



UNITED STATES DISTRICT COURT
District of Rhode Island

**NOTICE OF PROPOSED AMENDMENTS
TO LOCAL RULES**

Pursuant to 28 U.S.C. § 2071(b), Fed. R. Civ. P. 83(a)(1), and Fed. R. Crim. P. 57(a)(1), the United States District Court for the District of Rhode Island hereby gives notice that proposed amendments to the Court's Local Rules are being considered for adoption.

The Court invites public comment on the following proposed amendments to the Local Rules:

General Rules: LR Gen 102, LR Gen 105, LR Gen 112, LR Gen 113, LR Gen 201, and LR Gen 202.

Civil Rules: LR Cv 5, LR Cv 30 (New Rule), LR Cv 54.1, and LR Cv 78 (New Rule)

Admiralty Rules: LAR E.

Criminal Rules: LR Cr 12.

Copies of the proposed amendments may be reviewed and printed from the Court's website at www.rid.uscourts.gov. These amendments are also available for inspection at the Clerk's Office, United States District Court, One Exchange Terrace, Providence, RI 02903.

Any comments must be submitted, in writing, no later than March 1, 2024, via e-mail to Local_Rules@rid.uscourts.gov or by submission to the Clerk's Office.

February 1, 2024

Hanorah Tyer-Witek
Clerk of Court

LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION

(d) Use of Pseudonyms in Civil Matters. A party wishing to proceed pseudonymously in a civil matter before this Court must file a motion in accordance with LR Cv 7. Additionally, the moving party must simultaneously file a separate document listing the true name(s) of any pseudonym(s) used in the pleading that will be automatically restricted by the Clerk's Office upon filing.

LR Gen 105 ASSIGNMENT OF CASES

(a) New Cases.

(5) Wiretaps. Applications seeking approval to intercept wire communications pursuant to 18 U.S.C. § 2516 shall be assigned to the Chief Judge. If the Chief Judge is unavailable, the application shall be randomly assigned to another district judge.

LR Gen 112 USE OF ELECTRONIC DEVICES

- (a) **Photographing, Recording, and Broadcasting.** Except to the extent expressly authorized by the Court in accordance with the exceptions outlined below, no person shall photograph, record, broadcast, or otherwise transmit any proceeding, event, or activity held in the Courthouse or portion of the John O. Pastore Building occupied by the Court.

(1) **Exceptions:**

(A) Ceremonial Proceedings: The Court may permit the photographing, recording, or broadcasting of ceremonial proceedings upon such terms and conditions as the Court may specify.

(B) Court Proceedings: The Court may permit the Clerk to make available a narrowcast¹ transmission of civil proceedings held by videoconference pursuant to LR Cv 78 and courtroom proceedings in civil and select criminal cases. The narrowcast transmission of these proceedings is not considered prohibited broadcasting under Fed. R. Crim. P. 53 and the policies of the Judicial Conference of the United States and the resolutions of First Circuit Judicial Council.

All viewers of the narrowcast of civil proceedings held by videoconference pursuant to LR Cv 78 and courtroom proceedings in civil and criminal cases may only view the proceedings and are prohibited from photographing, recording, broadcasting, or otherwise transmitting the narrowcast of these proceedings.

- (b) **Exceptions Electronic Devices.** Electronic devices, including but not limited to cellular or smart phones, laptops, and tablets, may be brought into and used within the Courthouse or portion of the John O. Pastore Building occupied by the Court only by those individuals authorized pursuant to this subsection.

- (1) **Use of Electronic Devices by Attorneys.** Unless the Court otherwise orders, attorneys may use electronic devices in the Courthouse and portion of the John O. Pastore Building occupied by the Court, including courtrooms and chambers, upon the following conditions:

(A) Use of electronic devices shall not be disruptive of Court proceedings;

(B) Use of electronic devices does not conflict with (a) or any other provision of the Local Rules, Court order, or statute;

(C) Unauthorized use of electronic devices may result in the user being required to relinquish the device to the custody of the United States Marshal until released by a judicial officer and/or imposition of sanctions.

- (2) **Use of Electronic Devices by Media.** Unless the Court otherwise orders, members of the media who have been authorized to bring and use electronic devices in the Courthouse and portion of the John O. Pastore Building occupied by the Court, may use those devices under the conditions set forth in (a) and (b)(1). The Clerk will maintain a list of individuals authorized pursuant to this subsection.

¹ For this rule, “narrowcast” is defined as the live transmission, through technical means controlled by the Court, of ongoing court proceedings to a selected audience. See, *In re Sony BMG Music et al*, 564 F.3d 1, 2 n.1 (1st Cir. 2009).

LR Gen 113 AMENDMENTS TO THE LOCAL RULES

(b) Local Rules Review Committee.

(1) Establishment and Duties. ~~A Local Rules Review Committee may be established by the Court for the purpose of reviewing these Rules and recommending proposed amendments to the Court after consulting with the Bar and the public. The Committee shall report to the Court annually, or more frequently if required, on proposed amendments to these Rules.~~

(2) Members. ~~The Committee shall consist of individuals who are members of the Bar of this Court and who regularly practice before this Court, as well as such ex officio members as the Court may designate.~~

(3) Terms of Service. ~~Members of the Committee shall serve staggered 3-year terms with the terms of one third of the members expiring each year. At the expiration of his or her term, a Member who has served 3 years or less may be reappointed for one additional 3-year term.~~

(Note: The deletion of this subsection is related to the establishment of the Court Advisory Council {See, General Order Establishing the Court Advisory Council, dated January 5, 2023} and the assignment of the Local Rules review process to the Council).

LR Gen 201 PRACTICE BEFORE THIS COURT

(b) Exceptions to Requirement of Membership.

(7) Federal Defenders. An attorney employed in the Federal Defender's Office in this District may appear and practice as an attorney pursuant to a court appointment or on behalf of his or her office.

(8) Law Professors. An attorney who is employed by a law school in Rhode Island and is a member in good standing of the bar of another state bar or federal district court and each jurisdiction in which that attorney has been admitted to practice, may appear and practice in this Court as an attorney.

LR Gen 202 ELIGIBILITY AND PROCEDURE FOR ADMISSION

(b) Procedure for Admission.

(1) Application for Admission. An attorney applying for admission to the Bar of this Court must ~~complete the file with the Clerk a completed~~ application form through PACER, attach current (issued within 30 days of application) certificate(s) of good standing from the Rhode Island Supreme Court and any other jurisdiction in which the attorney has been admitted to practice (if applicable), and the admission fee fixed by the Court.

(2) Review of Application. The Clerk shall review the application and determine if the attorney satisfies the prerequisites for admission. If so, the Clerk shall direct the applicant to pay the admission fee. notify the attorney and the Chair of the Board of Bar Admissions, and place the attorney on the list for the next available admissions ceremony. If the Clerk finds that the attorney does not satisfy the prerequisites for admission, the Clerk shall forward the application to the Chief Judge, or his or her designee, for review.

(3) ~~Admission Ceremony~~ Oath of Admission. ~~Approved~~ Admitted attorneys shall make the following oath or affirmation before the Clerk:

Attorneys shall make the following oath or affirmation: I do solemnly [swear] [affirm] that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic, and that I will bear true faith and allegiance to the same; that I take the obligation freely, without any mental reservation or purpose of evasion; and that I will demean myself as an attorney, proctor, and solicitor of this court, uprightly and according to the law. [So help me God.]

The attorney will forward the signed Oath with a wet signature to the Clerk for filing. Upon making the prescribed oath or affirmation, the attorney shall be a member of the Bar of this Court.

~~(c) Board of Bar Admissions~~

~~(1) Establishment of Board. There shall be a Board of Bar Admissions which shall advise the Court on the administration and operation of the Court's Bar Fund and other matters benefiting the bench and bar in the administration of justice.~~

~~(2) Membership. The Board of Bar Admissions shall consist of 8 members or such other number as may be fixed from time to time by the Court. The Board shall be comprised of individuals who are members of the Bar of this Court and who regularly practice before this Court. The Chair of the Board of Bar Admissions shall be appointed by the Chief Judge.~~

Proposed Amended Local Rules

~~(3) Term. Board members shall serve staggered 3-year terms with the terms of one-third of the members expiring on May 31 of each year. At the expiration of his or her term, a Board member who has served 3 years or less may be reappointed for one additional 3-year term.~~

(Note: The deletion of subsection (c) is related to the establishment of the Court Advisory Council {See, General Order Establishing the Court Advisory Council, dated January 5, 2023} and the assignment of the Local Rules review process to the Council).

LR Cv 5 FORM AND FILING OF DOCUMENTS

(b) Civil Cover Sheet

(1) Related Case. A party initiating a civil case shall identify any cases previously filed or pending in this Court on the civil cover sheet that involve:

_____ (A) some or all of the same parties; and

_____ (B) the same or substantially similar issues of fact.

(2) Ongoing Duty. After the assignment of a civil case pursuant to LR Gen 105, counsel shall promptly notify the Court if they identify a related case as defined in LR Cv 5(b)(1) to avoid unnecessary duplication of judicial effort.

LR Cv 30 DEPOSITIONS

- (a) **Place of Deposition.** Unless the parties otherwise stipulate, the Court hereby orders, pursuant to Fed. R. Civ. P. 30(b)(4), that the deposition of an individual or entity located outside the District of Rhode Island be taken remotely.

LR-Cv 54.1 ATTORNEYS' FEES

(a) Time of Request. ~~Unless otherwise ordered by the Court or provided by law, a party seeking an award of attorneys' fees that are not an element of damages to be proven at trial shall serve and file a motion for attorneys' fees not later than 14 days after the entry of judgment. Except for good cause shown, failure to file a motion within that time shall be deemed a waiver of any claim for attorneys' fees.~~

(b) Supporting Affidavits.

~~(1) A motion for attorneys' fees shall be accompanied by an affidavit of counsel that includes:~~

~~(A) an itemized statement of all time expended by each attorney, together with a brief description of the services performed during each period of time itemized;~~

~~(B) a statement of the reason(s) why these services were reasonably necessary;~~

~~(C) the hourly fee customarily charged by counsel in like cases;~~

~~(D) a description of any fee agreement made with counsel's client regarding the case; and~~

~~(E) any other pertinent factors set forth in Rule 1.5 of the Rules of Professional Conduct promulgated by the Rhode Island Supreme Court.~~

~~(2) Unless otherwise permitted by the Court, a motion for attorneys' fees also shall be accompanied by an affidavit regarding the reasonableness of the requested hourly fee from a disinterested attorney admitted to practice in Rhode Island who is experienced in handling similar cases and familiar with the usual and customary charges by attorneys in the community who have comparable experience in similar cases.~~

LR Cv 78 HEARINGS BY VIDEOCONFERENCE

At the discretion of the presiding judge, video conferencing may be used to conduct proceedings in civil cases. If a video conference proceeding is authorized by the presiding judge, and the proceeding would otherwise be open to the public, the Clerk's Office shall make video and audio of the proceeding available as directed by the judge.

LAR E ACTIONS IN REM AND QUASI IN REM: GENERAL PROVISIONS

(12) Undertakings in Lieu of Arrest. If, in return for foregoing the arrest or stipulating to the release of such vessel or other property, a party accepts the written undertaking of a claimant or other interested person or entity to respond on behalf of the vessel or other property, the undertaking will become a party in place of the vessel or property sued, and will be deemed referred to under the name of the vessel or property in any pleading, order, or judgment.

LR Cr 12 PRETRIAL MOTIONS

(c) Duty to Address Speedy Trial Act.

(1) All motions shall address:

(A) the number of days remaining, as of the date of the filing of the motion, before trial must begin pursuant to the Speedy Trial Act;

~~(A) (B) whether or not any delay occasioned by the making, hearing, or granting of that motion will constitute, in whole or in part, excludable time as defined by 18 U.S.C. § 3161(h); and if so, the estimated number of days to be excluded or how such excludable time shall be determined; and~~

~~(B) whether any previous motion(s) dealing with the same subject matter has, in the past, resulted in excludable time; and if so, the number of days that were excluded.~~

(2) Any party objecting to a motion shall include with the objection a statement as to whether it agrees or disagrees with the moving party's calculation under subsection ~~(d)~~(c)(1) of this rule.

(3) A party that requests a continuance and contends that the resulting delay should be excluded under 18 U.S.C. § 3161(h)~~(8)~~(7) shall set forth reasons to support a finding that the ends of justice served by the granting of a continuance outweigh the interests of the public and the defendant in a speedy trial.
