

**United States District Court
for the District of Rhode Island**

**AMENDMENTS TO THE LOCAL RULES
FOR THE DISTRICT OF RHODE ISLAND**

Effective Date: October 1, 2009

OCTOBER 2009 AMENDMENTS TO LOCAL RULES

**LOCAL RULES OF GENERAL APPLICATION
AND LOCAL RULES GOVERNING
ATTORNEY ADMISSIONS, APPEARANCES,
AND DISCIPLINE**

LR Gen 213 CRIMINAL CONVICTIONS

(a) Criminal Convictions

- (1) **Summary Suspension.** The Court shall enter an order immediately suspending an attorney who is a member of the Bar of this Court or who is admitted to practice *pro hac vice* from practicing before this Court upon receipt of:
- (A) An official record of the entry of a plea of guilty or *nolo contendere* to a serious crime, as hereinafter defined, in any court of the United States, the District of Columbia, any state, territory, commonwealth or possession of the United States, or;
 - (B) A certified copy of a judgment showing conviction of a serious crime, as hereinafter defined, in any court of the United States, the District of Columbia, any state, territory, commonwealth or possession of the United States.

A copy of such order shall immediately be served upon the attorney as provided in LR Gen 210(c)(2). Upon good cause shown, the Court may set aside such order when it appears in the interest of justice to do so.

- (2) **Disciplinary proceeding.** In addition to suspending the attorney, the Court shall issue a show cause order as provided in LR Gen 210(c), provided, however, that a disciplinary proceeding so instituted shall not be brought to final hearing until all appeals from the conviction are concluded.

An official record showing the entry of a plea of guilty or *nolo contendere* or a certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based upon the conviction.

- (3) **Serious Crime.** The term “serious crime” shall include any felony and any lesser crime, a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file or filing false income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy with or solicitation of any other to commit a “serious crime.”

- (b) **Reversal of Conviction.** An attorney suspended under the provisions of this Rule will be reinstated immediately upon the filing of a certificate demonstrating that the conviction has been reversed but the reinstatement will not terminate any disciplinary proceeding then pending against the attorney.

(§(a)(1) amended and redesignated as (a)(1)(A) and (a)(1)(B) on 10/1/09; §(a)(2) amended on 10/1/09.)

CROSS-REFERENCE

See LR Gen 214 (effect of disciplinary actions taken by other courts or agencies).

**LOCAL RULES APPLICABLE
TO CIVIL PROCEEDINGS**

LR Cv 5 FORM AND FILING OF DOCUMENTS

- (a) **Form and Content of Documents.** All documents filed in a civil case shall be on 8½" x 11" paper and shall include the following:
- (1) **Captions.** Any pleading or other document asserting a claim or counterclaim of any type shall include the full caption showing the names of all parties. Documents filed after a case is docketed shall also include the name, case number and initial(s) of the judge to whom the case has been assigned.
 - (2) **Titles.** All documents shall bear a title that concisely states the precise nature of the document and identifies the party filing it.
 - (3) **Format; Page Numbering.** Unless otherwise provided or ordered by the Court, all documents shall be double-spaced and typed in at least 12-point font. Footnotes shall be in at least 10-point font and may be single-spaced. Where a document is more than one page in length, the pages shall be numbered at the bottom center of each page.
 - (4) **Jury Demand.** Any pleading containing a demand for a jury trial shall set forth the demand to the right of the caption, below the case number.
 - (5) **Signing of Pleadings.** All documents filed on behalf of a party shall be signed by counsel representing the party on whose behalf the document is filed, or in the case of parties proceeding *pro se*, by the party himself or herself. The name, address and telephone number of the individual signing the document shall be typed or printed below the signature. Documents filed by attorneys also shall bear the attorney's bar number, and the name, address, fax number and e-mail address of the attorney's law firm.
- (b) **Civil Cover Sheet.** Counsel filing a complaint in a civil case or any other document that requires a file to be opened shall contemporaneously file a completed AO Form JS-44 Civil Cover Sheet describing the type of case and identifying any related case previously filed or pending in this Court. The Clerk may reclassify a case if the cover sheet does not accurately describe its type. Cover sheets shall be provided by the Clerk upon request.
- (c) **Filing Fee.** Any applicable filing fee prescribed by law shall be paid to the Clerk at the time of filing. If payment is made by check, the check shall be made payable to "Clerk, United States District Court."

- (d) **Discovery Documents.** Unless otherwise ordered by the Court, disclosures made under Fed. R. Civ. P. 26(a)(1)-(3), notices of deposition, deposition transcripts, interrogatories, requests for production, requests for admission, and answers and responses thereto, shall not be filed with the Court. The parties in possession of such documents shall be responsible for preserving them and making them available for use at trial and/or for other purposes required by the Court.
- (e) **Subpoenas.** Subpoenas, including proofs of service, shall not be filed with the Court, unless otherwise ordered by the Court or required by the Federal Rules of Civil Procedure. The parties in possession of such documents shall be responsible for preserving them and making them available for use at trial and/or for other purposes required by the Court.
- (f) **Place for Filing Documents.** The original and all copies of any document filed with the Court that is part of the record in a case shall be filed with the Clerk. Such documents shall not be filed in a judge's chambers, unless otherwise required by these Rules or authorized by that judge. The Clerk will retain and docket original documents and will forward copies to the judicial officer to whom the case has been assigned.

(§§ (a)(3) and (d) amended 3/17/08. Cross-reference to LR Cr 57 added 3/17/08;
§ (a)(3) amended and Cross-Reference to Admin. Procedures added 1/5/09; new §(e) added 10/1/09; old §(e) redesignated (f) on 10/1/09.)

CROSS-REFERENCES

See LR Cv 5.1 (Service and Proof of Service), LR Cv 5.2 (Notice by Publication), LR Cv 7 (filing of motions and supporting materials) and LR Cv 56 (Motions for Summary Judgment).

See also LR Cr 57 (form and filing of documents and use of cover sheets in criminal cases); and 28 U.S.C. §1914(a) (governing filing fee for civil actions).

See generally Administrative Procedures for Electronic Case Filing.

LR Cv 5.1 SERVICE AND PROOF OF SERVICE

(a) Proof of Service.

- (1) Proof of service of any document, except those listed in LR Cv 5(d) and (e) above, required to be served on a party or non-party shall be filed with the Court within three (3) days after service is made. In the case of documents required to be served personally, proof of service shall include a certification by the person making service that the documents were served, the date of service, and a description of the manner in which service was made.
- (2) Failure to file proof of service will not necessarily affect the validity of the service.

(b) Private Process Servers.

- (1) The Court, by order, may appoint qualified individuals to make service of civil process, and the Clerk shall maintain a list of those individuals who have been duly appointed as process servers pursuant to this subsection.
- (2) To be considered for appointment, an applicant shall file an affidavit setting forth the applicant's age, citizenship, criminal record (if any), and relevant experience and qualifications for the service of process. In order to be appointed, an applicant must demonstrate:
 - (A) sufficient knowledge and/or other experience to perform the duties required by law; and
 - (B) sufficiently good character to discharge the duties of a process server.
- (3) At the time of appointment, a process server shall post a bond with the Clerk in an amount fixed by the Court for the faithful performance of his or her duties.
- (4) Appointments may be renewed annually upon the filing of an affidavit stating that all information in the original affidavit and application is correct, together with a bond in the required amount.
- (5) A process server shall serve at the pleasure of the Chief Judge, and his or her appointment may be terminated by the Chief Judge without a hearing.

(§ (b)(2) amended 1/5/09; § (a)(1) amended on 10/1/09.)

CROSS-REFERENCES

See LR Cv 5 (Form and Filing of Documents) and LR Cv 5.2 (Notice by Publication).

LR Cv 72 AUTHORITY OF MAGISTRATE JUDGES IN CIVIL CASES

- (a) **Authority and Duties.** A full-time or recalled magistrate judge shall perform any duties assigned by the Court or by a district judge and, in doing so, may exercise all powers conferred upon full-time magistrate judges pursuant to 28 U.S.C. § 636.
- (b) **Vacating Referrals.** A district judge who has referred any matter to a magistrate judge may, in his or her discretion, vacate the reference at any time.
- (c) **Appeals from Rulings on Nondispositive Matters.**
 - (1) **Time for Appeal; Failure to File.** Any appeal from an order or other ruling by a magistrate judge in a nondispositive matter shall be filed and served within ten (10) days after such order or ruling is served on the appellant. Failure to file specific objections in a timely manner constitutes waiver of the right to review by the district judge and the right to appeal the Court's decision.
 - (2) **Content of Appeal.** Any such appeal shall consist of a notice of appeal setting forth the basis for the appeal, a memorandum of law which complies with LR Cv 7, and a transcript of any evidentiary hearing(s) before the magistrate judge and/or any statements by the magistrate judge of the reasons for the order or ruling.
 - (3) **Responses and Replies.** A response to an appeal shall be served and filed within ten (10) days after the notice of appeal is served. The appellant may serve and file a reply to the response within ten (10) days thereafter. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in opposition to an appeal of a magistrate judge's order or ruling. Any response and/or reply shall comply with LR Cv 7.
- (d) **Objections to Reports and Recommendations.**
 - (1) **Time for Objections; Failure to File.** Any objection to a Report and Recommendation by a magistrate judge shall be filed and served within ten (10) days after such Report and Recommendation is served on the objecting party. Failure to file specific objections in a timely manner constitutes waiver of the right to review by the district judge and the right to appeal the Court's decision.
 - (2) **Content of Objections.** An objection to a magistrate judge's Report and Recommendation shall be accompanied by a memorandum of law specifying the findings and/or recommendations to which objection is made, the basis for the objection, and a transcript of any evidentiary hearing(s) before the magistrate judge. The memorandum shall comply with LR Cv 7.

- (3) **Responses and Replies.** A response to an objection shall be served and filed within ten (10) days after the objection is served. The objecting party may serve and file a reply to the response within ten (10) days thereafter. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in opposition to an objection to a magistrate judge's Report and Recommendation. Any response and/or reply shall comply with LR Cv 7.

(§§(c)(1) and (d)(1) amended 10/1/09)

CROSS-REFERENCES

See LR Cv 7(d) (form of memoranda), LR Cv 73 (civil consent jurisdiction), and LR Cr 57.2 (duties of magistrate judge in criminal matters).

See also:

- Fed.R.Civ.P. 72(a) (duties of, and appeals from rulings by, magistrate judges on nondispositive matters).
- Fed.R.Civ.P. 72(b) (duties of, and appeals from rulings by, magistrate judges on dispositive matters).
- Fed.R.Civ.P. 73 (civil consent references to magistrate judges).
- 28 U.S.C. §636 (setting forth jurisdiction and duties of magistrate judges).