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

**Margo K. Brodie**
*Chief Judge, E.D.N.Y.*

**Laura Taylor Swain**
*Chief Judge, S.D.N.Y.*

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**JOINT NOTICE TO THE BAR**
December 16, 2024

**CONTACT**
S.D.N.Y. (212) 805-0800
E.D.N.Y. (718) 613-2600

## Eastern and Southern District Courts
## Adopt Amendments to the EDNY-SDNY Joint Local Rules

Following a period of public comment, and in accordance with 28 U.S.C. § 2071, Rule 83(a) of the Federal Rules of Civil Procedure, and Rule 57(a) of the Federal Rules of Criminal Procedure, the judges of the Eastern and Southern Districts of New York have adopted amendments to their Joint Local Rules. The Joint Local Rules supplement the Federal Rules of Civil and Criminal Procedure and govern practice before both courts.

The amendments include:

(1) a provision authorizing limited-scope representation for *pro se* litigants in civil cases **(amended Local Civil Rule 1.4)**;

(2) the replacement of page limits with word limits for all briefs filed in civil cases **(amended Local Civil Rules 6.3, 7.1, & 11.1)**;

(3) a provision permitting both districts to adopt policies governing the possession and use of electronic equipment **(amended Local Civil Rule 1.8)**;

(4) a new criminal rule establishing default deadlines for expert witness disclosures **(new Local Criminal Rule 16.2)**;

(5) a new criminal rule governing *pro se* submissions by represented defendants in criminal cases **(new Local Criminal Rule 49.2)**; and

(6) new local social security rules, to codify existing administrative and standing orders in both districts addressed to such cases **(new Local Supplemental Social Security Rules)**.

Members of the bar should familiarize themselves with the updated rules, which take effect on January 2, 2025, and govern civil and criminal cases pending or filed on or after that date. *See* Local Civil Rule 1.1; Local Criminal Rule 1.1.

The updated rules are now available on each court's website at the following links:

http://www.nyed.uscourts.gov/court-info/local-rules-and-orders

https://nysd.uscourts.gov/rules.

For convenience, attached to this Notice, and also available at those links, is a redline of the amendments. The redline was automatically generated using a word processing program and, thus, may contain errors. Counsel and parties should rely on the clean version of the amended Joint Local Rules, not on the redline, and may not cite or rely on the redline in any court filings.

The redline will remain on each court's website until January 16, 2025, at which point it will be removed. Because, under amended Local Civil Rule 1.1, the July 1, 2024 version of the Joint Local Rules applies to actions pending on January 2, 2025, if fewer than 14 days remain to perform an action governed by the Rules, the July 1, 2024 version of the Joint Local Rules will also remain on each court's website until January 16, 2025, at which point it will be removed.

The Boards of Judges of both courts thank the many people and organizations that submitted their views and suggestions during the public comment period; their contributions greatly aided the process that led to these final rules.

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# LOCAL RULES OF THE UNITED STATES DISTRICT COURTS FOR THE SOUTHERN AND EASTERN DISTRICTS OF NEW YORK

***Adopted*** **by the Boards of Judges of the**
**Eastern District of New York and the**
**Southern District of New York**
***Transmitted*** **to the Judicial Council of the Second Circuit**

**Effective ~~July 1, 2024~~January 2, 2025**

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# LOCAL CIVIL RULES

## Local Civil Rule 1.1. Application of Rules

These Local Civil Rules are promulgated under 28 U.S.C. § 2071 and Fed. R. Civ. P. 83. They apply in all civil actions and proceedings governed by the Federal Rules of Civil Procedure. Each district has, under 28 U.S.C. § 137, separately adopted Division of Business Rules that are available on their respective websites.

These Local Civil Rules take effect on ~~July 1, 2024~~January 2, 2025 (the "Effective Date") and govern actions pending or filed on or after that date. For actions pending on the Effective Date, if fewer than 14 days remain to perform an action governed by these Rules, the provisions of the previous Local Rules effective on ~~June 30, 2024~~January 1, 2025 will govern.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

## Local Civil Rule 1.2. Night Depository

A night depository with an automatic date stamp will 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 and Central Islip Courthouses. After regular business hours, papers for the district court may be deposited only in the night depository. Those papers will be considered as having been filed in the district court as of the date stamped thereon, which will be deemed presumptively correct. Filings that must be made via the Electronic Case Filing (ECF) system may not be made by using the night depository.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

## 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 that district court is located, if that 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:

(b) Each applicant for admission must file an application for admission in electronic form and pay the required fee through the Public Access to Court Electronic Records (PACER) system at www.pacer.gov. This one application will be utilized both to admit and then to provide the applicant to the bar of this court with electronic filing privileges for use on the court's ECF system. The applicant must adhere to all applicable rules of admission.

(c) The application for admission must state:

(1) applicant's residence and office address;

(2) the date(s) 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.) concerning 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 Courts for the Southern and Eastern Districts of New York; and

(F) the New York State Rules of Professional Conduct 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.

(d) The application must 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 30 days of filing and states that the applicant is a member in good standing of the bar of that state court. The application must 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.

(e) Absent court order, the clerk will schedule a date for a hearing on the application, and at the hearing, the attorney whose affidavit accompanied the application must, for the Eastern District, and may, and is encouraged to, for the Southern District, personally move the admission of the applicant. If the application is granted, the applicant will take the oath of office.

(f) A member of the bar of the state of New York, Connecticut, or Vermont who has been admitted to the bar of this court under this subsection, and who thereafter voluntarily resigns from membership in the bar of the state under 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 under other provisions of this subsection (such as because he is still a member of the bar of another eligible state and, where applicable, a corresponding district court), will be deemed to have voluntarily resigned from the bar of this court as of the same date the member resigned from the bar of the underlying state, but the resignation will not be deemed to deprive this court of jurisdiction to impose discipline on this person, in accordance with Rule 1.5 infra, for conduct preceding the date of the resignation.

(g) A member in good standing of the bar of either the Southern or Eastern District may be admitted to the bar of the other district without formal application

(1) upon electronically filing through the PACER website 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 30 days of filing and states that the applicant is a member in good standing of the bar of that court;

(2) upon an affidavit by the applicant stating

(A) whether the applicant has ever been convicted of a felony,

(B) whether the applicant has ever been censured, suspended, disbarred, or denied admission or readmission by any court,

(C) whether there are any disciplinary proceedings presently against the applicant, and

(D) the facts and circumstances surrounding any affirmative responses to (a) through (c); and

(3) upon taking the oath of office and paying the fee required in that district.

(h) Each district retains the right to deny admission based on the content of the affidavit in response to item (b)(2).

(i) 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 as described below.

(j) After requesting pro hac vice electronic filing privileges through the PACER website, applicants must electronically file a motion for admission pro hac vice on the court's ECF system and pay the required fee.

(k) The motion must be accompanied by a certificate of the court for each of the states in which the applicant is a member of the bar that has been issued within 30 days of filing and states that the applicant is a member in good standing of the bar of that state court, and an affidavit by the applicant stating

(1) whether the applicant has ever been convicted of a felony,

(2) whether the applicant has ever been censured, suspended, disbarred, or denied admission or readmission by any court,

(3) whether there are any disciplinary proceedings presently against the applicant, and

(4) the facts and circumstances surrounding any affirmative responses to (a) through (c);

(l) Attorneys appearing for the Department of Justice may appear before the court without requesting pro hac vice admission. Those attorneys must request electronic filing privileges through the PACER website. Attorneys appearing for other federal agencies must move for pro hac vice admission, but the fee requirement is waived, and the certificate(s) of good standing may must have been issued within one year of filing. 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 on judgments, decrees, or orders.

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 must immediately update the relevant information in the PACER system, and serve and file a notice of change of address in each pending case in which the attorney has appeared.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 1.4. ~~Notice of Appearance~~Attorney Appearances; Withdrawal or Displacement of Attorney of Record; Limited-Scope Representation**

(a) Attorney appearances. Except as otherwise set forth in this rule, each attorney appearing on behalf of a party must file a notice of appearance ~~in each case,~~ promptly ~~upon~~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, petition, or notice of removal, need not file a separate notice of appearance; ~~those attorneys will~~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.

~~Whether or not~~(b) Attorney withdrawals. Except where an attorney has filed a notice of limited-scope appearance ~~is filed,~~as set forth in subsection (c), an attorney who has appeared for a party may be relieved or displaced only by order of the court. ~~This~~Such an order may be issued ~~after~~following the filing of a motion to withdraw, and only upon a showing by affidavit or otherwise of satisfactory reasons for

withdrawal or displacement~~,~~ and the posture of the case, and whether or not the attorney is asserting a retaining or charging lien. While a motion to withdraw is required ~~when~~whenever an attorney seeks to be relieved, an affidavit is unnecessary if ~~other counsel~~(1) another attorney from the same firm, agency, or organization has already entered a notice of appearance on behalf of the client and will remain in the case or~~,~~ (2) upon substitution of counsel by stipulation, if the stipulation is also signed by the client~~.~~ and, at the time of substitution, the new attorney does not intend to seek modification of any existing deadlines or dates for court appearances in the case.

All motions to withdraw must be served ~~on~~upon the client and (unless excused by the court) ~~on~~upon all other parties. Proof of such service ~~on~~upon the client ~~must~~shall be filed on the docket in each case where withdrawal is sought.

(c) Limited-scope representation. Unless otherwise ordered by the court, an attorney may provide limited-scope representation to a party in a civil case.

(1) Where a party and an attorney have agreed to limited-scope representation, the attorney must file a notice that describes the scope of the representation for any matter that may require the attorney to file papers with the court; appear before a judge, arbitrator, or mediator; or communicate with opposing counsel. Notice is not required if the attorney is providing short-term, limited legal services under a program sponsored by a court, government agency, bar association, or not-for-profit legal services organization unless the attorney will file papers with the court; appear before a judge, arbitrator, or mediator; or provide continuing representation in the matter. A party to whom limited-scope representation is being provided or has been provided is considered unrepresented regarding matters not designated in the notice of limited-scope representation and regarding all matters unless attorneys for all other parties have been provided with the notice of the limited-scope representation.

(2) During any period that a party receives limited-scope representation from an attorney who has filed a notice of appearance, papers must be served on both the party and the attorney.

(3) A limited-scope representation terminates without the need for leave of court once the attorney files a notice stating that the tasks for which the appearance was entered have been completed. The notice must include a certificate of service on the client. If any attorney who has filed a notice of appearance seeks to withdraw before completion of the limited-scope representation, the attorney must follow the procedure set forth in subsection (b).

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 1.5. Discipline of Attorneys**

(a) Committee on Grievances. The chief judge will appoint a committee of the Board of Judges known as the Committee on Grievances, which, under the direction of the chief judge will have charge of all matters relating to the discipline of attorneys. Magistrate judges and district judges may serve on the Committee on Grievances. The chief judge will also 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 that 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 Rules of Professional Conduct as adopted from time to time by the Appellate Divisions of the State of New York. In interpreting these Rules of Professional Conduct, in the absence of binding authority from the United States Supreme Court or the United States Court of Appeals for the Second Circuit, this court, in the interests of comity and predictability, will give due regard to decisions of the New York Court of Appeals and other New York state courts, absent significant federal interests.

(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 under 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 under 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 under paragraph (b)(4) above will 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 must be served by the Committee on Grievances on 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, if any, of the attorney 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 24 days after the date of service on the attorney, disbarring or censuring the attorney or suspending the attorney from practice in this court on 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 24 days after the date of service on the attorney, deeming the attorney to have resigned from the bar of this court.

Within 20 days of the date of service of either order, the attorney may file a motion for modification or revocation of the order. This motion must set forth with specificity the facts and principles relied on by the attorney to show cause that a different disposition should be ordered by this court. The timely filing of this motion will stay the effectiveness of the order until a further order by this court. If good cause is shown to hold an evidentiary hearing, the Committee on Grievances may direct such a hearing under paragraph (d)(4) below. If good cause is not 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. If an evidentiary hearing is held, the Committee may direct such interim relief pending the hearing as justice 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 under paragraph (d)(4) below. If an evidentiary

hearing is held, the Committee may direct such interim relief pending the hearing as justice may require.

(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 those 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 under 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 ordered otherwise by the chief judge for good cause shown or in accordance with paragraph (d)(5) below.

(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 on 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, if any, of the attorney 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 under 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 must report their findings and recommendations in writing to the Committee on Grievances and must serve them on 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 the 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.

(5) A duly constituted disciplinary authority of a New York state court may request expedited disclosure of records or documents that are confidential for use in an investigation or proceeding pending before the disciplinary authority. The request shall be made in writing and submitted to the chair of the Committee on Grievances. The request should, to the extent practicable, identify the nature of the pending investigation or proceeding and the specific records or documents sought. The request may also seek deferral of notice of the request for so long as the matter is in the investigative stage before the disciplinary authority. Upon receipt of the request, the chair of the Committee on Grievances may take any appropriate action and may refer the request to the full Committee on Grievances. Confidential records and documents disclosed to the disciplinary authority in response to the request shall not be used for any purpose other than the investigation or proceeding pending before the disciplinary authority.

(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 must refer this 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 district judges and magistrate judges under applicable law with respect to lawyers appearing before them. Individual district 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 under 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 the other court or courts a certified or electronic copy of the judgment of conviction or order of disbarment, preclusion, suspension, or censure, a certified or electronic copy of the court's opinion, if any, and a statement of the attorney's last known office and residence address.

(h) Duty of Attorney to Report Discipline

(1) In all cases in which any federal, state or territorial court, agency or tribunal has entered an order disbarring or censuring an attorney admitted to the bar of this court, or suspending the attorney from practice, whether or not on consent, the attorney shall deliver a copy of the order to the clerk of this court within 14 days after the entry of the order.

(2) In all cases in which any member of the bar of this court has resigned from the bar of any federal, state, or territorial court, agency, or tribunal while an investigation into allegations of misconduct against the attorney was pending, the attorney shall report that resignation to the clerk of this court within 14 days after the submission of the resignation.

(3) In all cases in which this court has entered an order disbarring or censuring an attorney, or suspending the attorney from practice, whether or not on consent, the attorney shall deliver a copy of the order within 14 days after the entry of the order to the clerk of each federal, state, or territorial court, agency, and tribunal in which the attorney has been admitted to practice.

(4) Any failure of an attorney to comply with the requirements of this Local Civil Rule 1.5(h) will constitute a basis for discipline of that attorney under Local Civil Rule 1.5(c).

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 1.6. Duty of Attorneys in Related Cases**

Unless another attorney has already done so, each attorney appearing in a case must bring to the attention of the court potentially related cases, to the extent required by the Division of Business Rules in the district where the case was filed.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 1.7. Fees of Court Clerks and Reporters**

(a) The clerk will 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) An 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 the order, the attorney, in writing, advises the court reporter that only the client is obligated to pay.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 1.8. Electronic Equipment and Recording, Broadcasting, and Streaming of Court Matters**

(a) Unless authorized to do so by an administrative or standing order of the court, the clerk, or the district executive, no one other than court officials engaged in the conduct of court business ~~may:~~ shall:

(1) bring any camera, transmitter, receiver, recording device, cellular telephone, computer~~,~~ or other electronic device into any courthouse; or

(2) take a photograph or make an audio or video recording of any proceeding or communication with the court, an employee of the court, or any person acting at the direction of the court, including a mediator. No such authorization ~~will~~shall be given with respect to a court proceeding or mediation unless approved in advance by the presiding judge.

(b) Proceedings ~~must~~may not be broadcast or streamed unless authorized by the presiding judge in accordance with Judicial Conference policy.

(c) The court may adopt additional policies governing the possession or use of electronic equipment within any courthouse. Any such policy will be posted on the court website or within any courthouse to which it applies.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 1.9. Acceptable Substitutes for Affidavits [formerly Local Civil Rule 1.10]**

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 in accordance with Fed. R. Civ. P. 11, or (2) an oral representation on the record in open court.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 5.1. Filing of Discovery Materials [Withdrawn]**

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 5.2. Requirements for Electronic Filing and Service; Duty to Review Underlying Orders**

Counsel must serve and file papers by following the instructions regarding ECF published on the website of each respective court, unless exempted from electronic filing by court order or Fed. R. Civ. P. 5. Highly Sensitive Documents (HSDs) must be filed in hard copy, in accordance with the order issued by each district governing those documents.

Parties have an obligation to review the court's actual order, decree, or judgment (on ECF), which controls, and should not rely on the description on the docket or in the ECF Notice of Electronic Filing (NEF).

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 5.3. Service by Overnight Delivery**

Service on an attorney may be made by overnight delivery service. "Overnight delivery service" means any delivery service that regularly accepts items for overnight delivery. Overnight delivery service will be deemed service by mail for purposes of Fed. R. Civ. P. 5 and 6.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

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

Except for letter-motions as permitted by Local Rule 7.1(d), and unless provided otherwise by statute or rule, or by the court in a judge's individual practices or in a direction in a particular case, motion papers must be served and filed as follows:

(a) On all motions and applications under Fed. R. Civ. P. 26 through 37 inclusive and 45(d)(3), all motion papers must be served by the moving party on all other parties that have appeared in the action, (2) any opposing or response papers must be served within seven days after service of the moving papers, and (3) any reply

papers must be served within two days after service of the answering papers. In computing periods of days, refer to Fed. R. Civ. P. 6.

(b) On all civil motions, petitions, and applications, other than those described in Rule 6.1(a), and other than petitions for writs of habeas corpus, (1) the moving papers must be served by the moving party on all other parties that have appeared in the action, (2) any opposing or response papers must be served within 14 days after service of the moving papers, and (3) any reply papers must be served within seven days after service of the answering papers. In computing periods of days, refer to Fed. R. Civ. P. 6.

(c) Unless otherwise exempt, filing and service must be accomplished via ECF.

(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 that contains good and sufficient reasons why a procedure other than by notice of motion is necessary and states whether a previous application for similar relief has been made.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**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, will 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 of an oral decision that does not direct the submission or settlement of an order in more extended form will 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 the order will constitute the entry of the order.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 6.3. Motions for Reconsideration**

Unless otherwise provided by the court or by statute or rule (such as Fed. R. Civ. P. 50, 52, and 59), a notice of motion for reconsideration must be served within 14 days after the entry of the court's order being challenged. There must be served with the notice of

motion a memorandum~~, no longer than 10 pages in length,~~ setting forth concisely the matters or controlling decisions which ~~counsel~~the moving party believes the court has overlooked. The time periods for the service of any answering and reply memoranda~~, which may not be longer than 10 and 5 pages in length, respectively, is governed by Local Civil Rule 6.1(a) or (b), as in the case of the original motion. No party may file any affidavits unless directed by the court.~~ are governed by Local Civil Rule 6.1(a) or (b). No party is to file an affidavit unless directed by the court. Unless otherwise provided by the court, the length limitations for filings under this Rule are as follows: if filed by an attorney or prepared with a computer, briefs in support of and in response to a motion may not exceed 3,500 words, and reply briefs may not exceed 1,750 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 10 pages, and reply briefs may not exceed five pages. These limits 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, the party must also provide a certificate of compliance as required by Local Civil Rule 7.1(c). 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.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 6.4. Computation of Time [Withdrawn]**

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 7.1. ~~Motion~~Form and Length of Briefs, Motions, and Other Papers**

~~(a) Unless the judge's individual practices or court order provide otherwise, all motions, except~~Except for letter-motions as permitted by ~~Local Civil~~this or any other Rule ~~7.1(d),~~ , or as otherwise directed by the court:

(a) Content of Motion Papers. All motions must include the following motion papers:

(1) A notice of motion, or an order to show cause signed by the court, ~~that specifies~~which must specify the applicable rules or statutes ~~under~~pursuant to which the motion is brought, and must specify the relief sought by the motion;

(2) A memorandum of law, setting forth the cases and other authorities relied on in support of the motion, and divided, under appropriate headings, into as many parts as there are issues to be determined; ~~and~~

(3) Supporting affidavits and exhibits thereto containing any factual information and ~~parts~~portions of the record necessary for the decision of the motion~~.~~; and

~~(b) Except for letter-motions as permitted by Local Rule 7.1(d) or as otherwise permitted by the court, all~~(4) All oppositions and replies with respect to motions must comply with ~~Local Civil Rule 7.1~~subsections (a)(2) and (3~~) above,~~), and an opposing party who seeks relief that goes beyond the denial of the motion must also comply ~~as well~~ with ~~Local Civil Rule 7.1~~subsection (a)(1~~) above.~~).

(b) Formatting Requirements for All Papers. The typeface, margins, and spacing of all documents presented for filing must meet the following requirements:

(1) all text must be 12-point type or larger, except for text in footnotes which may be 10-point type;

(2) all documents must have at least one-inch margins on all sides;

(3) all text must be double-spaced, except for headings, text in footnotes, or block quotations, which may be single-spaced.~~(c)~~

(c) Length of Memoranda of Law. If filed by an attorney or prepared with a computer, briefs in support of and in response to a motion (except for motions 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 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. 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.

(d) Briefs in Bankruptcy Appeals. Unless ordered otherwise by the district judge to whom the appeal is assigned, appellate briefs on bankruptcy appeals must comply with the briefing format and length specifications set forth in ~~Fed. R. Bankr. P.~~Federal Rules of Bankruptcy Procedure 8015 to 8017.

~~(d)~~ (e)Letter-motions. Applications for extensions or adjournments, applications for a pre-motion conference, and similar non-dispositive matters may be brought by letter-motion. Other motions cannot be brought by letter-motion unless authorized by the judge's individual practices or order issued in a particular case.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 7.1.1 Disclosure Statement**

For purposes of Fed. R. Civ. P. 7.1(b)(2), "promptly" means "within 14 days," that is, parties must file a supplemental disclosure statement within 14 days of the time there is any change in the information required in a disclosure statement filed in accordance with those rules.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 7.2. Authorities to Be Provided to Pro Se Litigants**

In cases involving a pro se litigant, counsel must, 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 copies of cases and other authorities cited therein that are unpublished or reported exclusively on computerized databases. Upon request, counsel must

provide the pro se litigant with copies of such unpublished cases and other authorities as are cited in a decision of the court and were not previously cited by any party.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 11.1. Form of Pleadings, Motions, and Other Papers [Withdrawn]**

~~(a) A pleading, written motion, and other paper must~~

~~(1) be plainly written, typed, printed, or copied without erasures or interlineations that materially deface it,~~

~~(2) bear the docket number and the initials of the district judge and any magistrate judge before whom the action or proceeding is pending,~~

~~(3) have the name of each person signing it clearly printed or typed directly below the signature.~~

~~(b) Unless a judge's individual practices provide otherwise, the typeface, margins, and spacing of all documents presented for filing must meet the following requirements:~~

~~(1) all text must be 12-point type or larger, except for text in footnotes, which may be 10-point type;~~

~~(2) all documents must have at least one-inch margins on all sides;~~

~~(3) all text must be double-spaced, except for headings, text in footnotes, or block quotations, which may be single-spaced.~~

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 12.1. Notice to Pro Se Litigant Who Opposes a Rule 12 Motion Supported by Matters 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 Fed. R. Civ. P. 12(b) or 12(c), must serve and file the following notice with the full text of Fed. R. Civ. P. 56 attached 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 under Fed. R. Civ. P. 56, and the movant has not previously served and filed the notice required by this rule, the movant must amend the form notice to reflect that fact and must serve and file the amended notice within 14 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 under 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 ON TIME by filing sworn affidavits as required by Rule 56(c) and/or other documents. 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 on 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 specific facts that support your claim. If you have proof of your claim, now is the time to submit it. Any witness statements must be in the form of affidavits. An affidavit is a sworn statement of fact based on personal knowledge stating facts that would be admissible in evidence at trial. 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 and/or documents contradicting the facts asserted by the defendant, the court may accept defendant's facts as true. Your case may be dismissed and judgment may be entered in defendant's favor without a trial.

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

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 15.1 Amendment of Pleadings**

(a) Motions to Amend or Supplement Pleadings. Except for motions made by pro se litigants, all motions made under Fed. R. Civ. P. 15(a)(2) or (d) must also include as an exhibit (1) a clean copy of the proposed amended or supplemental pleading; and (2) a version of the proposed pleading that shows—through redlining, underlining, strikeouts, or other similar typographic method—all differences from the pleading that it is intended to amend or supplement.

(b) Filing of Amended or Supplemental Pleading. The granting of a motion under Rule 15(a)(2) or (d) does not constitute the filing of the amended or supplemental pleading. Unless the court orders otherwise, a non-pro se moving party must file the new pleading within seven days of the order granting the motion.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 16.1. Exemptions from Mandatory Scheduling Order**

Habeas corpus petitions, section 2255 motions, social security disability cases, forfeitures, reviews from administrative agencies (including Freedom of Information Act cases), and bankruptcy appeals, are exempted from the mandatory scheduling order required by Fed. R. Civ. P. 16(b). Discovery may proceed in those cases only at the time, and to the extent, authorized by the court.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

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

In any case referred to a magistrate judge, the magistrate judge may issue or modify scheduling orders under Fed. R. Civ. P. 16(b).

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 23.1. Fees in Class Action and Shareholder Derivative Actions**

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

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 26.1. Address of Party and Original Owner of Claim to Be Furnished [Withdrawn]**

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 26.2. Assertion of Claim of Privilege**

(a) Unless otherwise agreed to by the parties or directed by the court, 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 the assertion,

(1) The person asserting the privilege must 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 must be provided in the objection, or (in the case of a deposition) in response to questions by the questioner, unless divulgence of the information would cause disclosure of the allegedly privileged information:

(A) For documents (including electronically stored information): (i) the type of document, *e.g.*, letter, email, or memorandum; (ii) the general subject matter of the document; (iii) the date of the document; and (iv) the author of the document, the addressees of the document, and any other recipients, 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 in response to discovery or disclosure other than a deposition, and information is not provided on the basis of the assertion, the information set forth in paragraph (a) above must be furnished in writing at the time of the response to the discovery or disclosure, unless otherwise agreed to in writing by the parties or ordered by the court.

(c) Efficient means of providing information regarding claims of privilege are encouraged. Parties are encouraged to discuss measures that further this end, including which information fields will be provided in the privilege log. When appropriate, parties should consider and discuss the use of a categorical log or a metadata log, instead of a document-by-document log. Unless otherwise agreed to by the parties or provided by a judge's individual practices or by court order,

(1) when a party is asserting privilege on the same basis with respect to multiple documents, it is presumptively proper to provide the information required by this rule by group or category;

(2) where numerous documents are withheld and the party is using review software, preparation of a metadata log may suffice to provide the information required to support the claim of privilege;

(3) where either a categorical log or a metadata log is used, the parties are encouraged to discuss whether to allow the requesting party to request a document by document log for a limited number or percentage of the logged documents; and

(4) a party cannot object to a privilege log solely on the basis that it is a categorical log or a metadata log, but may object if the substantive information required by this rule has not been provided in a comprehensible form.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**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 may use broader definitions or rules of construction than those set forth in paragraphs (c) and (d). This rule does not preclude:

(1) the definition of other terms specific to the particular litigation,

(2) the use of abbreviations, or

(3) a narrower 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 the term "documents or electronically stored information" in Fed. R. Civ. P. 34(a)(1)(A). 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). In the alternative, the responding party may produce the documents, together with identifying information sufficient to satisfy Fed. R. Civ. P. 33(d).

(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 legal entity, including, without limit, any business 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/Any/Each**.** The terms "all," "any," and "each" must each be construed as encompassing any and all.

(2) And/Or. The connectives "and" and "or" must 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.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 26.4. Cooperation Among Counsel in Discovery [formerly Local Civil Rules 26.5 and 26.7]**

(a) 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.

(b) Discovery requests must 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 the information or can obtain it from the client.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 26.5. Form Discovery Requests [formerly Local Civil Rule 26.6]**

Attorneys using form discovery requests must review them to ascertain that they are consistent with the scope of discovery under Fed. R. Civ. P. 26(b)(l). Non-compliant requests must not be used.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

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

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 30.2. Telephonic and Other Remote Depositions [formerly Local Civil Rule 30.3]**

The motion of a party to take the deposition of an adverse party by telephone or other remote means will presumptively be granted. Where the opposing party is a corporation, the term "adverse party" means an officer, director, managing agent, or corporate designee under Fed. R. Civ. P. 30(b)(6).

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 30.3. Persons Attending Depositions [formerly Local Civil Rule 30.4]**

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 ordered otherwise by the court.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 30.4. Conferences Between Deponent and Defending Attorney [formerly Local Civil Rule 30.6]**

An attorney for a deponent must not initiate a private conference with the deponent while a deposition question is pending, except for the purpose of determining whether a privilege should be asserted.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**[Local Civil Rule 33.1 Intentionally Omitted]**

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

(a) This rule applies 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 the events alleged in the complaint occurred while the plaintiff was in the custody of the New York State Department of Corrections & Community Supervision, the Department of Correction of the City of New York, or any other jail, prison, or correctional facility operated by or for a city, county, municipality, or other local governmental entity (collectively, the "Department").

Defendants represented by the Office of the New York State Attorney General, the Office of the Corporation Counsel of the City of New York, or counsel for or appointed by the Department responsible for the jail, prison, or correctional facility (collectively, the "Facility"), must respond to the standing discovery requests adopted by the court, in accordance with the instructions and definitions set forth in the standing requests, unless ordered otherwise by the court.

(b) The claims to which the standard discovery requests apply are Use of Force Cases, Inmate Against Inmate Assault Cases, and Disciplinary Due Process Cases, as defined below.

(1) "Use of Force Case" refers to an action in which the complaint alleges that an employee of the Department or Facility 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 an employee of the Department or Facility 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 an employee of the Department or Facility violated or permitted the violation of a right or rights in a disciplinary proceeding against plaintiff, and (ii) the punishment imposed on plaintiff as a result of that proceeding was placement in a special housing unit for more than 30 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, the Office of the New York State Attorney General, or counsel for or appointed by the Department responsible for the Facility, it must be made on the basis of information and documents within the possession, custody, or control of the Department or Facility in accordance with the instructions contained in the requests. If no defendant is represented by those counsel, responses based on that information need not be made under this local rule, without prejudice to such other discovery procedures as the plaintiff may initiate.

(d) The requests, denominated "Plaintiff's Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents," must be answered within 120 days of service of the complaint on any named defendant except (i) as ordered otherwise by the court, for good cause shown, which must be based on the facts and procedural status of the particular case and not on a generalized claim of burden, expense, or relevance, or (ii) if a dispositive motion is pending. The responses to the requests must be served on the plaintiff and must include verbatim quotation of the requests. Copies of the requests are available from the court, including the court's website.

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

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 33.3. Interrogatories (Southern District Only)**

(a) Unless ordered otherwise 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 only

(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 before the discovery cut-off date, interrogatories seeking the claims and contentions of the opposing party may be served unless the court has ordered otherwise.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 37.1. Verbatim Quotation of Discovery Materials**

Upon any motion or application involving discovery or disclosure requests or responses under Fed. R. Civ. P. 37, the moving party must 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 must also set forth the grounds on which the moving party is entitled to prevail for each request or response.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 37.2. Discovery Disputes**

Unless the individual practices of the judge presiding over discovery require a different procedure, no motion under Fed. R. Civ. P. 26 through 37 inclusive and Fed. R. Civ. P. 45 will be heard unless counsel for the moving party has first requested an informal

conference with the court by letter-motion for a pre-motion discovery conference and that request has either been denied or the discovery dispute has not been resolved as a consequence of the conference.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

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

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 39.1. Custody of Trial and Hearing Exhibits**

(a) Unless the court orders otherwise, trial and hearing exhibits must not be filed with the clerk, but must be retained in the custody of the respective attorneys who produced them in court.

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

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 39.2. Order of Summation**

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

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 40.1 Trial Scheduling**

Judges have discretion to schedule trials in light of the needs of their dockets. Each district may adopt court-wide practices or procedures for trial scheduling in their respective Division of Business Rules or through an administrative or standing order. Scheduling must give priority to matters as required by federal statute.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 47.1. Assessment of Jury Costs**

All counsel in civil cases must seriously discuss the possibility of settlement a reasonable time before 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 one day before the designated date of the trial.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 53.1. Masters**

A person appointed under Fed. R. Civ. P. 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, in full or a in part, outside the district, on terms and conditions as are just.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 54.1. Taxable Costs**

(a) Notice of Taxation of Costs. Within 30 days after the entry of final judgment, or, in the case of an appeal by any party, within 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 must file with the clerk a notice of taxation of costs by ECF, except a pro se party may do so in writing, indicating the date and time of taxation which must comply with the notice period prescribed by Fed. R. Civ. P. 54, and annexing a bill of costs. Costs will not be taxed during the pendency of any appeal, motion for reconsideration, or motion for a new trial. Within 30 days after the determination of any appeal, motion for reconsideration, or motion for a new trial, the party seeking tax costs must file a new notice of taxation of costs. Any party failing to file a notice of taxation of costs within the applicable 30-day period will be deemed to have waived costs. The bill of costs must include an affidavit that the

costs claimed are allowable by law, are correctly stated and were necessarily incurred. Bills for the costs claimed must be attached as exhibits.

(b) Objections to Bill of Costs. A party objecting to any cost item must serve objections by ECF, except a pro se party may do so in writing, before the date and time scheduled for taxation. The parties need not appear at the date and time scheduled for taxation unless requested by the clerk. The clerk will proceed to tax costs at the time scheduled and allow any items that 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. Convenience of counsel is not sufficient. The cost of a transcript of court proceedings before or after trial is taxable only when authorized in advance or ordered by the court.

(2) Depositions. Unless ordered otherwise 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 unless provided by statute, rule, 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, Travel Expenses and Subsistence. Witness fees and travel expenses authorized by 28 U.S.C. § 1821 are taxable if the witness testifies. Subsistence under 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, travel expenses, 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 is taxable if the fee of the witness involved is taxable.

(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 the court. Costs of maps, charts, and models, including computer generated models, are not taxable except by order of the court. The cost of compiling summaries, statistical comparisons, and reports is not taxable.

(7) Attorney's Fees and Related Costs. Attorney's fees and disbursements and other related fees and paralegal expenses are not taxable except by order of the court. A motion for attorney's fees and related nontaxable expenses must be made within the time period prescribed by Fed. R. Civ. P. 54.

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

(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 ordered otherwise by the court.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**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.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 54.3. Entering Satisfaction of Money Judgment**

Satisfaction of a money judgment that has been entered or registered must 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 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) Upon an order of satisfaction entered by the court; or

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

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 55.1. Certificate of Default**

(a) A party seeking entry of default under Fed. R. Civ. P. 55(a) must file:

(1) a "Request to Enter Default," in a form prescribed by the clerk;

(2) an affidavit or declaration showing: (a) that the requirements of Fed. R. Civ. P. 4 for service or waiver of service have been satisfied; and (b) that the party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend;

(3) a proposed "Clerk's Certificate of Default," in a form prescribed by the clerk; and

(4) a certificate of service showing that the foregoing documents have been personally served on, or mailed to the last known residence (for an individual defendant) or business address (for other defendants) of, the party against whom default is sought.

If the mailing is returned, a supplemental certificate must be filed setting forth that fact, together with the reason provided for return, if any.

(b) The court, on its own initiative, may enter default or direct the clerk to enter default.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 55.2. Default Judgment**

(a) In addition to following the applicable procedures in either (b) or (c) below, any party seeking a default judgment must file:

(1) an affidavit or declaration showing that:

(A) the clerk has entered default under Local Civil Rule 55.1;

(B) the party seeking default judgment has complied with the Servicemembers Civil Relief Act, 50a U.S.C. § 521; and

(C) the party against whom judgment is sought is not known to be a minor or an incompetent person, or, if seeking default judgment by the court, the minor or incompetent person is represented by a general guardian, conservator, or other fiduciary who has appeared.

(2) if proceeding by motion, the papers required by Local Civil Rule 7.1, including a memorandum of law, a proposed order detailing the proposed judgment to be entered; and

(3) a certificate of service stating that all documents in support of the request for default judgment, including the "Clerk's Certificate of Default" and any papers required by this rule, have been personally served on, or mailed to the last known residence (for an individual defendant) or business address (for other defendants) of, the party against whom default judgment is sought.

If the mailing is returned, a supplemental certificate of service must be filed setting forth that fact, together with the reason provided for return, if any.

(b) By the Clerk (available under Fed. R. Civ. P. 55(b)(1)). If the claim to which no response has been made seeks payment only of a sum certain or a sum that can be made certain by computation and does not seek attorney's fees or other substantive relief, the party seeking default judgment, must file, in addition to the documents listed in (a) above, an affidavit or declaration from someone with personal knowledge 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, under 28 U.S.C. § 1920. Upon confirming that the submission complies with the federal and local rules, the clerk must enter judgment for principal, interest, and costs. The clerk cannot enter judgment against a minor or incompetent person.

(c) By the Court (available under Fed. R. Civ. P. 55(b)(2)). In addition to the matters required in section (a), above, the party must file a statement of damages, sworn or affirmed to by one or more people with personal knowledge, in support of the request, showing the proposed damages and the basis for each element of damages, including interest, attorney's fees, and costs.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

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

(a) Unless the court orders otherwise, on motion or on its own, any motion for summary judgment under Fed. R. Civ. P. 56 must be accompanied by 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. This rule does not apply to claims brought under the Administrative Procedure Act or the Freedom of Information Act.

(b) The papers opposing a motion for summary judgment must include a correspondingly numbered paragraph admitting or denying, and otherwise 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 denied and 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 under Rule 56.1(a) and (b), including each statement denying and controverting any statement of material fact, must be followed by citation to evidence that would be admissible and set forth as required by Fed. R. Civ. P. 56(c).

(e) In any case where all parties are represented by counsel, any party moving for summary judgment must provide all other parties with an electronic copy, in a standard word processing format, of the moving party's Statement of Material Facts. In any case where all parties are represented by counsel, the counterstatement required by this rule must include each entry in the moving party's statement and set out the opposing party's response directly beneath it.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**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 must serve and file as a separate document, together with the papers in support of the motion, the following "Notice To Pro Se Litigant Who Opposes a Motion For Summary Judgment" with the full texts of Fed. R. Civ. P. 56 and Local Civil Rule 56.1 attached. Where the pro se party is not the plaintiff, the movant must 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 under 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 ON TIME by filing sworn affidavits and/or other documents as required by Rule 56(c) of the Federal Rules of Civil Procedure and by Local Civil Rule 56.1. 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 on 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 specific facts that support your claim. If you have proof of your claim, now is the time to submit it. Any witness statements must be in the form of affidavits. An affidavit is a sworn statement of fact based on personal knowledge stating facts that would be admissible in evidence at trial. 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 and/or documents contradicting the material facts asserted by the defendant, the court may accept defendant's facts as true. Your case may be dismissed and judgment may be entered in defendant's favor without a trial.

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

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 58.1. Remand by an Appellate Court**

Any mandate, order, or judgment of an appellate court, when filed with the clerk of the district court, will automatically become the order or judgment of the district court and be entered as such by the clerk without further order, except if the mandate, order, or judgment of the appellate court requires further proceedings in the district court.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 65.1.1. Security**

(a) When a bond, undertaking, or stipulation is required, it will be sufficient, unless otherwise prescribed by law, if the instrument is executed by the security provider.

(b) Unless otherwise provided by law, a 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 security provider 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 the 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 security providers holding certificates of authority from the Secretary of the Treasury, where the amount of the 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 security provider, each provider must attach its affidavit of justification, giving the surety's full name, occupation, residence and business addresses, and showing that the provider is qualified as an individual security provider under paragraph (b) of this rule.

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

(f) Whenever a notice of motion to enforce the liability of a security provider on a bond is served on the clerk under Fed. R. Civ. P. 65.1 or Fed. R. App. P. 8(b), the party making the motion must deposit with the clerk the original, three copies, and one additional copy for each provider to be served.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**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 must file the proposed order. The clerk must inspect the proposed order for proper form and content and compliance with this rule before submission to the judge for signature.

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

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

(2) Wording that directs the clerk to deduct from the income on the investment a fee consistent with that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office.

(c) Unless ordered otherwise by the court, interpleader funds must 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.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 72.1. Powers of Magistrate Judges**

In addition to other powers of magistrate judges:

(a) General Authority of a Magistrate Judge. A full-time or part-time magistrate judge may be assigned any duty allowed by law to be performed by a magistrate judge. In addition, magistrate judges are specially designated to exercise the jurisdiction set forth in 28 U.S.C. § 636(c). Parties who consent to magistrate judge jurisdiction must follow the procedures set forth in Local Rule 73.1. As judicial officers, in performing any duty, a magistrate judge may determine preliminary matters, require parties, attorneys and witnesses to appear; require briefs, proofs, and argument; and conduct any hearing, conference or other proceeding the magistrate judge may deem appropriate.

(b) Objections to Non-Dispositive Matters. A party may serve and file objections to a magistrate judge's order on non-dispositive matters, as provided in Fed. R. Civ. P. 72(a). If a party files an objection to a magistrate judge's order, another party may serve and file a response to that objection. That response must be served within 14 days after being served with the objection.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 72.2. Reference to Magistrate Judge (Eastern District Only) [Withdrawn]**

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 73.1. Consent Jurisdiction Procedure**

(a) Upon the filing of a complaint in a civil case, the clerk will file on ECF, or in a pro se matter provide in hard copy, a court-approved notice (or a link thereto) informing the parties that they may consent to have a magistrate judge conduct all proceedings in the case and order the entry of final judgment. The notice will include a consent form that the parties or their attorneys must sign if they consent to the exercise of dispositive authority by a magistrate judge.

(b) In any case where all parties are represented by counsel, no consent form may be filed unless it is signed by all parties or their attorneys. In such a case, consent forms may be signed in counterpart fashion, if all signed forms are filed together.

(c) For all cases where both a district judge and magistrate judge has been assigned, if the assigned district judge approves the consent form, the clerk must 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, except that, in the Eastern District, upon application of the parties, the clerk must select a new magistrate judge at random. If no designation or referral has been made, the clerk must select a new magistrate judge at random.

(d) In the Eastern District, for all cases where only a magistrate judge has been assigned, upon approval of the consent form by the chief judge or a district judge designated to approve the form, the case will remain assigned to the magistrate judge for all purposes.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

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

Proposed orders, judgments, and decrees must be presented as directed by the ECF rules published on the website of each respective court.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 81.1. Removal of Cases from State Courts**

If the court's jurisdiction is based on diversity of citizenship, and regardless of whether or not service of process has been effected on all parties, the notice of removal must set forth

(1) in the case of each individual named as a party, that party's residence and domicile and any state or other jurisdiction of which that party is a citizen for purposes of 28 U.S.C. § 1332;

(2) in the case of each party that is a partnership, limited liability partnership, limited liability company, or other unincorporated association, like information

for all of its partners or members, as well as the state or other jurisdiction of its formation;

(3) in the case of each party that is a corporation, its state or other jurisdiction of incorporation, principal place of business, and any state or other jurisdiction of which that party is a citizen for purposes of 28 U.S.C. § 1332;

(4) in the case of an assigned claim, corresponding information for each original owner of the claim and for each assignee; and

(5) the date on which each party that has been served was served.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 83.1. Transfer of Cases to Another District**

In a case ordered transferred from the district where the case was filed, the clerk, unless ordered otherwise, must upon the expiration of seven days effectuate the transfer of the case to the transferee court.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 83.2. Settlement of Actions by or on Behalf of Infants or Incompetents, Wrongful Death Actions, and Actions for Conscious Pain and Suffering of the Decedent**

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

(1) An action by or on behalf of an infant or incompetent must 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 must conform, as much as possible, 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 must authorize payment to counsel for the infant or incompetent of a reasonable attorney's fee and proper disbursements from the amount recovered in the action, whether realized by settlement, execution, or otherwise, and must

determine the said fee and disbursements, after due inquiry into all charges against the fund.

(3) The court must 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 of the Decedent. In an action for wrongful death or conscious pain and suffering of the decedent:

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

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

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**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 must 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 that 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 those applications to the designated district herein designated for filing, hearing, and determination.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 83.4. Publication of Required Public Notices [formerly Local Civil Rule 83.6]**

(a) Unless otherwise provided by statute, rule, or order of the court, all notices required to be published by a party (except notices of sale of real estate or of any interest in land) must be published in a newspaper which has a general circulation

in the district where the case was filed or a circulation reasonably calculated to give public notice of a legal publication. The court may direct the publication of such additional notice as it may deem advisable.

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

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 83.5. Notice of Sale [formerly Local Civil Rule 83.7]**

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 ordered otherwise 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

In accordance with ..... (Order or Judgment) ..... of the United States District Court for the ..... District of New York, filed in the Office of the Clerk on ..... (Date) ..... in the case titled ..... (Name and Docket Number) ..... the undersigned will sell at ..... (Place of Sale) ..... on ..... (Date and Hour of Sale) ..... the property in the ..... (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 that 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. But it must 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 to the property.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 83.6. Contempt Proceedings in Civil Cases [formerly Local Civil Rule 83.9]**

(a) A proceeding to adjudicate a person in civil contempt, including a case provided for in Fed. R. Civ. P. 37(b)(1) and 37(b)(2)(A)(vii), must be commenced by the service of a notice of motion or order to show cause. The affidavit on which the notice of motion or order to show cause is based must 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 on which it is based may be served on that attorney; otherwise service must be made personally, together with a copy of this Local Civil Rule 83.6, 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, the order may, upon necessity shown, embody a direction to the United States marshal to arrest the alleged contemnor and hold that person unless bail is posted in an amount fixed by the order, conditioned on the appearance of that 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, that person will upon demand be entitled to have oral evidence taken, either before the court or before a master appointed by the court. When by law the alleged contemnor is entitled to a trial by jury, that person must 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 must be entered

(1) reciting or referring to the verdict or findings of fact on 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 must include the damages found and naming the person to whom such fine will 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 under law. A certified copy of the order committing the contemnor will be sufficient warrant to the marshal for the arrest and confinement of the contemnor. The complainant must 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, that person must 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.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 83.7. Court-Annexed Arbitration (Eastern District Only) [formerly Local Civil Rule 83.10]**

(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) may 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 the 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 must 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 must be maintained in the office of the clerk.

(b) Compensation and Expenses of Arbitrators. An arbitrator will be compensated $250.00 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 a panel of three arbitrators, as described below, then each arbitrator will be compensated $100.00 for service. The fees must be paid in accordance with the order of the court subject to the limits set by the Judicial Conference of the United States.

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

(d) Civil Cases Eligible for Compulsory Arbitration

(1) The clerk of court must, for 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 only 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 will designate and process for court-annexed arbitration any civil case that is not subject to compulsory arbitration hereunder.

(3) Only for purposes of this rule, in all civil cases damages must 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 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 must send a notice to counsel setting forth the date and time for the arbitration hearing. The date of the arbitration hearing set forth in the notice must be approximately four months but in no event later than 120 days from the date the answer was filed, but the arbitration proceeding must 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 must also advise counsel that they may agree to an earlier date for the arbitration hearing if the arbitration clerk is notified with 30 days of the date of the notice. The notice must 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 district judge may refer the case to a magistrate judge for purposes of discovery. In the event a third party has been brought into the action, this notice must not be sent until an answer has been filed by the third party.

(2) The court will, 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 must 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 must be submitted no later than 21 days after receipt of the notice to counsel setting forth the date and time for the arbitration hearing. Within four days of receiving the 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 that in the discretion of the assigned judge, are later found to qualify, may be referred to arbitration. A district judge or a magistrate judge, in cases that exceed the arbitration ceiling of $150,000.00 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 before scheduling an arbitration hearing.

(4) The arbitration must be held before one arbitrator unless a panel of three arbitrators is requested by a party, in which case one of whom must be designated as chairperson of the panel. If the amount of controversy, exclusive of interest and costs, is $5,000.00 or less, the arbitration must be held before a single arbitrator. The arbitration panel must be chosen at random by the clerk of the court from the lawyers who have been duly certified as arbitrators. The arbitration panel must be scheduled to hear not more than three cases.

(5) The judge to whom the case has been assigned must, 30 days before 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 must not sign the order before ruling on the motion, but the filing of that motion on or after the date of the order must not stay the arbitration unless the judge so orders.

(6) Upon entry of the order designating the arbitrators, the arbitration clerk will 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 will be disqualified for bias or prejudice as provided in Title 28, U.S.C. § 144, and must disqualify themselves in any action that they would be required under title 28 U.S.C. § 455, to disqualify themselves if they were a justice, district judge, or magistrate judge.

(f) Arbitration Hearing

(1) The arbitration hearing must 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 if 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 must 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 not limited to, the striking of any demand for a trial de novo filed by that party.

(4) Fed. R. Civ. P. 45 applies to subpoenas for attendance of witnesses and the production of documentary evidence at an arbitration hearing under this rule. Testimony at an arbitration hearing must be under oath or affirmation.

(5) The Federal Rules of Evidence must 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 14 days before the hearing. The arbitrators must receive exhibits in evidence without formal proof unless counsel has been notified at least seven

days before 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 must make all necessary arrangements and bear all expenses thereof.

(g) Arbitration Award and Judgment

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

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

(A) unless necessary for the court to determine whether to assess costs or attorney's 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 in accordance with 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. That demand must be filed with the arbitration clerk and served by the moving party on all counsel of record or other parties. Withdrawal of a demand for a trial de novo will not reinstate the arbitrators' award and the case will 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 must 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 will be preserved inviolate.

(3) At the trial de novo, the court must 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 must, 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 must be returned to the party demanding a trial de novo if that party obtains a final judgment, exclusive of interest and costs, that is 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 must be paid by the clerk to the Treasury of the United States.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 83.8. Court-Annexed Mediation (Eastern District Only) [formerly Local Civil Rule 83.11]**

(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 that 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.

(2) 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.

(3) 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 must 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 14 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 that request by the clerk's office is subject to review by the assigned judge upon motion filed within 14 days of the date of the clerk's office's denial.

(4) Scheduling the mediation

The mediator, however chosen, will contact all attorneys to fix the date and place of the first mediation session, which must be held within 30 days of the date the mediator was appointed or at any other time that the court may establish.

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's notice of appointment of mediator (if applicable), and a copy of the program procedures.

(5) Written mediation statements

No less than 14 days before the first mediation session, each party must submit directly to the mediator a mediation statement not to exceed 10 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 may the assigned district judge or magistrate judge have access to them.

(6) 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 any other place that 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 district 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 any other time that 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.

(7) Settlement

If settlement is reached, in whole or in part, the agreement, which will be binding on 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 part 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 will be mandatory; thereafter, attendance will 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 cannot be disclosed or used for any purpose unrelated to the mediation.

(B) The mediator must 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 the 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 may the district 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. 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 may 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 must 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 28 U.S.C. § 455. 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 must bring this concern to the attention of the clerk's office in writing, within 14 days of learning the source of the potential conflict, or the objection to the potential conflict will

be deemed to have been waived. Any objections that cannot be resolved by the parties in consultation with the clerk's office must be referred to the district 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 that capacity must bring this concern to the attention of the clerk's office in writing, within 14 days of learning of the alleged misconduct, or the objection to the alleged misconduct will be deemed to have been waived. Any objections that cannot be resolved by the parties in consultation with the clerk's office must be referred to the district judge or magistrate 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. Each mediator will receive a fee of $600.00 for the first four hours or less of the actual mediation. Time spent preparing for the mediation will not be compensated. Thereafter, the mediator will be compensated at the rate of $250.00 per hour. The mediator's fee must be paid by the parties to the mediation. Any party that is unable or unwilling to pay the fee may apply to the referring judge for a waiver of the fee, with a right of appeal to the district judge in the event the referral was made by a magistrate judge. Each member of the panel will be required to mediate a maximum of two cases pro bono each year, if requested by the court. 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 12-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 are immune from liability or suit with respect to their conduct as such mediators to the maximum extent permitted by applicable law.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 83.9. Alternative Dispute Resolution (Southern District Only) [formerly Local Civil Rule 83.12]**

(a) Alternative Dispute Resolution Options

The United States District Court for the Southern District of New York provides litigants with opportunities to discuss settlement through judicial settlement conferences and mediation.

(b) Definition of Mediation

In mediation, parties and counsel meet, sometimes collectively and sometimes individually, with a neutral third party (the mediator) who has been trained to facilitate confidential settlement discussions. The parties articulate their respective positions and interests and generate options for a mutually agreeable resolution to the dispute. The mediator assists the parties in reaching their own negotiated settlement by defining the issues, probing and assessing the strengths and weaknesses of each party's legal positions, and identifying areas of agreement and disagreement. The main benefits of mediation are that it can result in an expeditious and less costly resolution of the litigation, and it can produce creative solutions to complex disputes often unavailable in traditional litigation.

Supporting documents can be found at https://nysd.uscourts.gov/programs/mediation-adr.

(c) Administration of the Mediation Program

(1) The Mediation Supervisor, appointed by the clerk of court, will administer the court's mediation program. The chief judge will appoint one or more district judges or magistrate judges to oversee the program.

(2) The Mediation Supervisor, in consultation with other court personnel, will ensure that information about the court's mediation program is available on the court's website and will be updated as needed.

(3) The mediation program will be governed by the "Procedures of the Mediation Program for the Southern District of New York," which sets forth specific and more detailed information regarding the mediation program, and which is available on the court's official website (https://nysd.uscourts.gov) or from the Mediation Office.

(4) The scheduling of mediation will not interfere with any scheduling order of the court.

(d) Consideration of Alternative Dispute Resolution

In all civil cases, including those eligible for mediation under paragraph (e), each party must consider the use of mediation or a judicial settlement conference and must report to the assigned judge at the initial Rule 16(b) case management conference, or subsequently, whether the party believes mediation or a judicial settlement conference may facilitate the resolution of the lawsuit. Judges are encouraged to note the availability of the mediation program and/or a judicial settlement conference before, at, or after the initial Rule 16(b) case management conference.

(e) Mediation Program Eligibility

(1) All civil cases other than social security, habeas corpus, and tax cases are eligible for mediation, whether assigned to Manhattan or White Plains.

(2) The Board of Judges may, by Administrative Order, direct that certain specified categories of cases will automatically be submitted to the mediation program. The assigned district judge or magistrate judge may issue a written order exempting a particular case with or without the request of the parties.

(3) For all other cases, the assigned district 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, before, at, or after the

initial Rule 16(b) case management conference. Alternatively, the parties should notify the assigned judge at any time of their desire to mediate.

(f) Judicial Settlement Conferences

Judicial settlement conferences may be ordered by district judges or magistrate judges with or without the request or consent of the parties.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 83.10. Plan for Certain § 1983 Cases Against the City of New York (Southern District Only)**

Unless ordered otherwise, in civil cases filed by a represented plaintiff against the City of New York ("City") and/or the New York City Police Department ("NYPD") or its employees alleging the use of excessive force, false arrest, or malicious prosecution by employees of the NYPD in violation of 42 U.S.C. § 1983, the procedures set forth below will apply, but the procedures and Protective Order identified in paragraphs 3 through 12 will not apply to class actions, actions brought by six or more plaintiffs, complaints requesting systemic equitable reform, or actions requesting immediate injunctive relief.

(a) Service of Releases with Complaint

(1) At the same time that plaintiff serves the complaint, plaintiff must serve on the City the release annexed as Exhibit A ("§ 160.50 Release") for sealed arrest records for the arrest that is the subject of the complaint, and for a list of all prior arrests. In the case of class actions, plaintiff must serve § 160.50 Releases for the named putative class representatives.

(2) If plaintiff seeks compensation for any physical or mental injury caused by the conduct alleged in the complaint other than "garden variety" emotional distress, plaintiff must serve on the City the medical release annexed as Exhibit B ("Medical Release") for all medical and psychological treatment records for those injuries at the same time that plaintiff serves the § 160.50 Release. Where plaintiff has a pre-existing physical or mental condition that reasonably appears to be related to the injury for which compensation is sought, plaintiff must at that same time serve Medical Releases on the City for all records of treatment for the pre-existing condition(s). Failure to so serve the above-described Medical

Release(s) will constitute a waiver of plaintiff's claims for compensation for that physical or mental injury.

(b) Failure to Serve § 160.50 Release

If no § 160.50 Release is served on the City with the complaint, the City will promptly send a letter to plaintiff's counsel requesting the § 160.50 Release and attaching a copy of Local Civil Rule 83.10.

(c) Time to Answer

If the § 160.50 Release is served on the City at the time the complaint is first served on a defendant, that defendant will have 80 days from the date of such service to answer the complaint. Any subsequently served defendant will have the greater of (i) 60 days, or (ii) the date by which the first-served defendant must answer, to answer the complaint. If the § 160.50 Release is served on the City after the complaint is first served on a defendant, each defendant will have the greater of (i) 60 days from the date the § 160.50 Release is served on the City, or (ii) 60 days after that defendant is served, to answer the complaint. If any defendant moves to dismiss the entire complaint rather than filing an answer, the deadlines in this rule will be stayed unless the court orders otherwise.

(d) Rule 26(f) Conference, Initial Disclosures, and Applying for Exemption from the Rule

(1) Within 14 days after the first defendant files its answer, the parties must confer in accordance with Fed. R. Civ. P. 26(f). The parties must also discuss whether to request that the court (i) refer the case for settlement purposes to a magistrate judge; or (ii) exempt the case from Local Civil Rule 83.10. Any such application by a party must be submitted to the presiding judge no later than 21 days after the first defendant files its answer. Absent any such application from a party, the case will automatically proceed under the rule and will automatically be referred to a mediator selected from the Southern District Mediation Panel.

(2) Within 21 days after the first defendant files its answer, the parties must exchange their initial disclosures.

(e) Limited Discovery

Within 28 days after the first defendant files its answer, the parties must complete production of the following discovery. All other discovery will be stayed. Unless ordered otherwise, the discovery stay will expire at the conclusion of the mediation or settlement conference.

(1) The City must serve on plaintiff:

(A) Subject to any applicable privileges, any items on the list attached as Exhibit C that were not part of the City's initial disclosures; documents received from the District Attorney's office; and documents obtained from the court file.

(B) Any CCRB records and the IAB closing report regarding the incident that forms the basis of the complaint. If the incident or the conduct of defendants involved in the incident is the subject of an ongoing CCRB investigation, NYPD investigation or disciplinary proceeding, criminal investigation, or outstanding indictment or information, discovery under this paragraph shall be suspended, and the City will produce the investigative records 30 days after the investigation or proceeding has been terminated (whether by completion of the investigation without charges being brought or by disposition of the charges). This suspension will not apply to documents related to any investigation or proceeding that has concluded.

(C) For each defendant, the CCRB and CPI indices of complaints or incidents that are similar to the incident alleged in the complaint or that raise questions about the defendant's credibility. If the complaint alleges that a defendant officer used excessive force, the City will state whether that defendant officer has been or is on NYPD "force monitoring."

(D) For each officer named as a defendant, a list identifying all prior section 1983 lawsuits filed against and served on the defendant.

(E) Any records obtained by the City from the Medical Releases. Medical records received after this date must be produced to plaintiff within seven days of receipt.

(2) Plaintiff must serve on the City:

(A) Any documents identified in Exhibit C, documents received from the District Attorney's office, and documents obtained from the court file.

(B) Any medical records for which plaintiff has served a Medical Release on the City.

(C) Any video and photographs of the incident.

(f) Amended Pleadings

The complaint may be amended to name additional defendants without leave of the presiding judge within six weeks after the first defendant files its answer. The filing of the amended complaint will not affect any of the duties imposed by Local Civil Rule 83.10.

(g) Settlement Demand and Offer

Within six weeks after the first defendant files its answer, plaintiff must serve a written settlement demand on the City. The City must respond in writing to plaintiff's demand within 14 days thereafter. The parties must thereafter engage in settlement negotiations.

(h) Mediation or Settlement Conference

Unless the presiding judge has referred the case to a magistrate judge to conduct a settlement conference, within 14 days after the first defendant files its answer, the Mediation Office will assign a mediator. The mediator must promptly confer with counsel for the parties to schedule a mediation session to occur no later than 14 weeks after the first defendant files its answer. The mediator must inform the Mediation Office no later than 60 days after the first defendant files its answer of the schedule for the mediation session. Unless the parties have filed a Stipulation of Dismissal with the clerk of court, the parties must appear at the mediation session or at a settlement conference before a magistrate judge. The plaintiff must attend the mediation or settlement conference. The City's representative must have full authority to settle the case; if the City requires additional approvals in order to settle, the City must have arranged for telephone access to those persons during the mediation or settlement conference.

(i) Failure to Timely Comply with the Requirements of this Rule

If any party fails to comply with any requirement under this rule, the other party must promptly write to the presiding judge indicating the nature of the failure and requesting relief.

(j) Request for Initial Pre-Trial Conference

Unless the presiding judge has already scheduled or held an initial pre-trial conference, if the mediation or settlement conference is unsuccessful, the parties must promptly request that the presiding judge schedule an initial pre-trial conference.

(k) Protective Order

The Protective Order attached as Exhibit D will be deemed to have been issued in all cases governed by this rule.

(l) Preservation

Local Civil Rule 83.10 does not relieve any party of its obligation to preserve documents and to issue preservation instructions.

**Local Civil Rule 87.1 Civil Rules Emergency**

If a Civil Rules Emergency is declared by the Judicial Conference under Fed. R. Civ. P. 87, then the chief judge of the district may issue any order directed toward that emergency that is not inconsistent with that rule. Any order issued by the chief judge under this local rule must terminate upon termination of the Civil Rules Emergency.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

# ~~LOCAL ADMIRALTY AND MARITIME RULES~~

# LOCAL SOCIAL SECURITY RULES

## Local Social Security Rule 1.1. Application of Rules

These Local Social Security Rules are promulgated under 28 U.S.C. § 2071 and Fed. R. Civ. P. 83. They apply in all actions governed by the Supplemental Rules for Social Security Actions. These Local Social Security Rules take effect on January 1, 2025 and govern actions filed on or after that date.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

## Local Social Security Rule 4.1. 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 with the opposing party in a good faith effort to agree on a reasonable and comprehensive schedule for all future filings in the case. If the parties reach agreement, a joint motion containing the proposed schedule should be filed with the court for approval, and, if approved, will govern all remaining proceedings in the case. No further extensions will be granted absent compelling circumstances. If the parties are unable to reach agreement and file a joint motion, the party seeking the extension must include in its motion a description of the efforts made to reach agreement on a proposed schedule and the reasons why those efforts were unsuccessful.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

## Local Social Security Rule 5.1. Default Form and Length for Briefs

The typeface, margins, and spacing of all briefs must comply with Local Civil Rule 7.1(b). Absent leave of Court, which must be requested at least seven days in advance, the following length limitations apply to the parties' briefs: if filed by an attorney or prepared with a computer, initial and opposition briefs may not exceed 8,750 words, and a plaintiff's reply brief 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, initial and opposition briefs may not exceed 25 pages, and a plaintiff's reply brief may not exceed 10 pages. These limits 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, the party must also provide a certificate of compliance as required by Local Civil Rule 7.1(c). 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.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Social Security Rule 7.1. Obligations of Commissioner in Pro Se Cases**

If a plaintiff appearing pro se fails to file a brief in support of the requested relief within the time period set forth in Supplemental Social Security Rule 6 (or such extended time period as the court may have granted), the Commissioner must nonetheless file a brief and serve it on the plaintiff within 30 days after the plaintiff's brief was due (or within such extended time period as the court may have granted).

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Social Security Rule 8.1. Opposition and Reply Briefs in Pro Se Cases**

A plaintiff appearing pro se who fails to file an initial brief for the requested relief may nonetheless file a brief in opposition to the brief filed by the Commissioner pursuant to Local Social Security Rule 7.1. Such brief in opposition must be filed and served on the Commissioner within 14 days after service of the Commissioner's brief (or within such extended time period granted by the court). In such a circumstance, neither party is permitted to file a reply brief, absent leave of court.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

# 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 these 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) must 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**

The plaintiff must give prompt notice to the defendant of an attachment after plaintiff is advised of the attachment by the garnishee. Such Notice must be in writing and may be given by fax, email, or other verifiable electronic means.

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

**Local Admiralty Rule C.1. Intangible Property**

The summons issued under Supplemental Rule C(3)(c) must direct the person having control of freight or proceeds of property sold or other intangible property to show cause at least 14 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 that 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) must be published at least once and must 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 14 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 21 days after the filing of their claims. The notice must 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 in accordance with 28 U.S.C. §§ 2001 and 2004, or unless ordered otherwise as provided by law, notice of sale of the property after condemnation in suits in rem must be published daily for at least six 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 on the master or other person having custody of the property; and

(3) By service under Fed. R. Civ. P. 5(b) on 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 21 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 After Arrest, Attachment or Garnishment**

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

[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 ordered otherwise by a judicial officer. Upon the satisfaction of the requirements of Fed. R. Civ. P. 24, the clerk must promptly deliver a conformed copy of the complaint to the marshal, who must deliver the copy to the vessel or custodian of the property. Intervenors will thereafter be subject to the rights and obligations of parties, and the vessel or property will stand arrested, attached, or garnished by the intervenor.

(b) Sharing Marshal's Fees and Expenses. An intervenor has 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 must 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 under 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 the property, contents and income.

# LOCAL CRIMINAL RULES

**Local Criminal Rule 1.1. Application of Rules**

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

(b) In addition to Local Civil Rules referenced elsewhere in these Local Criminal Rules, the following Local Civil Rules also apply in criminal proceedings:

1.1. Application of Rules (except that the Local Criminal Rules are promulgated under 28 U.S.C. § 2071 and Fed. R. Crim. P. 57 and apply in all criminal actions and proceedings governed by the Federal Rules of Criminal Procedure)

1.2. Night Depository

1.3. Admission to the Bar

1.4. Notice of Appearance; Withdrawal or Displacement of Attorney of Record

1.5. Discipline of Attorneys

1.6 Duty of Attorneys in Related Cases

1.7. Fees of Court Clerks and Reporters

1.8. Electronic Equipment and Recording, Broadcasting, and Streaming of Court Matters

1.9. Acceptable Substitutes for Affidavits

5.2. Requirements for Electronic Filing and Service; Duty to Review Underlying Orders

5.3. Service by Overnight Delivery

6.2. Orders on Motions

39.1. Custody of Trial and Hearing Exhibits

58.1. Remand by an Appellate Court

67.1. Order for Deposit in Interest-Bearing Account

72.1Powers of Magistrate Judges

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Criminal Rule 1.2. Notice of Appearance**

Attorneys representing defendants in criminal cases must file a notice of appearance. Once a notice of appearance has been filed, the attorney cannot withdraw except upon prior order of the court under Local Civil Rule 1.4.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Criminal Rule 12.4. Disclosure Statement**

For purposes of Fed. R. Crim. P. 12.4(b)(2), "promptly" means "within 14 days"; that is, parties are required to file supplemental disclosure statement within 14 days of the time there is any change in the information required in a disclosure statement filed under those rules.

**Local Criminal Rule 16.1. Good Faith Requirement for Discovery Motions**

No motion addressed to a bill of particulars or any discovery matter may be heard unless counsel for the moving party files in, or simultaneously with, the moving papers an affidavit certifying that 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 agreement. If some of the issues raised by the motion have been resolved by agreement, the affidavit must specify the issues remaining unresolved.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Criminal Rule 16.2. Timeline for Expert Discovery**

Unless otherwise ordered by the court, the government must make any disclosures required by Fed. R. of Crim. P. 16(a)(1)(G) at least 60 days prior to trial, and the defense must make any such disclosures at least 30 days prior to trial.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**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 that 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 the 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 that 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 the 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, the parties, or issues in the trial that a reasonable person would expect to be disseminated by means of public communication if there is a substantial likelihood that the dissemination will interfere with a fair trial; but 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 that lawyer.

(g) All court supporting personnel, including, among others, marshals, deputy marshals, court clerks, bailiffs, 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, or 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 matters such 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 that the court may deem appropriate. In determining whether to impose such a special order, the court must consider whether the 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 under Local Civil Rule 1.5.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Criminal Rule 34.1. Post-Trial Motions**

Post-trial motions in criminal cases, including motions for correction or reduction of sentence under Fed. R. Crim. P. 35, or to suspend execution of sentence, or in arrest of judgment under Fed. R. Crim. P. 34, must 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, these motions may be referred to that judge for consideration and disposition.

**Local Criminal Rule 45.1. Computation of Time [Withdrawn]**

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Criminal Rule 47.1. Applications for Ex Parte Orders**

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

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Criminal Rule 49.1. Motion Deadlines and Reconsideration Motions**

(a) **Deadlines**. Unless otherwise provided by statute or rule, or unless ordered otherwise by the court in a judge's individual practices or in a direction in a particular case, the following dates will govern deadlines for motions filed in a criminal case:

(1) Any opposing papers must be filed within 14 days after service of the motion papers.

(2) Any reply papers must be filed within seven days after service of the opposing papers.

(b) **Motions for Reconsideration**. A motion for reconsideration of a court order determining a motion must be filed within 14 days after the court's determination of the original motion. A memorandum, no longer than 10 pages in length, setting forth concisely the matters or controlling decisions that counsel believes the court has overlooked must accompany the motion. Answering and reply memoranda, if any, must be no longer than 10 and five pages in length, respectively.

(c) **Service**. Service of motion papers under this rule must be accomplished consistent with Fed. R. Crim. P. 49.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Criminal Rule 49.2. Pro Se Submissions by a Represented Defendant**

(a) Unless otherwise ordered by the court, a defendant represented by counsel in a pending criminal case or in a proceeding pursuant to 28 U.S.C. § 2255 may not file or submit any pro se letter, motion, or brief. A criminal case is considered pending if judgment has not yet been entered.

(b) Unless otherwise ordered by the court, if a represented defendant, acting pro se, files or submits a letter, motion, or brief in violation of this rule, the court must:

(1) on notice to all parties, forward a copy of the document to the defendant's attorney of record and file the document under seal and ex parte; and

(2) not afford the document further consideration.

(c) This rule does not apply to a motion to proceed pro se or a submission concerning the adequacy of counsel's representation.

(d) If a represented defendant, acting pro se, makes a submission that concerns both the adequacy of counsel's representation and other matters, the court may decline to consider those portions of the submission that concern matters unrelated to the adequacy of counsel's representation and file such portions under seal and ex parte.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Criminal Rule 58.1. 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.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Criminal Rule 59.1 Powers of Magistrate Judges**

In addition to other powers of magistrate judges:

(a) Magistrate judges are hereby specially designated to exercise the jurisdiction set forth in 18 U.S.C. § 3401, *Misdemeanors; application of probation laws*.

(b) Magistrate judges are hereby authorized to exercise the jurisdiction set forth in 18 U.S.C. § 3184, *Fugitives from foreign country to United States*.

(c) Local Civil Rule 72.1, *Powers of Magistrate Judges*, also applies in criminal proceedings.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Criminal Rule 62.1~~:~~. Criminal Rules Emergency**

If a Criminal Rules Emergency is declared by the Judicial Conference under Fed. R. Crim. P. 62, then the chief judge of the district may issue any order directed toward that emergency that is not inconsistent with that rule. Any order issued by the chief judge under this local rule must terminate upon termination of the Criminal Rules Emergency.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

# LOCAL PATENT RULES

## Local Patent Rule 1. Application of Rules

(a) These Local Patent Rules apply to patent infringement, validity, and unenforceability actions and proceedings. The court may modify the obligations or deadlines set forth in these Local Patent Rules based on the circumstances of any particular case, including, without limit, the simplicity or complexity of the case as shown by the patents, claims, technology, products, or parties involved.

(b) The Local Civil Rules also apply to these actions and proceedings, except to the extent they are inconsistent with these Local Patent Rules.

## Local Patent Rule 2. Initial Scheduling Conference

When the parties confer under Fed. R. Civ. P. 26(f), in addition to the matters covered by Fed. R. Civ. P. 26, the parties must discuss and address in the report filed under Fed. R. Civ. P. 26(f):

(a) any proposed modification of the deadlines or proceedings set forth in these Local Patent Rules;

(b) proposed format of and deadlines for claim construction filings and proceedings, including a proposal for any expert discovery the parties propose to take in connection therewith; and

(c) proposed format of and deadlines for service of infringement, invalidity and/or unenforceability contentions, including any proposed deadlines for supplementation thereof.

## Local Patent Rule 3. Certification of Disclosures

All statements, disclosures, or charts filed or served in accordance with these Local Patent Rules are deemed disclosures subject to Fed. R. Civ. P. 26(g).

## Local Patent Rule 4. Admissibility of Disclosures

Statements, disclosures, or charts governed by these Local Patent Rules are admissible to the extent permitted by the Federal Rules of Evidence or Civil Procedure. However, the statements and disclosures provided for in Local Patent Rule 11 are not admissible for

any purpose other than in connection with motions seeking an extension or modification of the time periods within which actions contemplated by these Local Patent Rules must be taken.

**Local Patent Rule 5. Discovery Objections Based on Local Patent Rules**

A party may object to a mandatory disclosure under Fed. R. Civ. P. 26(a) or to a discovery request as conflicting with or premature under these Local Patent Rules only if the mandatory disclosure or discovery request would require disclosure of information of the kind dealt with by Local Patent Rules 6, 7, 8, 10, 11, and 12.

**Local Patent Rule 6. Disclosure of Asserted Claims and Infringement Contentions**

Unless otherwise specified by the court, no later than 45 days after the Initial Scheduling Conference, a party claiming patent infringement must serve on all parties a "Disclosure of Asserted Claims and Infringement Contentions," which identifies for each opposing party each claim of each patent-in-suit that is allegedly infringed and each product or process of each opposing party of which the party claiming infringement is aware that allegedly infringes each identified claim.

**Local Patent Rule 7. Invalidity Contentions**

Unless otherwise specified by the court, not later than 45 days after service of the "Disclosure of Asserted Claims and Infringement Contentions," each party opposing a claim of patent infringement must serve on all parties its "Invalidity Contentions," if any. Invalidity Contentions must identify each item of prior art that the party contends allegedly anticipates or renders obvious each asserted claim, and any other grounds of invalidity, including any under 35 U.S.C. § 101 or § 112, or unenforceability of any of the asserted claims.

**Local Patent Rule 8. Disclosure Requirement in Patent Cases Initiated by Declaratory Judgment**

In all cases in which a party files a pleading seeking a declaratory judgment that a patent is not infringed, is invalid, or is unenforceable, Local Patent Rule 6 will not apply with respect to that patent unless and until a claim for patent infringement of the patent is made by a party. If a party does not assert a claim for patent infringement in its answer to the declaratory judgment pleading, unless otherwise specified in the court's

Scheduling Order, the party seeking a declaratory judgment must serve on all parties its Invalidity Contentions with respect to the patent that conform to Local Patent Rule 7 not later than 45 days after the Initial Scheduling Conference.

**Local Patent Rule 9. Duty to Supplement Contentions**

The duty to supplement in Fed. R. Civ. P. 26(e) applies to the Infringement Contentions and the Invalidity Contentions required by Local Patent Rules 6 and 7.

**Local Patent Rule 10. Opinion of Counsel**

Not later than 30 days after entry of an order ruling on claim construction, each party that will rely on an opinion of counsel as part of a defense to a claim of willful infringement or inducement of infringement, or that a case is exceptional, must produce or make available for inspection and copying the opinion(s) and any other documents relating to the opinion(s) for which attorney-client or work product protection has been waived as a result of the production.

**Local Patent Rule 11. Joint Claim Terms Chart**

By a date specified by the court, the parties must cooperate and jointly file a Joint Disputed Claim Terms Chart listing the disputed claim terms and phrases, including each party's proposed construction, and cross-reference to each party's identification of the related paragraph(s) of the invalidity and/or infringement contention(s) disclosures under Local Rules 6 and 7.

**Local Patent Rule 12. Claim Construction Briefing**

Unless otherwise specified by the court:

(a) Not later than 30 days after filing of the Joint Disputed Claim Terms Chart under Local Patent Rule 11, the party asserting infringement, or the party asserting invalidity if there is no infringement issue present in the case, must serve and file an opening claim construction brief and all supporting evidence and testimony.

(b) Not later than 30 days after service of the opening claim construction brief, the opposing party must serve and file a response to the opening claim construction brief and all supporting evidence and testimony.

(c) Not later than seven days after service of the response, the opening party may serve and file a reply solely rebutting the opposing party's response.

# LOCAL RULES OF THE UNITED STATES DISTRICT COURTS FOR THE SOUTHERN AND EASTERN DISTRICTS OF NEW YORK

## APPENDIX OF COMMITTEE NOTES

# COMMITTEE NOTES: LOCAL CIVIL RULES

## 2024 Restyling

### 2024 COMMITTEE NOTE

The language of all the Local Civil and Criminal Rules was reviewed, and amended as necessary, as part of a general restyling of the Local Rules to make them more easily understood and to make style, terminology, and formatting consistent throughout the Rules. These changes are intended to be stylistic only.

## Local Civil Rule 1.1. Application of Rules

### PRE-2024 COMMITTEE NOTE

The Committee recommends that Local Civil Rule 1.1 be reworded in order to make clear that the Local Civil Rules apply in all civil actions and proceedings governed by the Federal Rules of Civil Procedure.

### 2024 COMMITTEE NOTE

The amendments are intended to serve three purposes. First, the amendments clarify the authority pursuant to which these Local Civil Rules are promulgated. Second, the amended rule points out that the Division of Business Rules of the Southern and Eastern Districts of New York may be found on each court's website; these Division of Business Rules had formerly been appended to the Local Rules. Finally, because the 2022 amendments contain several substantive changes, Local Civil Rule 1.1 now includes a provision stating the effective date of those amendments.

## Local Civil Rule 1.2. Night Depository

### PRE-2024 COMMITTEE NOTE

The Committee believes that it is unnecessary to have a Local Rule dealing with the hours of opening of the Clerk's Office, which are best set forth in the websites of the respective Courts. Because the Advisory Committee note to the 2009 amendment to Fed.

R. Civ. P. 6(a)(4) indicates that a local rule is necessary to authorize the use of night depositories, the Joint Committee recommends the retention of the portion of Local Civil Rule 1.2 dealing with night depositories.

**2024 COMMITTEE NOTE**

The Amendments clarify that depositing papers in a court's night depository box is not sufficient to satisfy the requirement that filings be made via the Electronic Filing System. The Amendments also identify the Eastern District Courthouse in Central Islip as a location where a night depository is maintained.

**Local Civil Rule 1.3. Admission to the Bar**

**2011 COMMITTEE NOTE**

The Committee recommends that Local Civil Rule 1.3(c) be amended to clarify that a motion for admission pro hac vice may be made by the applicant, and does not need to be made by a member of the Court's bar. This is a logical corollary of the fact that the Southern and Eastern Districts no longer require that attorneys admitted pro hac vice be associated with local counsel who are members of the Court's bar.

**2013 COMMITTEE NOTE**

The amendments to Local Civil Rule 1.3(c) have two purposes. First, to conform the rule to local practice, i.e., to reflect the required fee for pro hac vice admission and the practice, mandated by 28 U.S.C. ' 517, of not requiring Department of Justice attorneys, who are not members of the bar of this Court, to be admitted pro hac vice before appearing. The second purpose of the rule is to make pro hac vice admission less onerous for other federal agency attorneys by waiving the fee requirement and easing the certificate of good standing requirement. It was the considered judgment of the Court that pro hac vice admission remains necessary to ensure recourse in the event of any violation of the rules of court.

**2016 COMMITTEE NOTE**

A candidate for admission to the bar must respond to inquiries on the application regarding the candidate's criminal and disciplinary history. The amendment requires that the same information be supplied in two circumstances not previously covered by the Rule: (1) an application for admission pro hac vice; and (2) the admission to a second district (whether the Southern or Eastern District of New York) upon the filing of a certificate of good standing from the first district (whether the Southern or Eastern District of New York) within 30 days of admission in the first district. In the latter circumstance, the amendment also provides that the second district may deny admission based upon the disclosed criminal and disciplinary history.

**2018 COMMITTEE NOTE**

Local Rule 1.3 is revised solely to reflect the new process for electronically filing an application for admission and obtaining electronic filing privileges.

**2024 COMMITTEE NOTE**

The Amendments eliminate outdated references to the "head of the calendar" and the signing of the roll. The paragraphs are also renumbered such that what had been part of paragraph (b) now stands alone as paragraph (c), which in turn now refers to paragraph (b)(2).

**Local Civil Rule 1.4. ~~Notice of Appearance~~Attorney Appearances; Withdrawal or Displacement of Attorney of Record; Limited-Scope Representation**

**PRE-2024 COMMITTEE NOTE**

The Committee recommends that Local Civil Rule 1.4 be amended to require that the affidavit in support of a motion to withdraw state whether or not a retaining or charging lien is being asserted, and to clarify that all applications to withdraw must be served upon the client and (unless excused by the Court) upon all other parties. This is not meant to preclude the Court from permitting the reasons for withdrawal to be stated in camera and under seal in an appropriate case. It is also not meant to preclude

substitution of counsel by a stipulation which has been signed by counsel, the counsel's client, and all other parties, and which has been so ordered by the Court.

**2024 COMMITTEE NOTE**

The existing local rule governs the withdrawal or displacement of an attorney of record but does not identify the procedure by which one becomes an attorney of record. The Federal Rules of Civil Procedure likewise do not include a procedure for becoming an attorney of record. Accordingly, the rule is amended to require attorneys appearing in a matter to file a notice of appearance and lists the information that the notice of appearance must contain. The amendment also eliminates the affidavit that was otherwise required by the local rule when other counsel who had already appeared in the case continues to represent the client or when new counsel is substituted by stipulation. The Committee believes that the affidavit serves no useful purpose in these circumstances.

**2025 COMMITTEE NOTE**

Both the Eastern and Southern District have come to allow an attorney to appear on behalf of an otherwise unrepresented party for limited purposes only — for example, for purposes of mediation, motion practice, or some aspect of discovery. Among other things, allowing for such limited-scope appearances facilitates the recruitment of counsel to take on pro bono matters and promotes access to justice. The rule is amended to codify and regulate this practice of limited-scope appearances. In addition, the rule is amended to provide that where an attorney moves to withdraw upon a stipulation substituting a new attorney, an affidavit is required in support of the motion if the new attorney intends to seek modification of any existing deadlines in the case. That requirement is intended to assist the court in evaluating whether the proposed withdrawal would result in delay.

**Local Civil Rule 1.5. Discipline of Attorneys**

**PRE-2024 COMMITTEE NOTE**

Local Civil Rule 1.5(d) has been amended to permit the expedited disclosure, upon request, of confidential records or documents for use in an investigation or proceeding pending before a duly constituted disciplinary authority of a New York State Court.

**2024 COMMITTEE NOTE**

Subsection (a) of Local Civil Rule 1.5 has been amended to make it clear that both district judges and magistrate judges may serve on the Committee on Grievances. In addition, subsections (a) and (d)(5) have been amended to standardize and streamline references to the Committee.

**Local Civil Rule 1.6. Duty of Attorneys in Related Cases**

**PRE-2024 COMMITTEE NOTE**

The Committee recommends that Local Civil Rule 1.6(a) be amended to provide simply that notification must be given to the Judges to whom the case has been assigned.

**2024 COMMITTEE NOTE**

The Division of Business Rules for both districts contain rules regarding potentially related cases, including the definition of a related case and the procedure for notifying the court of related cases. As such, this local civil rule has been amended to avoid any unnecessary duplication or confusion between the prior local rule and the Division of Business Rules, and now requires the counsel to comply with the Division of Business Rules. In addition, the language stating that the court may impose costs on an attorney who violates the rule has been removed as unnecessary given the general authority of the court to impose sanctions for the violations of its rules.

**Local Civil Rule 1.7. Fees of Court Clerks and Reporters**

**PRE-2024 COMMITTEE NOTE**

Local Civil Rule 1.7(a) serves a useful purpose in light of 28 U.S.C. § 1914(c), which provides that "[e]ach district court by rule or standing order may require advance payment of fees."

**Local Civil Rule 1.8. Recording of Proceedings and Electronic Equipment**

**PRE-2016 COMMITTEE NOTE**

The recommended revised language of Local Civil Rule 1.8, which the Committee understands has been worked out by the respective Courts, recognizes that both Courts have adopted administrative orders dealing with the extent to which cameras, recording devices, and other electronic devices will be permitted to be brought into their respective courthouses. The environs of the courthouses are excluded from the proposed local rule in accordance with the spirit of the settlement agreement so ordered by the Court in *Antonio Musumeci v. United States Department of Homeland Security*, 10-CV-3370 (RJH).

**2016 COMMITTEE NOTE**

The Rule has long restricted the act of bringing certain devices into any courthouse without authorization. The amendment now prohibits the making of any audio or video recording of a proceeding or communication with the Court, even if the device was brought into the courthouse with authorization. The amendment encompasses activities regardless of location, including the recording from a remote location of a telephone conversation with a Judge, a member of a Judge's staff or the Court's staff or other persons acting at the Court's direction, including a mediator.

**2024 COMMITTEE NOTE**

The title of Local Civil Rule 1.8 has been revised to reflect the full scope of the rule, which restricts the bringing of electronic equipment into any courthouse, the permissible use of any electronic equipment that is allowed inside, and the broadcasting

or streaming of proceedings. The rule has also been amended to further specify who may authorize the bringing of electronic equipment into a courthouse and the photography or recording of court proceedings and communications. Finally, the rule has also been amended to prohibit the broadcasting or streaming of any proceeding unless authorized by the presiding judge in accordance with Judicial Conference policy.

**2025 COMMITTEE NOTE**

The rule has been amended to make clear that each court has authority to adopt additional policies governing the possession or use of electronic equipment within any courthouse, which policies will be posted on the court's website or within any courthouse to which the policies apply, to ensure that the courts have sufficient flexibility to address time-sensitive matters including, for example, security concerns.

**Local Civil Rule 1.9. Acceptable Substitutes for Affidavits [formerly Local Civil Rule 1.10]**

**PRE-2024 COMMITTEE NOTE**

The Committee believes that this Local Civil Rule continues to serve a useful function, particularly in pro se cases, and therefore recommends its retention.

**Local Civil Rule 5.1. Filing of Discovery Materials [Withdrawn]**

2024 COMMITTEE NOTE

This rule has been withdrawn. Parties must consult Local Civil Rules 37.1, 37.2, and the individual practices of the judge presiding over discovery when seeking or opposing relief under Fed. R. Civ. P. 26 through 37 (inclusive).

**Local Civil Rule 5.2. Electronic Filing and Service; Duty to Review Underlying Orders**

**PRE-2013 COMMITTEE NOTE**

The substance of the last sentence of Local Civil Rule 5.3(b) has been moved to this local rule, so as to consolidate in this local rule everything in the Local Civil Rules dealing with the subject of ECF. The local rule has been revised to refer to the instructions

regarding ECF on the website of each respective Court, because the instructions change with sufficient frequency to make it unfeasible to incorporate them into the local rules.

**2013 COMMITTEE NOTE**

Recommended new Local Civil Rule 5.2(b) would authorize the filing of letter-motions and letters to the Court by ECF. ECF filing of letters to the Court is already required by the ECF instructions in the Eastern District of New York, and in the Southern District of New York this Local Rule amendment would authorize (but not require) ECF filing of letters to the Court that generally now are accepted by judges in the Southern District of New York. Allowing such letters to be filed will improve the record on appeal in cases where an appeal is taken and will allow the press and the public to follow more fully what is happening in pending cases. Recommended Local Civil Rule 5.2(b) does not authorize the filing of letters exchanged between the parties.

Parties should remember to review the Individual Judge's Practices for any pertinent restrictions on the filing of letters or letter-motions, such as requirements for courtesy copies and any page limitations. Moreover, before filing a letter via ECF, parties should consider whether the letter contains information about settlement discussions or personal information (including medical information regarding a party or counsel) that should not be in the public file, in which case the letter should be sent directly to chambers instead of via ECF, or, in the Eastern District, if chambers permits, may be filed under seal via ECF.

Recommended new Local Civil Rule 5.2(c) reminds parties that they should review the actual order, decree, or judgment of the Court on ECF, rather than relying upon the description of the order, decree, or judgment on the docket or in the ECF Notice of Electronic Filing, which is often just a short summary of a more detailed order.

**2024 COMMITTEE NOTE**

Local Civil Rule 5.2 has been amended to avoid redundancy and inconsistency with Fed. R. Civ. P. 5 regarding when service via electronic means is accomplished. The revised rule makes clear that ECF filing is required unless the filing has been exempted from ECF filing by court order or by Fed. R. Civ. P. 5. The revised rule also specifies that Highly Sensitive Documents, as that term is defined in each district, must be filed in

hard copy rather than on ECF. And finally, the title of the rule has been updated to more accurately reflect its scope.

**Local Civil Rule 5.3. Service by Overnight Delivery**

**PRE-2024 COMMITTEE NOTE**

Local Civil Rule 5.3(a), dealing with overnight delivery service, is still necessary, because Fed. R. Civ. P. 5 has not been amended to deal with overnight delivery service. However, many of the detailed provisions of present Local Civil Rule 5.3(a) are unnecessary once it is made clear that overnight delivery service shall be treated the same as service by mail.

In Local Civil Rule 5.3(b), the first two sentences, dealing with service by facsimile, are unnecessary in light of Fed. R. Civ. P. 5(b)(2)(E), and the substance of the last sentence, dealing with ECF, has been moved to Local Civil Rule 5.2.

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

**PRE-2013 COMMITTEE NOTE**

In the initial paragraph of Local Civil Rule 6.1, the Committee recommends the deletion of the parenthetical reference to Fed. R. Civ. P. 56, because Fed. R. Civ. P. 56, as amended effective December 1, 2010, no longer provides for a different period of time to make a motion for summary judgment than that prescribed by Local Civil Rule 6.1. In Local Civil Rule 6.1(c), the Committee recommends the deletion of the words "or upon application" in order to prevent any implication that oral argument will be granted automatically upon application. This change is not intended to suggest that the parties cannot apply to the Court for oral argument.

**2013 COMMITTEE NOTE**

This is a conforming amendment designed to bring Local Civil Rule 6.1 into conformity with recommended new Local Civil Rule 7.1(d), which authorizes letter-motions in the case of certain non-dispositive matters.

**2024 COMMITTEE NOTE**

Local Civil Rule 6.1 has been amended in several respects. First, in light of the withdrawal of Local Civil Rule 6.4, references to that rule have been eliminated here. Second, because Local Civil Rule 7.1 explains what constitutes "motion papers," there is no need to repeat here the types of papers that must accompany a motion—this rule now refers only to "motion papers," "opposing and response papers," and "reply papers." Third, the revised rule makes clear that filing and service of motion papers must be accomplished via ECF, unless the filing ha`s been exempted. Fourth, the former subsection (c) of this rule, which was tied to the now-defunct practice of motions being filed with "return dates" returnable on a judge's predetermined dates for oral argument, has been eliminated.

**Local Civil Rule 6.2. Orders on Motions**

**PRE-2024 COMMITTEE NOTE**

Local Civil Rule 6.2 remains necessary because the Federal Rules of Civil Procedure do not specify what constitutes the entry of an order. The Committee believes that the existing language of Local Civil Rule 6.2 is broad enough to encompass notations in the ECF docket, and that no change is required for this reason.

**Local Civil Rule 6.3. Motions for Reconsideration**

**PRE-2024 COMMITTEE NOTE**

Local Civil Rule 6.3 is necessary because the Federal Rules of Civil Procedure do not specify the time periods governing a motion for reconsideration or reargument. In the first sentence of Local Civil Rule 6.3, the Committee recommends an amendment to clarify that the Court may set a different time for the filing of a motion for reconsideration or reargument.

**2024 COMMITTEE NOTE**

A page limit on briefs has been imposed to emphasize the limited scope of a motion for reconsideration.–

**2025 COMMITTEE NOTE**

The rule is amended to replace page limits with word limits for any brief filed by an attorney or prepared with a computer, consistent with the concurrent amendment to Local Civil Rule 7.1. The rule provides page limits if a party is not represented by an attorney and the brief is handwritten or prepared with a typewriter because a word limit for such submissions would be impracticable.

**Local Civil Rule 6.4. Computation of Time [Withdrawn]**

**PRE-2024 COMMITTEE NOTE**

This Rule has been withdrawn. Fed. R. Civ. P. 6 governs computing and extending time and has rendered the Local Rule unnecessary.

**Local Civil Rule 7.1. Motion Papers**

**PRE-2013 COMMITTEE NOTE**

Recommended Local Civil Rule 7.1 is designed to collect in one place the requirements for motion papers. It includes the substance of the present Local Civil Rule 7.1 on memoranda of law, and of the present Local Civil Rule 7.2 regarding notices of motion and orders to show cause. The Committee believes that it will be helpful, especially to lawyers from out of state and to lawyers who practice primarily in the state courts, to have a Local Rule that sets forth the types of papers that are required in support of or in opposition to a motion.

**2013 COMMITTEE NOTE**

Local Civil Rule 7.1(d) would authorize the use of letter-motions for applications for extensions or adjournments, applications for a pre-motion conference, and similar non-dispositive matters. Pursuant to recommended Local Civil Rule 5.2(b), such letter-motions may be filed by ECF.

The use of letter-motions is intended to follow existing practice in which counsel request certain non-dispositive relief by letter. Using a letter-motion instead of a letter will ensure that the Court is aware that relief is requested (as distinguished from, for example, a status update letter where no relief is requested). Local Civil Rule 7.1(d) is

not intended to expand the types of motions that can be made by letter-motion. For example, motions to dismiss or motions for summary judgment may not be made by letter-motion.

Parties should remember to review the Individual Judge's Practices for any pertinent restrictions on the filing of letter-motions, such as requirements for courtesy copies and any page limitations.

**2016 COMMITTEE NOTE**

Local Rule 7.l(c) is amended to conform to the Federal Rules of Bankruptcy Procedure.

**2024 COMMITTEE NOTE**

The subsection on letter-motions, subsection (d), was revised to specify the types of motions that may be brought by letter-motion and to make explicit that other motions may not be brought by letter-motion unless authorized by the presiding judge's individual practices or by an order in a particular case. Counsel should consult the presiding judge's individual practices, available on the court web sites, to confirm whether any specific type of motion may be brought via letter-motion.

**2025 COMMITTEE NOTE**

The amendment includes a new subsection (c) to establish default lengths for memoranda of law (subject to a court order or a Judge's individual practices) for all motions (other than motions for reconsideration, which are governed by Local Civil Rule 6.3) and, if a memorandum of law is filed by counsel or prepared with a computer, to require a certificate of compliance. The rule provides page limits if a party is not represented by an attorney and the brief is handwritten or prepared with a typewriter because a word limit for such submissions would be impracticable. The purpose of the new section is to ensure consistency across briefs in terms of the length of submissions, but the new section provides that these limits do not apply to letter briefs and may be altered by court order. In addition, relevant portions of Local Civil Rule 11.1 which separately addressed the form papers have been consolidated into Local Civil Rule 7.1, and outdated provisions deleted.

**Local Civil Rule 7.1.1 Disclosure Statement**

**PRE-2024 COMMITTEE NOTE**

The Committee believes that Local Civil Rule 7.1.1 continues to serve a useful purpose in helping to ensure that Judges will be given prompt notice of changes that might require consideration of possible recusal.

**Local Civil Rule 7.2. Authorities to Be Provided to Pro Se Litigants**

**PRE-2024 COMMITTEE NOTE**

The Committee recommends the addition of an additional sentence to Local Civil Rule 7.2 in order to facilitate compliance with the decision of the Second Circuit in *Lebron v. Sanders*, 557 F.3d 76 (2d Cir. 2009).

**Local Civil Rule 11.1. Form of Pleadings, Motions, and Other Papers [Withdrawn]**

**PRE-2024 COMMITTEE NOTE**

The provisions of Local Civil Rule 11.1 deal with topics that are not covered in Fed. R. Civ. P. 11. Recommended Local Civil Rule 11.1(b), which is based upon similar provisions in other local rules, is intended to set simple and easily followed minimum standards for legibility of documents filed with the Court.

**2024 COMMITTEE NOTE**

Subsection (b), was amended to allow individual judges to require different formatting or fonts, as set forth in their individual practices, which are available on the court websites.

**2025 COMMITTEE NOTE**

The provisions of this rule have been incorporated into revised Local Civil Rule 7.1.

**Local Civil Rule 12.1. Notice to Pro Se Litigant Who Opposes a Rule 12 Motion Supported by Matters Outside the Pleadings**

**PRE-2024 COMMITTEE NOTE**

Local Civil Rule 12.1 plays a valuable role in alerting *pro se* litigants to the potentially serious consequences of a motion to dismiss based upon evidence outside the pleadings, and to the requirements for controverting such evidence. The Committee recommends certain changes in the text of the notice required by the rule in order to make it more understandable to non-lawyers.

**Local Rule 15.1 Amendment of Pleadings**

**2024 COMMITTEE NOTE**

When moving to amend or supplement a pleading, counsel should provide the court and parties both a clean copy and a redline of the proposed amended pleading as exhibits to the motion. If the motion is granted, counsel should file the amended pleading or supplement within seven days. The motion, if granted, does *not* constitute a filing of the amended pleading or supplement. Pro se litigants are exempt from these requirements.

**Local Civil Rule 16.1. Exemptions from Mandatory Scheduling Order**

**PRE-2024 COMMITTEE NOTE**

The Committee recommends the retention of Local Civil Rule 16.1. It serves an important function, because Fed. R. Civ. P. 16(b)(1) requires that any exemption of categories of cases from the mandatory scheduling order requirement must be accomplished by a local rule.

**2024 COMMITTEE NOTE**

The rule was amended to add bankruptcy appeals to the list of cases that are exempt from a mandatory scheduling order under Fed. R. Civ. P. 16(b) and to specify that Freedom of Information Act cases are also included within the scope of the rule.

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

**PRE-2024 COMMITTEE NOTE**

Local Civil Rule 16.2 is necessary because Fed. R. Civ. P. 16(b)(1) requires a local rule in order to confer upon Magistrate Judges the power to issue or modify scheduling orders. The Committee recommends that the language of the rule be simplified, and that it be applicable to all cases in which a case has been referred to a Magistrate Judge.

**Local Civil Rule 23.1. Fees in Class Action and Shareholder Derivative Actions**

**PRE-2024 COMMITTEE NOTE**

The Committee recommends the retention of Local Civil Rule 23.1.1. Unlike Fed. R. Civ. P. 23 (which deals with class actions), Fed. R. Civ. P. 23.1 (dealing with shareholder derivative actions) does not contain any provisions dealing with attorney's fees. Local Civil Rule 23.1.1 has been part of the local rules for many years, and has proven its usefulness in derivative actions.

**2016 COMMITTEE NOTE**

The Committee in 2011 recommended that prior Local Rule 23.1 regarding class actions be deleted as unnecessary. The Second Circuit's recent decision in *Bernstein v. Bernstein Litowitz Berger & Grossman LLP*, 814 F.3d 132, 137 n.2 (2d Cir. 2016), stated that the prior Local Rule is not redundant with Fed. R. Civ. P. 23(h) regarding fee sharing arrangements. The Committee therefore recommends reinstating Local Rule 23.1 and combining it with Local Rule 23.1.1 to cover both class actions and derivative actions.

**Local Civil Rule 26.1. Address of Party and Original Owner of Claim to Be Furnished [Withdrawn]**

**2024 COMMITTEE NOTE**

In light of amended Fed. R. Civ. P. 7.1, which now requires parties or intervenors in a diversity case to name and identify the citizenship of every individual or entity whose

citizenship is attributed to that party or intervenor, Local Civil Rule 26.1 is no longer necessary.

**Local Civil Rule 26.2. Assertion of Claim of Privilege**

**PRE-2024 COMMITTEE NOTE**

With the advent of electronic discovery and the proliferation of e-mails and e-mail chains, traditional document-by-document privilege logs may be extremely expensive to prepare, and not really informative to opposing counsel and the Court. There is a growing literature in decisions, law reviews, and other publications about the need to handle privilege claims in new and more efficient ways. The Committee wishes to encourage parties to cooperate with each other in developing efficient ways to communicate the information required by Local Civil Rule 26.2 without the need for a traditional privilege log. Because the appropriate approach may differ depending on the size of the case, the volume of privileged documents, the use of electronic search techniques, and other factors, the purpose of Local Civil Rule 26.2(c) is to encourage the parties to explore methods appropriate to each case. The guiding principles should be cooperation and the "just, speedy, and inexpensive determination of every action and proceeding." Fed. R. Civ. P. 1. *See also* The Sedona Cooperation Proclamation, available at www.TheSedonaConference.org, whose principles the Committee endorses.

**2024 COMMITTEE NOTE**

A reference to the potential use of metadata and categorical logs has been added, consistent with the approach of this local civil rule to explore and create privilege logs appropriate to each case. The Advisory Committee Notes to the 1993 amendment to Rule 26(b)(5) described withholding documents "by categories." Subsection (b) has been modified to state that the log should be provided at or about the time of the response to the discovery request, but provides that the parties can agree otherwise, supplementing the existing authority of the court to dictate otherwise. Finally, subsection (c) encourages the parties to discuss the type of privilege log to be used and the information fields that should be disclosed, and explicitly recognizes that a categorical or metadata log may be used. Subsection (c)(3) adds that when the parties use a categorical or metadata log, they are encouraged to discuss whether to allow the

requesting party to request a document-by-document log for a limited number or percentage of the logged documents. In addition, the presumption that categorical assertions of privilege are permissible has been modified to recognize that the court may provide otherwise through the presiding judge's individual practices or by order.

**Local Civil Rule 26.3. Uniform Definitions in Discovery Requests**

**PRE-2024 COMMITTEE NOTE**

Local Civil Rule 26.3 has performed a useful role in simplifying definitions that are commonly used in discovery requests. The Committee recommends certain changes to reflect current practice. The definition of "document" in Local Civil Rule 26.3(c)(2) has been updated to include the term "electronically stored information," which is now used in Fed. R. Civ. P. 34(a)(1)(A).

**Local Civil Rule 26.4. Cooperation Among Counsel in Discovery [formerly Local Civil Rules 26.5 and 26.7]**

**PRE-2024 COMMITTEE NOTE**

This recommended Local Civil Rule is derived from prior Local Civil Rules 26.5 and 26.7, which applied to the Eastern District only. The Committee endorses the goals of professional cooperation and courtesy embodied in this recommended Local Civil Rule, and recommends that the rule be made applicable to both the Southern and Eastern Districts.

**Local Civil Rule 26.5. Form Discovery Requests [formerly Local Civil Rule 26.6]**

**PRE-2016 COMMITTEE NOTE**

While this Local Civil Rule is a straightforward corollary of Fed. R. Civ. P. 26(g)(1)(B), the Committee understands that it is frequently relied upon, and therefore recommends its retention in the Eastern District and its adoption in the Southern District.

**2016 COMMITTEE NOTE**

The change to Local Rule 26.5 is necessary because the December 2015 amendments to the Federal Rules of Civil Procedure eliminated discovery about the "subject matter," instead limiting discovery to the claims and defenses, as further limited by proportionality factors.

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

**2024 COMMITTEE NOTE**

Local Civil Rule 30.1 is no longer necessary given both the availability of telephonic and virtual depositions, which do not require travel, and other sources of authority for the court to impose costs in appropriate circumstances, including Fed. R. Civ. P. 26(b)(1)(B) and 45(d)(1). Accordingly, the rule is withdrawn. A corresponding change to Local Civil Rule 54.1, governing the taxation of fees, has also been made.

**Local Civil Rule 30.2. Telephonic and Other Remote Depositions [formerly Local Civil Rule 30.3]**

**PRE-2024 COMMITTEE NOTE**

The Committee recommends that this Local Civil Rule be broadened to encompass the taking of depositions by remote means other than telephonic means, as has been done with Fed. R. Civ. P. 30(b)(4).

**Local Civil Rule 30.3. Persons Attending Depositions [formerly Local Civil Rule 30.4]**

**PRE-2024 COMMITTEE NOTE**

This rule provides a useful summary of the rules regarding who may attend a deposition, and the Committee recommends that it be extended to the Southern District as well as the Eastern District. The exclusion-of-witnesses rule of Fed. R. Evid. 615 is made inapplicable to depositions by Fed. R. Civ. P. 30(c)(1), but Fed. R. Civ. P. 26(c)(1)(E) allows the Court, for good cause, to "designat[e] the persons who may be present while the discovery is conducted."

**Local Civil Rule 30.4. Conferences Between Deponent and Defending Attorney [formerly Local Civil Rule 30.6]**

**PRE-2024 COMMITTEE NOTE**

The Committee believes that this Local Civil Rule serves a useful purpose, and that it is consistent with (although not duplicative of) Fed. R. Civ. P. 30(c)(2) and 20(d)(2). The Committee believes that there is a broad consensus that it is improper for the deponent's attorney to initiate a private conference with the deponent while a question is pending. By recommending that this minimum standard be stated in the rule, the Committee does not intend any negative implication that other types of obstructive conduct during depositions may not be dealt with by appropriate orders of the Court.

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

**JULY 2011 COMMITTEE NOTE**

Local Civil Rule 33.2 has worked well, and the Committee recommends its continuation. The Committee recommends that the rule be revised to make it applicable on the same basis in the Eastern District as in the Southern District. In addition, the Committee recommends extension of the rule to other prison facilities in addition to State and New York City prison facilities (12/2014). Because this Local Civil Rule and Local Civil Rule 33.3 are frequently cited, the Committee does not recommend that they be renumbered.

**DECEMBER 2011 COMMITTEE NOTE**

The Committee recommends extension of the rule to other prison facilities in addition to State and New York City prison facilities. Also, the trigger for a Disciplinary Due Process Case is reduced from 100 days in SHU to 30 days to better reflect the case law in this area.

**2014 COMMITTEE NOTE**

The Committee recommends deleting Local Civil Rule 33.2(f). The Rule is intended to be automatic and the standard discovery requests are available on the Courts' websites and in most prison libraries. The second sentence of Local Rule 33.2(d) also is amended

to require that the responses include verbatim quotation of the requests, to further ensure that the pro se plaintiff has the language of the requests.

**Local Civil Rule 33.3. Interrogatories (Southern District Only)**

**PRE-2024 COMMITTEE NOTE**

Local Civil Rule 33.3 reflects the general practice in the Southern District, and the Committee recommends its continuation there. Practice in the Eastern District is more receptive to the use of interrogatories, and the Committee therefore does not recommend that this Local Civil Rule be extended to the Eastern District.

**Local Civil Rule 37.1. Verbatim Quotation of Discovery Materials**

**PRE-2024 COMMITTEE NOTE**

In light of the withdrawal of Local Civil Rule 5.1, the reference to that rule has been deleted.

**Local Civil Rule 37.2. Discovery Disputes**

**PRE-2013 COMMITTEE NOTE**

The modes of raising discovery disputes with the Court are sufficiently different in the Southern and Eastern Districts that the Committee is constrained to recommend the continuation of two different rules – Local Civil Rule 37.2 applying to the Southern District, and Local Civil Rule 37.3 applying to the Eastern District.

**2013 COMMITTEE NOTE**

This amendment would make clear that the request to the Court required by Local Civil Rule 37.2 shall now be made by letter-motion as authorized by Local Civil Rule 7.1(d), instead of by letter as before, without any substantive change in practice.

**2024 COMMITTEE NOTE**

Amended Local Civil Rule 37.2 simplifies practice by including both the E.D.N.Y. and S.D.N.Y. under a single consolidated rule. The consolidated rule emphasizes that

litigants should consult the individual practices of judges before raising discovery disputes, as individual practices often diverge from Local Civil Rule 37.2. It also eliminates the reference to ECF filing, because all motions presumptively must be filed on ECF. Lastly, it adds Rule 45 motions for subpoena enforcement to the motions covered by the rule, because such motions are best understood as discovery motions.

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

**2024 COMMITTEE NOTE**

Local Civil Rule 37.2 now covers both the E.D.N.Y. and S.D.N.Y. Local Civil Rule 37.3 is therefore no longer necessary. The rule has been withdrawn.

**Local Civil Rule 39.1. Custody of Trial and Hearing Exhibits**

**PRE-2024 COMMITTEE NOTE**

The Committee believes that this Local Civil Rule is useful in alerting counsel to the Courts' practice concerning the custody of trial and hearing exhibits, which differs from the practices of many other courts.

**Local Civil Rule 39.2. Order of Summation**

**PRE-2024 COMMITTEE NOTE**

The Committee believes that Local Civil Rule 39.2 serves a useful role in clarifying the power of the Court to determine the order of summation.

**Local Civil Rule 40.1 Trial Scheduling**

**2024 COMMITTEE NOTE**

New Local Civil Rule 40.1 has been added, in the absence of any previous local rule on the subject, because Fed. R. Civ. P. 40 provides that "[e]ach court must provide by rule for scheduling trials."

**Local Civil Rule 47.1. Assessment of Jury Costs**

**PRE-2024 COMMITTEE NOTE**

The Committee understands that the power to impose the cost of one day's attendance of jurors upon parties who have failed to reach (or notify the Court of) a settlement at least one business day before trial is exercised only infrequently and in egregious cases. The Committee agrees that the Court should have this power in order to deal with such egregious cases, and that the rule serves a useful purpose in notifying the bar that the Court has this power.

**Local Civil Rule 53.1. Masters**

**PRE-2024 COMMITTEE NOTE**

The Committee believes that Local Civil Rule 53.1 serves a useful purpose by clarifying two subjects that are not dealt with in Fed. R. Civ. P. 53.

**2024 COMMITTEE NOTE**

The Committee has amended Local Civil Rule 53.1 to remove outdated language and provisions relating to the appointment of masters to sit outside the district, as such a requirement is no longer necessary given the broad authority to review orders relating to special masters set forth in Fed. R. Civ. P. 53.

**Local Civil Rule 54.1. Taxable Costs**

**PRE-2024 COMMITTEE NOTE**

Local Civil Rule 54.1 serves a very useful purpose by outlining what costs are and are not taxable unless otherwise ordered by the Court. This is a subject that is not addressed with specificity by 28 U.S.C. § 1920 and Fed. R. Civ. P. 54(d)(1). Local Civil Rule 54.1 has been updated with the valuable assistance of the Clerks of the two Courts to reflect more precisely which costs are and are not taxable without an order of the Court.

[August 2014 Note]: Local Rule 54.1 is modified to indicate that the Bill of Costs, and any objection thereto, shall be filed via ECF (except for Pro Se parties) in both Districts.

[July 2013 Note]: The seven-day notice period previously set forth in Local Civil Rule 54.1(a) was in conflict with the 14-day notice period provided by Fed. R. Civ. P. 54(d)(1) and the Committee recommends that the Local Rule be changed to conform with Rule 54(d)(1). Instead of prescribing a particular time period (which might be changed by a future amendment to Fed. R. Civ. P. 54), the Committee recommends that the Local Rule refer the reader to Fed. R. Civ. P. 54. The term "request to tax costs" has misled some parties into not realizing that they need to file a notice of taxation of costs specifying the date and time of taxation. For this reason, the Committee recommends that Local Civil Rule 54.1(a) be amended to substitute the term "notice of taxation of costs" for the term "request to tax costs", and to add an explicit requirement that the notice specify the date and time fixed for taxation.

Local Civil Rule 54.1(a) presently provides that costs will not be taxed during the pendency of an appeal. At the suggestion of the Clerk's Offices, the Committee recommends that the Rule be amended to provide that costs will likewise not be taxed during the pendency of a motion for reconsideration or a motion for a new trial. Also at the suggestion of the Clerk's Offices, the Committee recommends that the Rule be amended to provide that the party seeking to tax costs shall file a new notice of taxation of costs within 30 days after the determination of any appeal, motion for reconsideration, or motion for a new trial.

At the suggestion of the Eastern District Clerk's Office, the Committee recommends that Local Civil Rule 54.1(b) be amended to place parties on notice that, in the Eastern District, the parties need not appear at the date and time scheduled for taxation.

The Committee recommends that Local Civil Rule 54.1(c)(1) remain unchanged. It is authorized by 28 U.S.C. § 1920(2), which allows taxation of "fees for printed or electronically recorded transcripts necessarily obtained for use in this case."

The Committee recommends that Local Civil Rule 54.1(c)(2) remain unchanged. 28 U.S.C. § 1920 does not by its terms specifically address costs related to depositions. However, the practice of taxing the expenses of a deposition when it is received in evidence or employed on a successful motion for summary judgment is widespread and can be regarded as authorized by 28 U.S.C. § 1920(2) as "expenses for transcripts necessarily obtained for use in this case." *See* 10 Charles Alan Wright & Arthur R.

Miller, Federal Practice and Procedure § 2676 (3d ed. 1998) ("There is general agreement that expenses of a deposition may be taxed as costs when it was received in evidence."); 7 James WM. Moore et al., Moore's Federal Practice § 54.103(3)(c)(i) (3d ed. 2011) ("§1920 also contains several provisions for the recovery of costs that, alone or in conjunction, have been interpreted to permit the awarding of the routine expenses incurred in taking depositions."). *See also Anderson v. City of New York* , 132 F. Supp. 2d 239, 246 (S.D.N.Y. 2001) (allowing deposition transcripts to be taxed as costs under § 1920).

The Committee recommends that Local Civil Rule 54.1(c)(3) remain unchanged. This subsection is authorized by 28 U.S.C. § 1920(3), which allows taxation of "fees and disbursements for printing and witnesses."

The Committee recommends that the second sentence of Local Civil Rule 54.1(c)(4) be deleted in light of the Supreme Court's ruling in *Taniguchi v. Kan Pacific Saipan, Ltd.*, 132 S. Ct. 1997 (2012). The rest of Local Civil Rule 54.1(c)(4) is authorized by § 1920(6), which allows taxation of "compensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services" under 28 U.S.C. § 1828.

The Committee recommends that Local Civil Rule 54.1(c)(5) remain unchanged. This subsection is authorized by § 1920(4), which allows taxation of "fees for exemplification and the costs of making copies of any materials where the copies are necessarily obtained for use in this case."

Courts in other circuits have begun to address the question whether and to what extent the costs of electronic discovery can be taxed as costs of copying or exemplification. *See, e.g., Race Tires America, Inc. v. Hoosier Racing Tire Corp.*, 674 F.3d 158 (3d Cir. 2012). Particularly in the absence of authoritative guidance from the Second Circuit on this issue, the Committee has concluded that it is premature to address this question in Local Civil Rule 54.1(c).

The Committee recommends that Local Civil Rule 54.1(c)(6) remain unchanged. This subsection is authorized by 28 U.S.C. § 1920(4), which allows taxation of "fees for exemplification and the costs of making copies of any materials where the copies are necessarily obtained for use in this case."

The Committee recommends that Local Civil Rule 54.1(c)(7) be retained, because it does not authorize taxation of any costs, but instead serves a useful purpose by pointing out that attorney's fees are addressed in Fed. R. Civ. P. 54 and are not taxable except by order of the Court. For the reasons explained in the Committee Note to Local Civil Rule 54.1(a), the Committee recommends that the Local Rule refer the reader to Fed. R. Civ. P. 54 for the time period within which attorney's fees must be sought.

The Committee recommends that Local Civil Rule 54.1(c)(8) remain unchanged. Although 28 U.S.C. § 1920 does not by its terms address fees for masters, receivers, or commissioners, Fed. R. Civ. P. 53(g) authorizes the Court to allocate payment for a master's compensation, and commentators have observed that appropriate expenditures incurred in connection with a special master may be taxed as costs by the prevailing party. 10 Fed. Prac. & Proc. Civ. §2677 (3d ed.).

The Committee recommends that Local Civil Rule 54.1(c)(9) remain unchanged. This subsection is authorized by 28 U.S.C. § 1920(4), which allows a taxation of "fees for exemplification and the costs of making copies of any materials where the copies are necessarily obtained for use in this case."

The Committee recommends that Local Civil Rule 54.1(c)(10) remain unchanged. This subsection is authorized by 28 U.S.C. § 1920(5), which allows taxation of docket fees under 28 U.S.C. § 1923.

**2024 COMMITTEE NOTE**

In light of the withdrawal of Local Rule 30.1, a corresponding change has been made here to remove attorney's fees from the list of taxable costs.

**Local Civil Rule 54.2. Security for Costs**

**PRE-2024 COMMITTEE NOTE**

Local Civil Rule 54.2 has been applied by the District Courts with the approval of the Second Circuit. The Committee recommends its retention.

**Local Civil Rule 54.3. Entering Satisfaction of Money Judgment**

**PRE-2024 COMMITTEE NOTE**

The Committee recommends a few clarifying changes in the wording of this Local Civil Rule.

**Local Civil Rule 55.1. Certificate of Default**

**PRE-2018 COMMITTEE NOTE**

The Committee believes that Local Civil Rule 55.1 is helpful in setting forth the contents of the affidavit to be submitted by a party seeking a certificate of default pursuant to Fed. R. Civ. P. 55(a).

**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.

**2024 COMMITTEE NOTE**

The Committee has amended Local Civil Rule 55.1 to clarify the materials that should be filed when a party seeks a certificate of default pursuant to Fed. R. Civ. P. 55(a). Local Civil Rule 55.1 is also amended to reflect current practices regarding the entry of a certificate of default.

**Local Civil Rule 55.2. Default Judgment**

**PRE-2024 COMMITTEE NOTE**

Although Fed. R. Civ. P. 55(b) does not require service of notice of an application for a default judgment upon a party who has not appeared in the action, the Committee believes that experience has shown that mailing notice of such an application is conducive to both fairness and efficiency, and has therefore recommended a new Local Civil Rule 55.2(c) providing for such mailing.

**2024 COMMITTEE NOTE**

The Committee has amended Local Civil Rule 55.2 to clarify the materials that should be filed when a party seeks a default judgment. Local Civil Rule 55.2 is also amended to reflect current practices regarding the entry of a default judgment.

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

**PRE-2024 COMMITTEE NOTE**

The requirement embodied in Local Civil Rule 56.1 is firmly rooted in the local practice of the Southern and Eastern Districts, and the Committee recommends its retention. The language of Local Civil Rule 56.1 was revised in 2004 to make clear that any statement pursuant to Local Civil Rule 56.1 must be divided into brief, numbered paragraphs, that any opposing statement must respond specifically and separately to each numbered paragraph in the statement, and that all such paragraphs in both statements and opposing statements must be supported by citations to specific evidence of the kind required by Fed. R. Civ. P. 56(c). The Committee believes that the language adopted in 2004 sets forth these requirements clearly, and it does not recommend any changes in that language.

**2024 COMMITTEE NOTE**

Under the amended Local Civil Rule 56.1, a party filing a motion for summary judgment in a case brought pursuant to the Administrative Procedure Act or the Freedom of Information Act no longer needs to file a Local Civil Rule 56.1 statement of material facts. Such submissions are not necessary in those cases given that they usually involve review of administrative decisions where a denial of summary judgment results in remand to an agency, not a trial before the district court. The rule also contemplates that there may be other cases, such as those involving review of an administrative record or those where the only relief sought is attorney's fees, where a Local Civil Rule 56.1 statement may be excused by the court, on its own or upon application of a party. In addition, the rule has been amended to make more explicit that each paragraph in the counterstatement filed by a party opposing summary judgment must admit or deny the truth of the correspondingly numbered paragraph in the moving party's statement.

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

**PRE-2024 COMMITTEE NOTE**

Local Civil Rule 56.2 plays a valuable role in alerting *pro se* litigants to the potentially serious consequences of a motion for summary judgment, and to the requirements for opposing such a motion. The Committee recommends certain changes in the text of the notice required by the rule in order to make it more understandable to non-lawyers.

**Local Civil Rule 58.1. Remand by an Appellate Court**

**PRE-2024 COMMITTEE NOTE**

The Committee recommends that the word "mandate" be added to Local Civil Rule 58.1 in order to clarify that the mandate of the Court of Appeals, when filed in the Clerk's Office of the District Court as provided in Local Civil Rule 58.1, automatically becomes the judgment of the District Court. The mandate, which consists of "a certified copy of the judgment, a copy of the court's opinion, if any, and any direction about costs," Fed. R. App. P. 41(a), is the normal means by which the judgment of the Court of Appeals is transmitted to the District Court.

**2024 COMMITTEE NOTE**

The Committee deletes unnecessary and redundant language in Local Civil Rule 58.1.

**Local Civil Rule 65.1.1. Security**

**PRE-2024 COMMITTEE NOTE**

Local Civil Rule 65.1.1 contains useful provisions concerning sureties which supplement the provisions of Fed. R. Civ. P. 65(c) and 65.1. The Committee recommends that Local Civil Rule 65.1.1(f) be broadened to encompass proceedings to enforce the liability of sureties under Fed. R. Civ. P. 65.1 as well as under Fed. R. App. P. 8(b).

**2024 COMMITTEE NOTE**

The amendment, which replaces the term "sureties" with "security providers," is made to conform the Local Civil Rule to Fed. R. Civ. P. 65.1, which in 2018 was similarly amended.

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

**PRE-2024 COMMITTEE NOTE**

Local Civil Rule 67.1 contains useful 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 a clarifying change to Local Civil Rule 67.1(a) in order to make clear that what is required is delivery of the proposed order directly to the Clerk or the Financial Deputy, not personal delivery to them in the sense of hand delivery.

**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 72.1. Powers of Magistrate Judges**

**PRE-2024 COMMITTEE NOTE**

Local Civil Rule 72.1 confirms and continues the Courts' intent to give their Magistrate Judges the maximum powers authorized by law. Local Civil Rule 72.1(a) is necessary in order to authorize full-time Magistrate Judges to exercise the consent jurisdiction

conferred by 28 U.S.C. § 636(c)(1). Local Civil Rule 72.1(b) and (c) confer useful administrative powers upon Magistrate Judges. Although Local Civil Rule 72.1(d) may be unnecessary in light of 28 U.S.C. § 636(b)(1)(B), the Committee decided that it would be prudent to retain it in order to avoid any possible question on this point. The final sentence of Local Civil Rule 72.1(d) seems unnecessary in light of the sentence preceding it.

**2024 COMMITTEE NOTE**

The amendments are intended to reflect more clearly the intent of the current local civil rule, which is to grant magistrate judges the full powers available under federal law. Although the amendments remove former subsections (b), (c), and (d), the Committee does not suggest that magistrate judges may not perform those duties or that district judges may not refer such duties to them; rather, the Committee concludes that specific enumeration is unnecessary in light of the general grant of authority set forth in the rule. References to "full-time" magistrate judges have been deleted as the Committee sees no reason not to extend these powers to any part-time magistrate judges who may be serving in one or both districts. The amendments also explicitly provide for submission of a response to an objection to a magistrate judge's non-dispositive order and a time limit for doing so. Although neither Fed. R. Civ. P. 72 nor 28 U.S.C. § 636 expressly authorize filing responses to objections, it is common practice to do so and the Committee believes it is proper and useful to provide an opportunity to file responses to objections. 28 U.S.C. § 636(b)(1)(A) provides that a district judge may reconsider any pretrial matter "where it has been shown that the magistrate judge's order is clearly erroneous or contrary to law."

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

**PRE-2024 COMMITTEE NOTE**

Local Civil Rule 72.2 sets forth the practices governing the automatic assignment of Magistrate Judges to cases in the Eastern District of New York. Local Civil Rule 72.2(b) is unnecessary in light of the modern practice of electronic filing of orders, and the Committee recommends its deletion.

**2024 COMMITTEE NOTE**

This rule has been withdrawn and its contents placed in the Eastern District of New York Division of Business Rules.

**Local Civil Rule 73.1. Consent Jurisdiction Procedure**

**PRE-2024 COMMITTEE NOTE**

The Committee believes that Local Civil Rule 73.1(a) continues to serve a useful function by focusing the attention of the parties at the outset of the case upon the consent jurisdiction of the Magistrate Judges. The Committee proposes a rewording of Local Civil Rule 73.1(b) for purposes of clarification; no change in meaning is intended.

**2024 COMMITTEE NOTE**

The amendments are intended to more closely conform to the language used in Fed. R. Civ. P. 73 and to more accurately describe how consent forms are distributed and executed. The rule is also amended to clarify that the approval required is that of the district judge to whom the case is assigned at the time the consent form is filed, who may not be the district judge to whom the case was originally assigned. The rule also now provides that, in the Eastern District of New York, in a case where the parties to a case consent but no district judge has been assigned, the form shall be signed by the chief judge or a designated district judge.

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

**PRE-2018 COMMITTEE NOTE**

The Committee recommends the deletion of Local Civil Rule 77.1(b), whose provisions have been overtaken by the age of electronic filing. The Committee recommends the retention of Local Civil Rule 77.1(a), which is necessary to specify the timing of the submission of proposed orders, judgments, and decrees.

**2018 COMMITTEE NOTE**

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

**2024 COMMITTEE NOTE**

The Amendment eliminates the process for objecting to proposed orders because the process described is outdated and no longer routinely followed.

**Local Civil Rule 81.1. Removal of Cases from State Courts**

**PRE-2024 COMMITTEE NOTE**

The Committee recommends the deletion of Local Civil Rule 81.1(b), because 28 U.S.C. § 1446(a) already provides that the removing party or parties shall file with the notice of removal "a copy of all process, pleadings, and orders served upon such defendant or defendants in such action." The Committee recommends that Local Civil Rule 81.1(a) be reworded, in the same manner as Local Civil Rule 26.1, to describe with greater specificity the information needed to assess the presence of diversity jurisdiction.

**2024 COMMITTEE NOTE**

Because the removing party must have a good-faith basis for asserting diversity jurisdiction at the time of removal, the Committee deletes language suggesting that a party may rely on post-removal discovery to establish such jurisdiction.

**Local Civil Rule 83.1. Transfer of Cases to Another District**

**PRE-2024 COMMITTEE NOTE**

Local Civil Rule 83.1 needs to be reworded, because the transfer of cases is normally carried out today electronically rather than by mail. On balance, the Committee believes that the seven-day waiting period in Local Civil Rule 83.1 should be retained, in order to allow the party opposing transfer the same opportunity as the current rule affords to seek rehearing or appellate review.

Local Civil Rule 83.2. Settlement of Actions by or on Behalf of Infants or Incompetents, Wrongful Death Actions, and Actions for Conscious Pain and Suffering of the Decedent

**PRE-2024 COMMITTEE NOTE**

The Committee believes that paragraph (b) of this Local Civil Rule should logically apply to actions for conscious pain and suffering of the decedent as well as to wrongful death actions, and therefore recommends that the present distinction between the Southern and Eastern District versions of the Local Rule in this regard be eliminated.

**Local Civil Rule 83.3. Habeas Corpus**

**PRE-2024 COMMITTEE NOTE**

The Committee believes that this Local Civil Rule performs a very useful function by establishing a presumptive rule that habeas corpus applications shall be filed, heard, and determined in the district within which conviction and sentencing occurred.

**Local Civil Rule 83.4. Publication of Required Public Notices [formerly Local Civil Rule 83.6]**

**PRE-2024 COMMITTEE NOTE**

This Local Civil Rule continues to be useful in foreclosure and execution cases. The Committee recommends that new introductory language be added to recognize that other means of notice may be authorized by such provisions as Rule G(4)(a)(iv) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, which became effective in 2007.

**2024 COMMITTEE NOTE**

The Committee replaces the term "Advertisement" with "Notice" to avoid any confusion about whether the Local Civil Rules apply broadly to notices. The language has also been updated to reflect that the rule applies to notices published by a party.

**Local Civil Rule 83.5. Notice of Sale [formerly Local Civil Rule 83.7]**

**PRE-2024 COMMITTEE NOTE**

As with Local Civil Rule 83.3, this Local Civil Rule continues to be useful in foreclosure and execution cases.

**Local Civil Rule 83.6. Contempt Proceedings in Civil Cases [formerly Local Civil Rule 83.9]**

**PRE-2024 COMMITTEE NOTE**

The Committee recommends the deletion of the second sentence of paragraph (c) of this Local Civil Rule on the ground that it is substantive rather than procedural in nature. *See generally Armstrong v. Guccione*, 470 F.3d 89 (2d Cir.), *cert. denied*, 552 U.S. 989 (2007).

**Local Civil Rule 83.7. Court-Annexed Arbitration (Eastern District Only) [formerly Local Civil Rule 83.10]**

**PRE-2024 COMMITTEE NOTE**

Because this Local Civil Rule has been recently reviewed and updated by the Court, the Committee has not undertaken to review it in detail.

**Local Civil Rule 83.8. Court-Annexed Mediation (Eastern District Only) [formerly Local Civil Rule 83.11]**

**PRE-2024 COMMITTEE NOTE**

Because this Local Civil Rule has been recently reviewed and updated by the Court, the Committee has not undertaken to review it in detail.

**Local Civil Rule 83.9. Alternative Dispute Resolution (Southern District Only) [formerly Local Civil Rule 83.12]**

**PRE-2024 COMMITTEE NOTE**

Local Civil Rule 83.9 has been revised to refer to the "Procedures of the Mediation Program for the Southern District of New York." This revision is intended to increase flexibility in the administration of the Mediation Program. Local Civil Rule 83.9 has been revised to make clear that judicial settlement conferences are an available form of alternative dispute resolution.

**Local Civil Rule 87.1 Civil Rules Emergency**

**2024 COMMITTEE NOTE**

New Local Rule 87.1 has been added to supplement proposed new Fed. R. Civ. P. 87, which permits the Judicial Conference to declare a Rules Emergency.

# COMMITTEE NOTES: LOCAL ~~CRIMINAL~~SOCIAL SECURITY RULES

## Local Social Security Rule 1.1. Application of Rules

### 2025 COMMITTEE NOTE

Effective December 1, 2022, there are Supplemental Social Security Rules that govern reviews of § 405(g) decisions. These Local Social Security Rules codify and expand upon existing district-wide orders (EDNY Administrative Order No. 2023-19; SDNY Standing Order No. M10-468), put in place to govern cases filed pursuant to the Supplemental Social Security Rules. The Local Social Security Rules apply only to actions filed on or after January 2, 2025; actions filed before that date remain subject to the relevant district-wide order.

## Local Social Security Rule 4.1. Motions for Extensions of Time and Scheduling Orders

### 2025 COMMITTEE NOTE

Prior to the enactment of the Supplemental Social Security Rules, both districts provided the plaintiff with 60 days after the filing of the certified transcript of the administrative proceedings to file an opening brief, with the Commissioner's brief due 60 days thereafter, and any reply due 21 days later. (SDNY Standing Order No. M10-468; EDNY Administrative Order 2015-05.) The Supplemental Social Security Rules had the effect of displacing these existing district-wide Orders, and shortening the long-established timeframes to 30 days for opening or opposition briefs and 21 days for reply briefs. In light of the history of longer deadlines, and the expectation that the parties will frequently seek extensions of the default deadlines in the Supplemental Social Security Rules, this Local Social Security Rule establishes a process for seeking such extensions.

**Local Social Security Rule 5.1. Default Form and Length for Briefs**

**2025 COMMITTEE NOTE**

The Supplemental Rules for Social Security Actions do not specify the form or length limits for the parties' briefs. To promote uniformity, and in recognition that each action governed by the Supplemental Rules is essentially appellate in character, seeking review of a single individual's claims on a single administrative record, this Local Social Security Rule incorporates the form requirements set forth in Local Civil Rule 7.1(b) and establishes default length limits for the briefs. The rule provides page limits if a party is not represented by an attorney and the brief is handwritten or prepared with a typewriter because a word limit for such submissions would be impracticable.

**Local Social Security Rule 7.1. Obligations of Commissioner in Pro Se Cases**

**2025 COMMITTEE NOTE**

Local Social Security Rules 7.1 and 8.1 clarify the procedure to be used when a plaintiff proceeding *pro se* fails to file an opening brief as required by Supplemental Social Security Rule 6. In order to ensure that the court has the benefit of at least one party's analysis, the Commissioner is still obligated to file a brief, with the deadline that would have been in place—unless extended—had plaintiff filed an opening brief. The Local Social Security Rules also clarify that a plaintiff, despite not filing an opening brief, may still oppose the relief sought by the Commissioner (in the form of an opposition brief), but neither side may file a reply brief in such circumstances, absent leave of court. The default word limits in Local Social Security Rule 5.1 apply to any submission under this rule.

**Local Social Security Rule 8.1. Opposition and Reply Briefs in Pro Se Cases**

**2025 COMMITTEE NOTE**

Local Social Security Rules 7.1 and 8.1 clarify the procedure to be used when a plaintiff proceeding *pro se* fails to file an opening brief as required by Supplemental Social Security Rule 6. In order to ensure that the court has the benefit of at least one party's analysis, the Commissioner is still obligated to file a brief, with the deadline that would

have been in place—unless extended—had plaintiff filed an opening brief. The Local Social Security Rules also clarify that a plaintiff, despite not filing an opening brief, may still oppose the relief sought by the Commissioner (in the form of an opposition brief), but neither side may file a reply brief in such circumstances, absent leave of court. The default word limits in Local Social Security Rule 5.1 apply to any submission under this rule.

# COMMITTEE NOTES: LOCAL CRIMINAL RULES

**Local Criminal Rule 1.1. Application of Rules**

**PRE-2024 COMMITTEE NOTE**

The titles of cross-referenced rules have been added for clarity. The parenthetical to Local Civil Rule 1.6 harmonizes that rule's otherwise broad concept of relatedness with the narrow concepts of relatedness specified in the Courts' Rules (SDNY) or Guidelines (EDNY) for the Division of Business. Finally, the Committee believed it useful to add cross-references to Local Civil Rules 5.2, 5.3, 6.2, 58.1 and 67.1, since they address procedures useful in criminal as well as in civil proceedings.

**2024 COMMITTEE NOTE**

The list of local civil rules that apply in criminal cases has been updated to correspond to changes made to the civil rules. In particular, Local Rule 1.6 was added to the list because the Eastern District of New York has, in its Division of Business Rules, requirements for lawyers in related criminal cases. Local Civil Rule 72.1 was also added to the list because it applies to criminal proceedings under Local Criminal Rule 59.1.

**Local Criminal Rule 1.2. Notice of Appearance**

**PRE-2024 COMMITTEE NOTE**

This rule, derived from former Local Criminal Rule 44.1, has been renumbered to place it in closer proximity to the cross-references in Local Criminal Rule 1.1 to admission to the bar and withdrawal from a case. Former Local Criminal Rule 44.1(b) has been stricken. That rule required attorneys to submit a certificate of good standing from at least one of the states in which the attorney was admitted and was intended to ensure that criminal defendants are in fact represented by admitted attorneys. However, the rule only required an attorney to submit such a certificate once and thus does not appear to serve a substantially different function from the provisions of Local Civil Rule 1.3 on admission to the bar. In addition, former Local Criminal Rule 44.1(b) did not appear to be enforced in practice.

**Local Criminal Rule 16.1. Good Faith Requirement for Discovery Motions**

**PRE-2024 COMMITTEE NOTE**

The rule was simplified to refer to "a bill of particulars or any discovery matter," and to make clear that the requisite certification could be filed as part of the motion papers.

**2024 COMMITTEE NOTE**

The title of this rule has been updated to avoid confusion with Fed. R. Crim. P. 16.1, which was enacted in 2019 and requires a "pretrial discovery conference" between counsel.

**Local Criminal Rule 16.2. Timeline for Expert Discovery**

**2025 COMMITTEE NOTE**

Fed. R. of Crim. P. 16(a)(1)(G) requires the court, by order or local rule, to set a time for the disclosure of information regarding expert witnesses. A local rule setting those time limits subject to contrary order of the court provides judges and attorneys with a default rule that will apply without the need for entry of an order in every individual case, while also providing the flexibility needed to set a different schedule for disclosures when circumstances warrant.

**Local Criminal Rule 23.1. Free Press-Fair Trial Directives**

**PRE-2024 COMMITTEE NOTE**

This rule was the subject of substantial debate and compromise at the time of the 1997 revisions to the Local Rules. During the 2011 revision, the Committee, in the absence of intervening decisions substantially impacting the subject of the rule, decided not to recommend any changes to the rule.

**Local Criminal Rule 45.1. Computation of Time [Withdrawn]**

**2024 COMMITTEE NOTE**

This rule has been withdrawn. Fed. R. Crim. P. 45 now governs computing and extending time.

**Local Criminal Rule 47.1. Applications for Ex Parte Orders**

**PRE-2024 COMMITTEE NOTE**

This rule, former Local Criminal Rule 1.2, was renumbered to associate it with the relevant Fed. R. Crim. P. 47.

Local Criminal Rule 49.1. Motion Deadlines and Reconsideration Motions

**PRE-2024 COMMITTEE NOTE**

This rule, former Local Criminal Rule 12.1, was renumbered to associate it with the Fed. R. Crim. P. 49. The phrase "filed and" was added to the text of subparts (a)-(c). Former subpart (d), relating to computation of time, was deleted as duplicative of Local Criminal Rule 45.1. A new subpart (d) was added to provide guidance regarding motions for reconsideration in criminal cases.

**2024 COMMITTEE NOTE**

The local criminal rule was reorganized for clarity and the title was updated. This rule has been amended to remove references to service of papers in light of the 2018 amendments to Fed. R. Crim. P. 49, which comprehensively deal with the service of papers. In addition, page limits were added for such motions.–

**Local Criminal Rule 49.2. Pro Se Submissions by a Represented Defendant**

**2025 COMMITTEE NOTE**

Local Criminal Rule 49.2 serves several salutary purposes. First, it confirms and codifies the court's inherent authority to reject most pro se submissions by a represented defendant. *See United States v. Hage*, 74 F.4th 90, 94 (2d Cir. 2023) (Nardini, J., in

chambers) (explaining that allowing *pro se* submissions by a represented defendant, at least when "the defendant makes no claim that his counsel was not adequately representing him," is "not only unnecessary; it is also unwise") (internal quotation marks omitted). Second, it protects defendants from unwittingly disclosing information that is privileged or making statements that could be used against the defendant in the case. Third, it establishes an efficient default process for dealing with what in some cases may be numerous *pro se* submissions from a represented defendant, yet provides judges with the flexibility to deviate from the default and handle any such submission as they see fit. *Cf. United States v. Tutino*, 883 F.2d 1125, 1141 (2d Cir. 1989) (holding that the "decision to grant or deny 'hybrid representation' lies solely within the discretion of trial court"). Fourth, by ensuring that any pro se submission is forwarded to counsel for the defendant, it gives counsel the opportunity to take appropriate action, including but not limited to pursuing any matter set forth in the submission or explaining to the defendant why any matter in the submission should not be pursued. Finally, it ensures that any pro se submission by a represented party is made part of the record in case it should it be relevant in later proceedings.

**Local Criminal Rule 58.1. Petty Offenses — Collateral and Appearance**

**PRE-2024 COMMITTEE NOTE**

This rule (formerly Local Criminal Rule 58.2) authorizes the forfeiture of collateral pursuant to Fed. R. Crim. P. 58(d)(1).

**Local Criminal Rule 59.1 Powers of Magistrate Judges**

**PRE-2024 COMMITTEE NOTE**

This rule, formerly Local Criminal Rule 58.1, has been redesignated Local Criminal Rule 59.1 to associate it with Fed. R. Crim. P. 59. The general statutory authority of Magistrate Judges is set forth in 28 U.S.C. § 636; however, certain provisions, including 18 U.S.C. §§ 3401 & 3184, and 28 U.S.C. § 636(c), require specific authorization by the District Court for the Magistrate Judge to exercise the designated authority. This rule, and Local Civil Rule 72.1, which new subpart (c) specifically makes applicable to criminal proceedings, confirm and continue the Courts' intent to give their Magistrate

Judges the maximum powers authorized by law. For the sake of clarity, the titles of the statutes referenced in the rule have been added. Former subpart (c), relating to the power of Magistrate Judges to issue subpoenas and writs, has been stricken as duplicative–the same provision already appears in Local Civil Rule 72.1(c) and will thus continue to apply in criminal proceedings.

**2024 COMMITTEE NOTE**

The reference to "Full-Time" has been eliminated to account for part-time magistrate judges who also hear misdemeanor cases. The title of 18 USC § 3401 has been corrected. Finally, the last two sentences of subsection (a) have been eliminated because they reflected outdated practices and because assignments of criminal cases are now covered in the Division of Business Rules.

**Local Criminal Rule 62.1: Criminal Rules Emergency**

**2024 COMMITTEE NOTE**

New Local Criminal Rule 62.1 has been added to supplement proposed new Fed. R. Crim. P. 62, which permits the Judicial Conference to declare a Rules Emergency.