we support the adoption of default length limits for memoranda of law, we think the final sentence of proposed subsection 7.1(c) imposing a per-page word limit on court-permitted extensions expressed in pages should be deleted. We respectfully submit that a judge's expression of a length limitation in pages rather than words should not be subject to any additional per-page word limit. Moreover, the proposed 350-word limit for "each additional

page" is unclear and impractical. The default limits are measured in words, not pages; the proposal thus gives no basis to determine how many pages of a court-approved page limit are "additional pages" subject to the proposed 350-word limit.

We also suggest adding a parenthetical clause to make clear that the length limits in proposed 7.1(c) do not apply to motions for reconsideration, which are subject to the reduced limits in proposed revised Rule 6.3. In addition, to facilitate cross referencing in other local rule provisions, we suggest dividing proposed subsection (c) into subsections (c)(1) and (c)(2), with the second sentence moved to become subsection (c)(2).

Below is a markup reflecting all of our suggested revisions to proposed Local Civil Rule 7.1(c):

(c) Length of Memoranda of Law.

(1) If filed by an attorney or prepared with a computer, briefs in support of and in response to a motion (other than a motion for reconsideration) may not exceed 8,750 words, and reply briefs may not exceed 3,500 words; if filed by a party who is not represented by an attorney and handwritten or prepared with a typewriter, briefs in support of and in response to a motion may not exceed 25 pages, and reply briefs may not exceed 10 pages. ~~These limits in subsection (c)(1) above do not include the caption, any index, table of contents, table of authorities, signature blocks, or any required certificates, but do include material contained in footnotes or endnotes.~~ If a brief is filed by an attorney or prepared with a computer, it must include a certificate by the attorney, or party who is not represented by an attorney, that the document complies with the word-count limitations provided above and the typeface, margin, and spacing limitations provided in ~~subsection (a)(4)~~Local Civil Rule 11.1(b). The person preparing the certificate may rely on the word count of the word-processing program used to prepare the document. The certificate must state the number of words in the document. ~~To the extent the court permits a party to submit briefs longer than these limits, and expresses those limits in pages, each additional page must not contain more than 350 additional words if the brief is filed by an attorney or prepared with a computer.~~

(2) The limits in subsection (c)(1) above do not include the caption, any index, table of contents, table of authorities, signature blocks, or any required certificates, but do include material contained in footnotes or endnotes.

Finally, we suggest amending the heading of Local Rule 7.1 from "Motion Papers" to "Motion Papers, Bankruptcy Appellate Briefs and Letter-Motions." This change would reflect that subsections (d) and (e) of the revised rule address, respectively, the requirements for bankruptcy appellate briefs and letter-motions.

Local Civil Rule 11.1

We oppose the proposed elimination of Local Civil Rule 11.1 and the application of formatting requirements solely to motion papers. The formatting requirements in Local Civil Rule 11.1 benefit the Courts' litigants as well as court personnel. Specifically, it is as beneficial for complaints, answers, counterclaims and other pleadings, as well as other non-motion documents such as stipulations and notices of appeal, to be plainly written without defacing erasures or interlineations, to bear the docket number, to have the name of the person who signed it printed clearly below the signature, and to be double-spaced as it is for motion papers to be to be subject to those requirements. They make documents easier to read and comprehend and easier to reference in subsequent filings in the case; they also make it easier to detect when a document has been filed in the wrong case.

While such formatting generally makes all documents more user-friendly for all involved, it is especially true for documents that include a claim to which a responsive pleading is required—complaints (including third party and in intervention) as well as answers with cross- or counterclaims. It is easier, for example, for a responsive pleader to ascertain whether a right of action includes all elements of the claim, for purposes of identifying defenses and how to present them, when the pleading is formatted in accordance with Local Civil Rule 11.1.

User-friendliness of all court papers and the efficiency it promotes thus are generally important to the just, speedy and inexpensive determination of matters that come before the Courts, such that Local Civil Rule 11.1 should remain in force.

In proposed Local Social Security Rule 5.1, we also would replace the reference to Local Civil Rule 7.1(a)(4) in the first sentence with a reference to Local Civil Rule 11.1.

* * *

We are grateful for the opportunity to offer MACA's views on the proposed amendments. If we can elaborate further on our comments or assist the Courts in any way, please let us know.

Respectfully submitted,

s/Owen Wallace
MACA President
Managing Attorney
Cahil Gordon & Reindell LLP

s/Bradley Small
MACA Rules Committee Co-Chair
Managing Attorney
Cadwalader, Wickersham & Taft LLP

s/Brendan Cyr
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Managing Attorney, New York Office
Cleary Gottlieb Steen & Hamilton LLP

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MACA Rules Committee Member
Litigation Counsel and Managing Attorney
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MACA Rules Committee Co-Chair
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Allen Overy Shearman Sterling US LLP

s/Kurt Vellek
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July 29, 2024

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500 Pearl Street
New York, New York 10007-1312

Re: Proposed Amendments to Joint Local Rules

Dear Mr. Rogers:

Thank you for circulating the July 8, 2024 proposed amendments to the Joint Local Rules. As usual, the Joint Committee on Local Rules for the Southern and Eastern Districts of New York has done a splendid job revising a handful of rules.

But the rules committee may wish to take a second look at Local Civil Rule 7.1 and revisit both the type sizes specified in Local Civil Rule 7.1(a)(4)(a) and the certificate required by Local Civil Rule 7.1(c).

Turning first to a matter of style, the letters following "(4)" in Local Civil Rule 7.1(a), should be capital roman letters thus, "(a)" should be "(A)"; "(b)" should be "(B)." That is the structure that is used by the Standing Committee and mandated in its Guidelines for

Drafting and Editing Court Rules. *See* Guidelines ¶ 3.2 (1996).

Turning now to typeface, the committee may wish to reconsider whether a 12-point typeface for text and a 10-point typeface for footnotes continues to make sense. First, many experts on brief-writing now recommend using 14-point type in text. *See, e.g.*, Bryan A. Garner, The Winning Brief 440 (3d ed. 2014). The rationale for the recommendation is simple: 14-point type is easier to read.

Moreover, many United States district courts now require 14-point type in briefs when using proportional fonts. *See, e.g.*, L.R. 11-3.1.1 (C.D. Cal.); Civ. R. 7.2(d) (D.N.J.); L.R. 5.1(a)(3) (E.D. Mich).

And, most important, the Federal Rules of Appellate Procedure now require 14-point type for proportional fonts in both text and in footnotes in briefs. *See* Fed. R. App. P. 32(a)(5)(A). If it is good enough for the courts of appeals, it ought to be good enough for the district courts. Uniformity counts for something.

One reason that some courts were slow to adopt a larger typeface was that larger fonts lead to longer documents which, in turn, take up more file space. But that concern has disappeared with the electronic filing of briefs. Accordingly, I ask that the Joint Rules Committee take a fresh look at the 12-point typeface mandated in Local Civil Rule 7.1(a)(4)(a)

with an eye toward increasing the type size to 14-point for proportional fonts.

Second, the committee may wish to revisit the requirement in Local Civil Rule 7.1(c) of a certificate "that the document complies with a word-count limitations provided above and the typeface, margin, and spacing limitations provided in subsection (a)(4)." We should agree that the typeface, margin, and spacing limitations set out in the local rule by themselves hardly require a certificate. A quick glance at any document can show the type size and whether it is double spaced and includes 1-inch margins.

What is important is that the party filing the brief certify that the word-count limit has not been exceeded. But that is important only when the length of the brief approaches the word-count limit. Otherwise, preparing a certificate setting out the number of the words in the document is a silly exercise in how to waste time.

Requiring a word-count certificate only when the length of the document exceeds so many pages is the approach set out in the Federal Rules of the Appellate Procedure. *See* Fed. R. App. P. 32(a)(7),(g)(1). In those rules, for example, a principal brief requires a word-count certificate only when it exceeds 30 pages, a reply brief 15. *See* Fed. R. App. P. 32(1)(7),(g)(1).

The rules committee should eliminate the requirement of a word-count certificate when the principal briefs do not exceed 15 pages and reply briefs do not exceed 7 pages. And I

encourage it to do so.

At bottom, the local rules should be designed to aid the court and the parties by facilitating a "just, speedy, and inexpensive" resolution of every matter. *See* Fed. R. Civ. P. 1. I ask the Joint Committee to keep that charge in mind when considering my suggestions.

Respectfully,

NEWMAN MYERS KREINES HARRIS, P.C.

Charles D. Cole, Jr.

CDC/lar:ls

#1

COMPLETE

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Started:	Tuesday, July 09, 2024 1:13:34 PM
Last Modified:	Tuesday, July 09, 2024 1:14:52 PM
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IP Address:	108.14.42.2

Page 1: Local Rules Comment Form

Q1

Please enter your contact information.

First Name	**Alison**
Last Name	**Frick**
Daytime Telephone	**212-660-2332**
Email Address	**africk@kllflaw.com**

Page 6

Q7

Respondent skipped this question

Enter your comment for New Proposed Rule below.

Page 7

Q8

Enter your comment or proposal below.

I strongly and enthusiastically support the proposed change to a word limit instead of a page limit on motion papers. This allows firms to use more aesthetically-pleasing fonts, like Georgia, which are a bit larger than Times New Roman, without having to sacrifice space.

#2

COMPLETE

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Page 1: Local Rules Comment Form

Q1

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First Name	**Peter**
Last Name	**Lomtevas**
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Page 6

Q7

Respondent skipped this question

Enter your comment for New Proposed Rule below.

Page 7

Q8

Enter your comment or proposal below.

As to limited scope representation, you must add language that the judge must honor and respect the limited scope agreement. I appeared before enough courts pro has vice on limited grounds, and the judge kept me on the entire case for which I was not paid.

Motions for reconsideration must be expanded to 30 days, and the start date must be very clearly explained in the proposed rule. I would also suggest cutting out the references to other code sections. Why not copy/paste the pertinent part of the code section to eliminate page flipping back and forth?

I also do not see anything about moving cases along, preventing court delays, and slow downs in assignment of magistrate judges.

Why not accept comments by simply replying to the court's email address?

#3

COMPLETE

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IP Address:	148.77.81.134

Page 1: Local Rules Comment Form

Q1

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Page 6

Q7

Respondent skipped this question

Enter your comment for New Proposed Rule below.

Page 7

Q8

Enter your comment or proposal below.

I am writing to express concern over the proposed amendment to local rule 1.4 which would authorize limited scope representation for pro se litigants in civil cases. I am concerned about a pro se litigant's abuse of this privilege -- claim he is represented when he needs assistance with a brief, but claim he is pro se and seek deference in discovery proceedings. Counsel for the represented party is at a disadvantage as it will be unclear when to correspond with the pro se litigant directly and when to correspond with the attorney. Historically, the courts have shied away from his hybrid scenario due to obvious reasons. If a litigant is pro se, then he is not represented. The proposed rule creates risk of confusion for all parties including the court.

#4

COMPLETE

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Page 1: Local Rules Comment Form

Q1

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Page 6

Q7

Respondent skipped this question

Enter your comment for New Proposed Rule below.

Page 7

Q8

Enter your comment or proposal below.

I have no objection to the new rules except would like to see Local Rule 1.8(a)(1) flipped to allow cellphones/smartphones/personal computers unless the court decides in a specific case to exclude them or any person abuses the use by violating Rule 18(a)(2) or another specific abuse prohibited in a Local Rule prescribed under new Rule 1.8(c). My reason is that, while very mindful of the need not to film or photograph or broadcast to maintain security and safety for court personnel and persons appearing before the court, and equally mindful of not allowing disruption of proceedings from telephones ringing or people talking, the prohibition is not in keeping with modern communications, which no longer rely on telephkne calls from payphones in elevator lobbies. Communication by text, e-mail, and similar apps and continuity of contact are essential, at least to lawyers and their staff. Many courts have found prohibitions against misuse to be sufficient to achieve essential needs. The option of asking court permission each time imposes a burden on counsel and the court. The more common exceptions by order become, the less they are needed. The court can trust lawyers, their staff, and the general public to abide by the restrictions and the court's contempt powers are readily available as both penalty and warning. An alternative would be to distinguish in the rule between lawyers and their staff, presumptively allowing and not confiscating their devices while prohibiting non-lawyers' possession of their own or the lawyers' or lawyers' staff members' devices.

I have been a member of the NY and SDNY Bar since 1976 and have lived through the transitions in communication.

#5

COMPLETE

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IP Address: 148.75.77.55

Page 1: Local Rules Comment Form

Q1

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Page 6

Q7

Respondent skipped this question

Enter your comment for New Proposed Rule below.

Page 7

Q8

Enter your comment or proposal below.

I think it is better to limit the number of pages allowed in a motion instead of the word count. The NYS supreme court instituted a word count limit similar to the proposed rule and it has been problematic and challenging to comply with in practice. Legal citations with proper bluebook spacing get counted as several words that ultimately take up value space and leave less room for substantive arguments. For example, a single citation like "Oconner v. Agilant Sols., Inc., 444 F. Supp. 3d 593, 603 (S.D.N.Y. 2020)" will count as 13 words and each short citation used thereafter is another 6 words. As a result, rules that limit the word count in motion papers ultimately incentivize attorneys to omit citations to relevant legal precedent and/or neglect proper formatting in order to comply.

#6

COMPLETE

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Page 1: Local Rules Comment Form

Q1

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Page 6

Q7

Respondent skipped this question

Enter your comment for New Proposed Rule below.

Page 7

Q8

Enter your comment or proposal below.

The current proposal to replace page limits with word limits should be rejected. The New York state courts use word limits. Ultimately, word limits are more cumbersome, overburden litigants, and lack flexibility otherwise at a litigant's disposal when determining how to stay within a page limit.

One facet of the problem is checking compliance while drafting. At all times it is immediately obvious and easy to see if one is within a page limit in Microsoft Word without taking any further steps (unless one has hidden text turned on). This is not so with word limits. One constantly has to stop what one is doing, select the text that counts (but cannot simply use the 'select all' function because items like signature blocks, tables of contents and authorities, and the caption do not count—instead one has to do it manually), then select the tools pull-down and select word count. This is not a lot to do once, but when one is editing to stay within a limit, the inefficiency of this process is maddening. And it is much more perilous to boot: if required to certify compliance, there is much more room for error when trying to run a word count on just the certain parts of the document that count, as opposed to the page count (which again is at all times transparent).

Another facet is terms and citations. One is stuck with the citations that one needs and the terms that come from the facts of a case. But some citations and some terms will increase word count and length. One can be much more strategic about reducing length through short forms or rephrasing sentences, but the potential to do so is greatly reduced for word count.

#7

COMPLETE

Collector:	Public Weblink 2023 (Web Link)
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Page 1: Local Rules Comment Form

Q1

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Page 6

Q7

Respondent skipped this question

Enter your comment for New Proposed Rule below.

Page 7

Q8

Enter your comment or proposal below.

Dear Mr. Rogers,

The New York County Lawyers Association's Federal Courts Committee ("Committee") supports the passage of the Proposed Changes to the EDNY-SDNY Joint Local Rules noticed on July 8, 2024.

In particular, the Committee wants to highlight its strong support for Proposed Local Civil Rule 1.4. The Proposed Changes to Local Civil Rule 1.4 allow for limited-scope representation of pro se litigants in civil cases and, as a result, enable attorneys to appear as counsel on behalf of otherwise unrepresented parties for a limited purpose, such as mediation, filing a particular motion, or some aspect of discovery. The Committee believes that the rule change promotes the laudable goal of facilitating recruitment of counsel to assist unrepresented parties in civil litigation. The Committee agrees with the Committee Notes that these changes will enhance access to justice for unrepresented parties, and it therefore strongly supports Proposed Revised Local Civil Rule 1.4.

The Committee also wants to highlight its strong support for Proposed New Local Criminal Rule 49.2. This proposed new rule prohibits represented criminal defendants from making pro se filings and establishes a procedure in the event that such a filing is made that includes forwarding the filing to the defendant's attorney of record under seal and ex parte. In addition to standardizing the practice for addressing filings of this nature, the Committee believes that the new rule commendably establishes a process for addressing the issues raised in any pro se submission that protects the defendant to the greatest extent possible. The Committee agrees with the Committee Notes that the new rule protects defendants against making incriminatory statements that could be later used against them in the proceeding and disclosing privileged communications with defense counsel, and properly involves current counsel in the process of addressing any issues.

And finally, The Committee is also strongly supportive of the changes to Local Civil Rule 7.1, which shift to a word count limitation, rather than a page count limitation. We feel this rule change will minimize confusion and opportunities for gamesmanship and harmonize the practice of the District Courts with that of the Second Circuit, which already uses word count limitations.

Respectfully submitted,

New York County Lawyers Association
Michael B. Eisenkraft and Scott B. Klugman
Co-Chairs, Committee on the Federal Courts

This statement was approved for dissemination by the NYCLA President as a Committee statement. This statement has not been approved by the NYCLA Board of Directors and does not necessarily represent the views of the Board.

#8

COMPLETE

Collector: Public Weblink 2023 (Web Link)
Started: Friday, September 20, 2024 10:09:43 AM
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Time Spent: 00:14:01
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Q1

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Q7

Respondent skipped this question

Enter your comment for New Proposed Rule below.

Page 7

Q8

Enter your comment or proposal below.

Re: proposed rule 1.4(c)(1-3), I suggest that:
1. Examples of limited scope representation listed should include "settlement assistance." The ND of Illinois has partnered with the Chicago Lawyers for Civil Rights to provide counsel to assist pro se litigants in settlement discussions at the request of the court. They are allowed limited scope representation for that purpose.
2. The rule appropriately allows limited-scope counsel to withdraw after filing a notice of completion of their services without leave of court.
3. A new paragraph should be added to explicitly state whether ghostwriting pro se pleadings or motions is allowed, and under what circumstances. Having done extensive research on ghostwriting for pro se's, see An Analysis of Ghostwriting Decisions: Still Searching for the Elusive Harm, 95 JUDICATURE 78-88 (Sept-Oct, 2011); Ghosting. The Courts' Views on Ghostwriting Ethics are Widely Divergent: It's Time to Find Uniformity and Enhance Access to Justice, 102 JUDICATURE (December, 2018), I believe this practice promotes access to justice, harms no one, and is consistent with lawyers' obligations to improve the system of justice.

#9

COMPLETE

Collector: Public Weblink 2023 (Web Link)
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Last Modified: Thursday, September 26, 2024 10:44:16 AM
Time Spent: 00:03:26
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Page 1: Local Rules Comment Form

Q1

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Q7

Respondent skipped this question

Enter your comment for New Proposed Rule below.

Page 7

Q8

Enter your comment or proposal below.

Local rules governing page limitations for briefs submitted in civil matters should instead govern the word count of said papers. When an attorney is drafting motion papers, it is easier to reduce word count than it is to reduce page count. Additionally, due to formatting and the various word processors out there, it is easier to make the word count uniform for all parties.

#10

COMPLETE

Collector:	Public Weblink 2023 (Web Link)
Started:	Sunday, October 06, 2024 7:22:01 PM
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IP Address:	137.200.9.72

Page 1: Local Rules Comment Form

Q1

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Page 6

Q7

Respondent skipped this question

Enter your comment for New Proposed Rule below.

Page 7

Q8

Enter your comment or proposal below.

The Social Security Administration, with the concurrence of the Civil Divisions of the U.S. Attorneys' Offices for the Southern and Eastern District of New York, submits the following comments to proposed new Local Social Security Rule 4.1.

Respectfully, because the Joint Notice to the Bar Inviting Public Comment on Proposed Changes to these Rules stated that comments submitted electronically were preferred, we have submitted these comments through this electronic form on the SDNY Court's website today, October 6, 2024. However, this form has not allowed us to paste and submit CM/ECF screenshots that we wanted to provide to illustrate our proposal. Because we valued the importance of submitting these screenshots, we have concurrently submitted these comments in letter form today. We respectfully apologize for any inconvenience our concurrent submissions may have caused.

For background, proposed revised Local Civil Rule 1.4(a) states, in relevant part,

Attorney Appearances. Except as otherwise set forth in this rule, each attorney appearing on behalf of a party must file a notice of appearance promptly on or before the attorney's first appearance in court or filing in the case. The notice of appearance must provide the attorney's name, any firm or organizational affiliation, business address, telephone number, email address, and the name of the party or parties represented.

An attorney who files a case-initiating document, such as a complaint, need not file a separate notice of appearance; such an attorney shall be deemed to have entered a notice of appearance on behalf of the party or parties on whose behalf the filing is made.

The proposed new Local Social Security rules do not discuss the notice of appearance requirement.

We respectfully propose a modification to proposed new Local Social Security Rule 4.1 that would allow attorneys appearing in cases on behalf of the Commissioner of Social Security (Commissioner) to satisfy the requirements of Local Civil Rule 1.4(a) regarding entering their appearance by making an entry on the docket through a new proposed CM/ECF menu option, rather than by preparing and filing a notice of appearance document.
Because of the need to balance the workloads of attorneys for the Commissioner, different attorneys may enter an appearance on behalf of the Commissioner at various stages in a given case. After an attorney enters an appearance to file an answer, another attorney may enter an appearance to file the Commissioner's brief. Yet another attorney may enter an appearance at oral argument, at the decision stage, or at the fees stage. Because different attorneys may enter an appearance at various stages, allowing the Commissioner's attorneys to enter their appearance by making an entry on the docket would eliminate the need to create and upload a notice of appearance as a PDF document each time a new attorney appears for the Commissioner. It would also potentially save the Clerks' Offices time because review of a notice of appearance document would no longer be required.
We propose that this paperless option would apply in represented cases only. When the plaintiff is pro se, the attorney for the Commissioner would file a notice of appearance in accordance with proposed revised Local Civil Rule 1.4(a).

Other sister courts within this Circuit have implemented these types of paperless notices of appearance on their CM/ECF sites, including the Northern District of New York (where these docket events have been used for a number of years), the District of Vermont and, most recently, the District of Connecticut. It is anticipated that the change to a paperless notice of appearance will be adopted in the Western District of New York as well, when revised local rules will be published in January 2025.

The paperless notice of appearance would cumulatively save a great deal of time for the filing attorneys as well as the Courts. As the Courts are well aware, there is a very high volume of Social Security cases in both the Eastern and Southern Districts of New York, with hundreds of new cases being filed each year. Eliminating the time it takes for attorneys to prepare and file these documents, and for the Clerks' Offices to review them, would result in increased efficiencies for both the filers and the Courts.
Accordingly, we respectfully recommend that proposed new Local Social Security Rule 4.1 be supplemented with the following passages in quotation marks:

Local Social Security Rule 4.1. "Appearance on Behalf of the Commissioner;" Motions for Extensions of Time and Scheduling Orders

"(a) An attorney representing the Commissioner may comply with the notice of appearance filing requirement in Loc. Civ. R. 1.4(a) by making an entry on the docket, except in cases when a plaintiff appears pro se.

(b) Motions for Extensions of Time and Scheduling Orders." Any party seeking an extension of the deadlines set forth in Supplemental Social Security Rules 4, 6, 7, or 8 must, prior to seeking the extension, attempt to meet and confer . . . .

To illustrate, we have respectfully submitted with a concurrent letter proposal that we mailed today, October 6, 2024, screenshots consisting of docket entries for a paperless notice of appearance on the CM/ECF site for the District of Connecticut. Again, we respectfully apologize for any inconvenience our concurrent submissions may have caused.

We greatly appreciate the opportunity to comment on these proposed rules.