

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND**

**LOCAL RULES REVIEW COMMITTEE  
March 16, 2016**

The Local Rules Review Committee (“LRRC”) met on March 16, 2016, at 12:30 PM in the Jury Assembly Room of the United States Courthouse. Matthew Oliverio and Michael Daly co-chaired the meeting. The following LRRC members were present: CharCretia DiBartolo, Robert Fine, Dana Horton, Eric Mack, Ray Marcaccio, Neal McNamara, Stacey Nakasian, Stanley Pupecki, Tamera Rocha, Ray Ripple, Kathryn Sabatini, and Justin Shay. The following Court personnel were present: David DiMarzio, Frank Perry, and Michael Simoncelli (LRRC Reporter). Co-chair Matthew Oliverio called the meeting to order at 12:35 PM.

David DiMarzio began the meeting by thanking the members of the LRRC for their service to the Court and the bar on behalf of Judge Smith, who could not attend the meeting. Co-chair Matthew Oliverio then asked Michael Simoncelli, the LRRC Reporter, to summarize the proposed amendments for this cycle and any holdovers from the previous cycle. Mr. Simoncelli started with the Court-proposed amendments:

**LR Gen 102:** The proposed amendment to LR Gen 102 would require parties to file sealed documents electronically in civil and criminal cases. In addition, the proposal removes extraneous and out-of-date information related to how the Clerk’s Office handles incoming motions to seal and related documents.

**LR Gen 202:** The proposed amendment to LR Gen 202(a)(2)(B) would allow attorneys to become a member of the bar without taking the bar lecture series if they have a combination of five years of federal practice and federal law clerk experience. The current rule does not recognize federal law clerk experience as “experience in practicing before federal courts.”

**LR Gen 303:** In connection with the proposal to LR Gen 102, the proposed change to LR Gen 303 deletes the requirement from (c) that sealed documents be filed conventionally.

**LR Gen 309:** Beginning on December 1, 2016, the requirement that three days be added to deadlines after service will no longer apply to documents served electronically under Fed. R. Civ. P. 6(d) and Fed.R. Crim. P. 45(c). The proposed amendment removes a similar provision from LR Gen 309.

**LR Cv 54:** Under the Fed.R. Civ. P. 54(d)(1), “Unless a federal statute, these rules, or court order provides otherwise, costs . . . should be allowed to the prevailing party.” The proposed amendment to (c) removes the discrepancy between our local rule and Fed. R. Civ. P. 54 to reflect the discretionary nature of the award of costs.

**LR Cr 44:** The proposed amendment to LR Cr 44 makes a minor change to reflect that CJA panel attorneys now submit their vouchers for payment through eVoucher, and not on paper forms.

**Federal Rules Changes:** In addition to the proposed rule changes discussed above, there are a number of proposed changes to the Federal Rules of Civil Procedure and Criminal Procedure set to take effect on December 1, 2016 (pending Supreme Court approval and if Congress chooses not to act on these proposed amendments). The Court asked the LRRC to consider reviewing these pending changes to see if they affect the Local Rules.

David DiMarzio added that there were a few additional local rules changes under review, and that the Court may forward those proposed amendments to the LRRC for consideration at a later date.

Next, Mr. Simoncelli discussed the proposal that the LRRC tabled during the previous cycle:

**Ghostwriting:** During the 2011-12 cycle, Girard Visconti and Marc DeSisto proposed that the Court adopt a rule requiring *pro se* litigants to certify that an attorney has not drafted the documents that they filed with the Court. The Civil Rules Subcommittee elected to table that suggestion three times, pending a Rhode Island Supreme Court decision addressing the issue. On June 8, 2015, the Rhode Island Supreme Court issued an order on “Limited-Scope Representation in Rhode Island, Drafting Assistance to *Pro Se* Litigants,” which spelled out their policy on the ghostwriting of pleadings on behalf of a *pro se* litigant. The Supreme Court opened this policy to public comment until January 15, 2016, and as of the date of this memo, they have not issued any subsequent orders regarding ghostwriting.

Finally, Mr. Simoncelli added that the Court put out a call for suggested amendments to the Local Rules in February, and that no suggested rule changes were received from the bar.

Mr. Oliverio noted that in addition to the proposed amendments submitted by the Court and the holdover from the previous session, members of the LRRC were free to offer their own amendments during this session and the upcoming subcommittee meetings. He went on to outline a proposal to change the LRRC’s reporting period from every year to every two years. Co-chair Michael Daly added that he planned to propose an amendment to LR Cv 55 (motions for entry of default and default judgment), which would remove the certified mail service requirement.

Next, Mr. Oliverio gave an update on the work of the ESI subcommittee. Stacey Nakasian added that it was unclear at this point whether the subcommittee’s final product would require any action by the LRRC. Specifically, the structure of their proposal—for example, whether they elected to propose a set of guidelines or offer local rule amendments—would

ultimately determine the proper venue for considering any local proposals governing ESI discovery.

Mr. Oliverio closed the meeting by asking the LRRC subcommittees to meet and confer on any proposed amendments during April, and submit their reports to the co-chairs one week in advance of the May meeting of the full LRRC.

The meeting adjourned at 1:20 PM.