LOCAL RULES

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

Effective January 1, 2006
As Amended through April 1, 2024

LOCAL RULES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND

Effective January 1, 2006,

As Amended through April 1, 2024

[These Local Rules are available at: www.rid.uscourts.gov]

TABLE OF CONTENTS

LOCAL RULES OF GENERAL APPLICATION

[THIS PAGE INTENTIONALLY LEFT BLANK]

LOCAL RULES OF GENERAL APPLICATION

[THIS PAGE INTENTIONALLY LEFT BLANK]

LR Gen 101 SCOPE AND PURPOSE OF RULES

(a) **Title.** These Local Rules are adopted pursuant to Title 28 United States Code, Section 2071, Rule 83 of the Federal Rules of Civil Procedure, and Rule 57 of the Federal Rules of Criminal Procedure, and shall be known and cited as the Local Rules of the United States District Court for the District of Rhode Island ("Local Rules" or "DRI LR ___").

(b) **Effective Date.** These Local Rules shall become effective on January 1, 2006 and shall apply to all cases then pending and thereafter filed, subject to any amendments adopted thereafter.

(c) **Applicability.** These Local Rules and any amendments shall apply to all proceedings in the United States District Court for the District of Rhode Island; provided, however, that if the Court determines that exceptional circumstances exist in which application of a Rule would create an injustice or undue hardship, the Court may suspend the operation of that Rule under those circumstances. In addition to these rules, all parties must comply with any and all pretrial order(s) issued in any case, except where they conflict in which case the pretrial order(s) shall govern.

(d) **Previous Rules and Orders Superseded.** All prior rules, standing orders and general orders are superseded and abrogated.

(e) **Construction.** These Rules should be construed consistently with other applicable statutes and rules to secure the just, speedy and inexpensive determination of all proceedings before the Court.

(f) **Definitions.**

(1) "Court" refers to the judge or judicial officer before whom a proceeding is pending, unless otherwise stated or unless the context in which the term is used plainly requires otherwise.

(2) "Clerk" means the Clerk of the Court and includes deputy clerks of court.

(3) "Marshal" means the United States Marshal and includes deputy marshals.

(4) "Conventionally Filed/Served" means documents presented to the Court or party in paper or other non-electronic format.

(5) "Document" means any written matter filed by or with the Court, whether filed conventionally or electronically, including but not limited to motions, objections, pleadings, applications, petitions, notices, declarations, stipulations, affidavits, exhibits, briefs, memoranda of law and orders.

(6) "ECF" means the Court's Electronic Case Filing System, which is an automated system that receives and stores documents in electronic form.

(7) "Electronic Filing" or "Electronically Filed" means the transmission of a document in Portable Document Format ("PDF") for filing using the ECF system facilities.

(8) "Filing User" means those attorneys who have a court-issued login and password to file documents electronically in this judicial district.

(9) "Main Document" means motions, objections, replies, stipulations, waivers, notices and other pleadings, but does not include attachments or exhibits to such pleadings.

(10) "NEF" means Notice of Electronic Filing, which is the email notice automatically generated by ECF each time a document is electronically filed.

(11) "PDF" means Portable Document Format. This includes both "Electronically Converted PDF Documents," which are created from a word processing system (MS Word, WordPerfect, etc.) using PDF creation software and are text-searchable, and "Scanned PDF Documents," which are created from paper documents run through a scanner and can be made text-searchable.

(12) "Megabyte" (MB) is the amount of computer storage needed to store 1,048,576 characters, which is equivalent to approximately 260 pages of an "Electronically Converted PDF Document" or 20 pages of a "Scanned PDF Document."

(13) "Page" from a PDF document for purposes of these rules must be the equivalent of a "page" from a conventionally filed (paper) document which was prepared to conform with the requirements of these Local Rules.

Effective 1/15/13: New §(f)(2) and (3) added, and existing §(f)(2) – (11) renumbered as (f)(4) – (13). Effective 1/3/11: §§(f) and (g) incorporated into new §(f). Effective 1/5/09: §(b) amended, and §(g) added.

CROSS-REFERENCES

See LR Gen 113(e) (rules do not restrict Court from issuing general orders or administrative orders).

See also LR Gen 301(b).

LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION

(a) Privacy Protections. It is the responsibility of any party or non-party filing a document, not the Clerk's Office, to review each document to determine if pleadings are in compliance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and the Judicial Conference Policy on Privacy and Public Access to the Electronic Case Files.

If the Court finds a document that contains personal identifiers referenced in Fed. R. Civ. P. 5.2 and Fed. R. Crim. P. 49.1, the Clerk's Office will limit non-parties' remote electronic access to the document containing the personal identifiers, and direct the party responsible for the filing to file a redacted version of the document.

(b) Sealed Documents.

(1) Filing of Sealed Documents. Documents may be sealed by order of the Court only upon the filing of a motion to seal. A motion to seal in accordance with LR Cv 7 and LR Cr 47 stating the basis for the sealing and the document(s) subject to the motion to seal must be filed electronically and will remain provisionally under seal until the Court rules on the motion. Documents submitted by a party under seal, provisionally or otherwise, must be stamped or labeled by the party on the cover page "FILED UNDER SEAL."

If the Court denies the motion to seal, the document(s) subject to the motion to seal will not be accepted for filing in the case.

(2) Service of Motions to Seal.

(**A**) **Civil Cases**. A motion to seal in a civil case may be served electronically if the party is a Filing User of the Court's ECF system. Parties who are ineligible to file and receive documents electronically or exempt from electronic filing must be served pursuant to LR Cv 5.1(b).

(B) Criminal Cases. A motion to seal in a criminal case must be served on all parties in the case pursuant to LR Cr 49.

(3) Limiting Sealed Filings and Redactions. Rather than automatically requesting the sealing of an entire motion or other filing, parties shall consider whether redaction would be sufficient. If only a portion of a document contains confidential information, the party requesting sealing pursuant to (b)(1) shall file both an unredacted version of the document and a redacted version that excises the confidential information.

(4) Exceptions.

(a) Sealed Cases. Parties do not need to file a separate motion to seal for pleadings or documents filed in cases that are sealed pursuant to statute, Court order, or local rule, provided that the document be stamped or labeled by the party on the cover page "FILED UNDER SEAL." Sealed cases would include, but are not limited to, grand jury proceedings, pen register requests, wire and video interceptions, and *qui tam* actions.

(b) *Ex parte* Filings. Parties do not need to file a separate motion to seal for pleadings or documents filed *ex parte*, provided that the document be stamped or labeled by the party on the cover page "FILED EX PARTE."

(c) Unsealing of Documents. Documents sealed by the Court may be unsealed at any time upon motion of a party or non-party or by the Court *sua sponte*, provided that the parties first are given notice and an opportunity to be heard.

(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.

Effective 4/1/24: §(d) added. Effective 12/1/18:§(b)(2) amended. Effective 12/1/17: §(b)(1) amended; §(b)(4) added. Effective 12/1/16: §§(b),(c), and (d) deleted, new §(b) added, and §(e) redesignated at (c). Effective 12/1/15: §§(c) and (d) amended. Effective 12/15/14: §§(a)(1) and (a)(3) deleted; §(a)(2) amended and redesignated as (a); and §(c) amended. Effective 1/3/11: §§(a), (b), and (c) amended; §§(a), (b), (c), and (d) redesignated as §§(b), (c), (d), and (e); new §(a) added. Effective 3/17/08: §§(a)(4), (b) and (c) amended.

CROSS-REFERENCES

See generally LR Cv 7 (Motions and Other Papers) and LR Cr 47 (Motions and Other Papers).

See also Fed. R. Civ. P. 5.2; Fed. R. Crim. P. 49.1.

LR Gen 103 EXHIBITS

(a) **Custody.** Unless otherwise ordered by the Court, the Clerk shall maintain custody of all exhibits marked for identification and/or admitted into evidence in any proceeding except for sensitive exhibits. Sensitive exhibits, including but not limited to, narcotics and other controlled substances, firearms, ammunition, explosive devices, jewelry, liquor, poisonous or dangerous chemicals, money or articles of high monetary value, counterfeit currency, and biological hazards shall be retained by the party offering the exhibit prior to, throughout, and after the trial or proceeding.

(b) **Disposition.** Unless otherwise ordered by the Court, within 30 days after the appeal is concluded or the time for appeal has expired, exhibits in the custody of the Clerk must be removed by the party that presented the exhibit. Exhibits not so removed will be destroyed or otherwise disposed of by the Clerk.

Effective 12/1/19: §(a)-(c) deleted; §(d)(1)-(2) redesignated as (a) and (b). Effective 12/1/16: §(d)(1) amended, §(d)(2) deleted, and §(d)(3) amended and redesignated as (d)(2). Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules.

CROSS-REFERENCES

See LR Cv 39 (Opening Statements; Use of Recorded Testimony; Time Limits) and LR Cr 23 (Opening Statements; Use of Recorded Testimony; Time Limits).

LR Gen 105 ASSIGNMENT OF CASES

(a) New Cases.

(1) In General. Except as otherwise provided in (a)(2) and (a)(4) of this Rule, the Clerk shall randomly assign each new case to a district judge and a magistrate judge in a manner that evenly distributes the cases among them by type of classification as provided under LR Cv 5(b) or LR Cr 57(b).

(2) Related Cases. A civil or criminal case which the cover sheet indicates, or which the Clerk believes may be related to a case previously filed in this Court, shall be provisionally assigned to the judge to whom the related case was assigned. If the judge to whom the case is provisionally assigned determines that the case is not closely related, the judge shall return the case to the Clerk for random assignment as provided in (a)(1) of this Rule.

(3) Re-filed Cases. A civil or criminal case that appears to involve substantially the same parties and issues as a case or proceeding that previously was brought in this Court and dismissed or otherwise terminated shall be provisionally assigned to the judge who originally was assigned the prior case or proceeding, or if already assigned, shall be transferred to the judge who originally was assigned the prior case or proceeding.

(4) Assignment of Civil Cases to Magistrate Judges. The Clerk shall randomly assign certain types of civil cases identified by the Court among district judges and full-time magistrate judges. If a magistrate judge is randomly assigned such a civil case as the presiding judge, they shall conduct all proceedings, including a jury or non-jury trial, and order the entry of judgment in the case. Such assignments are subject to the provisions of Fed. R. Civ. P. 73 and LR Cv 73, and require consent of the parties. Any case for which all parties do not consent will be reassigned pursuant to (a)(1) of this Rule.***[See Comment, end of Rule]**

(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.

(b) Remanded Cases. Any case remanded to this Court for a new trial shall be reassigned to a judge other than the judge to whom the case previously was assigned. All other cases remanded to this Court shall be reassigned to the judge to whom the case was previously assigned, unless that judge determines that the interests of justice require that the case be assigned to a different judge.

(c) Emergency Matters. If immediate action is required with respect to some matter in a case and the judge to whom the case has been assigned is unavailable or otherwise unable to address that matter, the Clerk shall refer that matter to the Chief Judge. If the Chief

Judge is unavailable, the Clerk shall present the matter to the next most senior active judge who is available to hear it. The judge to whom such matter is referred shall act only to the extent necessary to meet the immediate need, and only until the judge to whom the case was assigned becomes available to hear it. If a judge to whom such a matter is referred determines that no immediate action is required, the request for immediate action shall not thereafter be presented to another judge.

(1) **After Hours Filings.** Counsel anticipating a possible need for an emergency filing, or emergency action by the Court, or both, during a period when the Clerk's Office is ordinarily closed should consult with the Clerk's Office at the earliest opportunity during normal business hours to make arrangements. A filing user should not expect that a filing made through ECF will be addressed outside normal business hours unless the filer contacts the Clerk's Office in advance to make special arrangements.

Effective 4/1/24: §(a)(5) added. Effective 12/1/17: §(a)(1) and (2) amended; §(a)(4) added. Effective 12/2/13: §(c)(1) added.

***COMMENT**

For more information about the types of civil cases eligible for random assignment to a magistrate judge, please consult the Court's website.

CROSS-REFERENCES

See LR Cv 9.1 (Notice of Related Actions or Proceedings).

LR Gen 107.1 ELECTRONIC AVAILABILITY AND REDACTION OF TRANSCRIPTS OF COURT PROCEEDINGS

(a) Applicability. The 90-day restriction policy and the redaction procedures for transcripts listed below apply only to transcripts of federal court proceedings. Other transcripts, except those exempt under Fed. R. Civ. P. 5.2(b) and Fed. R. Crim. P. 49.1(b), will be subject to the redaction requirements contained in these rules if they are filed with this Court.

(b) Restricted Availability of Transcripts for First 90 Days after Filing. Transcripts will be e-filed by the court reporter or transcriber through CM/ECF, and they will be available at the Clerk's Office, for viewing only, for a period of 90 days after filing.

(c) Review of Transcripts. Once a transcript is filed, counsel of record (and unrepresented parties) must review the transcript and request redaction of any personal identifiers listed in Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and LR Gen 102. Unless otherwise ordered by the Court, the following portions of the transcript must be reviewed: opening and closing statements made on the party's behalf; statements of the party; the testimony of any witnesses called by the party; sentencing proceedings (both the government and the defendant must review the transcript); and any other portion of the transcript as ordered by the court.

(1) "Standby" Counsel and CJA Attorneys. An attorney who is serving as appointed "standby" counsel for a *pro se* litigant must review the transcript as if the *pro se* party were his/her client. If an attorney represents a client pursuant to the Criminal Justice Act (CJA), including serving as standby counsel, the attorney conducting the review of the transcript is entitled to compensation under the CJA for functions reasonably performed to fulfill this obligation and for reimbursement of related reasonable expenses.

(d) Redaction Requests.

(1) Procedure. If counsel of record (or an unrepresented party) seeks a redaction of personal identifiers, a document entitled "Redaction Request" must be electronically filed within 21 days, or longer if the Court so orders, from the filing of the original transcript, indicating where the personal identifiers appear in the transcript by page and line and how they are to be redacted.

(2) Time Limits. If a Redaction Request or a Motion to Extend Time is not timely filed, no redactions will be made, and the original transcript will be remotely publicly available after 90 days.

(3) Additional Redactions. If a party wishes to request redactions in addition to personal identifiers, a separate Motion for Redaction of Transcript must be filed within 21 days from the filing of the original transcript. Until the Court has ruled

on any such motion, the transcript will not be electronically available, even if the 90-day restriction period has ended.

(4) Filing of Redacted Transcripts. If a Redaction Request is filed, the court reporter or transcriber must perform the requested redactions and file a redacted version of the transcript within 31 days, or longer if the Court so orders, from the filing of the original transcript. Unless the Court orders the original unredacted electronic transcript to be sealed, it will be retained by the Clerk and will be available, for viewing only, at the public terminal at the Courthouse and remotely electronically available to any attorney of record who has purchased a copy from the court reporter.

(e) Purchase of Transcripts. During the 90-day period, a copy of the transcript, in paper or electronic form, may be obtained from the court reporter or transcriber at the rate established by the Judicial Conference. The transcript will be available, for viewing only, at the public terminal at the Courthouse and remotely electronically available to any attorney of record who has purchased a copy from the court reporter.

(f) Availability of Transcripts after 90 days. After the 90-day period has ended, the transcript will be available remotely to view, download or print through PACER, and to view and print at the Clerk's Office.

(1) Redacted Transcripts. If a redacted transcript is filed with the Court, the redacted transcript will be remotely electronically available to the public through PACER after 90 days from the date of filing of the original transcript. Remote access to the original unredacted transcript will remain restricted, but both the original transcript and the redacted transcript will be available for viewing at the Clerk's Office unless the Court orders the original transcript to be sealed.

(g) Transcripts of Petit Jury Empanelments.

(1) Whenever a court reporter receives a request for a transcript of a petit jury empanelment, the reporter will prepare two versions of the transcript: one complete, unredacted version and one redacted version. The redacted version will have the juror names and any sidebars redacted.

(2) Redaction of juror names means that only the first full name and last initial of the juror will be used by the court reporter in preparing the transcript. Redaction of a sidebar will result in a complete elimination of the sidebar from the transcript.

(3) The redacted transcript will be e-filed by the court reporter in accordance with, and be subject to, the provisions of this Rule.

(4) The complete, unredacted transcript will be e-filed by the court reporter for "restricted" viewing only by the Court and the parties. The "restricted"

availability of the transcript to the parties will also be governed by the availability provisions of this Rule during the first 90 days after filing.

(5) If a non-party requests a complete, unredacted copy of a petit jury empanelment transcript, the request will be sent to the presiding judge in that case, and the presiding judge will make a determination as to whether or not the complete, unredacted copy should be provided to the non-party.

Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 1/3/11: Rule added.

CROSS-REFERENCES

See LR Gen 102 (Documents Containing Confidential Information).

See also Fed. R. Civ. P 5; Fed. R. Crim. P. 49.

LR Gen 108 INTERPRETERS

(a) Use of Interpreter. Whether a language or sign language interpreter is required in any proceeding shall be determined by the Court. No interpreter shall participate in any proceeding unless first approved by the Court.

(b) Requests for Interpreters.

(1) Cases Brought by the United States. In all criminal cases and in civil cases initiated by the United States, requests for interpreters shall be made to this Court's staff interpreter. The Federal Defender and counsel appointed by the Court representing an indigent client shall use the Court's staff interpreter, whenever possible, for all in-court proceedings.

Unless otherwise authorized by the Court, counsel for a party who intends to seek reimbursement for interpreter services provided outside of Court proceedings shall first request such services from the Court's staff interpreter. If the Court's staff interpreter is unavailable to provide such services, counsel may utilize a suitable replacement in accordance with the procedures outlined in the District of Rhode Island's Criminal Justice Act Plan.

(2) Other Cases. In all other cases, unless otherwise ordered by the Court, a party seeking to utilize an interpreter shall be responsible for obtaining and compensating the interpreter; provided, however, any such interpreter who participates in a proceeding before the Court must first be approved in accordance with subsection (a) of this Rule.

(c) Number of Interpreters. Unless the Court otherwise orders for good cause shown, no more than one interpreter shall be provided, at Court expense, to any party.

(d) Auxiliary Aides for the Hearing Impaired. Interpreter services, including services rendered by a properly qualified sign language interpreter, for a person who is hearing-impaired or who otherwise has a communication disability shall be obtained in the same manner as language interpreter services. When a party or witness in a proceeding is hearing-impaired, the Court, where and to the extent appropriate, may provide auxiliary aids, such as real time transcription in lieu of a sign language interpreter.

Effective 12/2/13: §(b)(1) amended.

CROSS-REFERENCES

See generally 28 U.S.C §§ 1827-1828 (provision of interpreter services in federal district courts); 28 U.S.C. §1920(6) (taxation of interpreter costs) and § 1918 (taxation of costs of prosecution).

See also Fed. R. Civ. P. 43(f) (appointment and cost of interpreters in civil proceedings), Fed. R. Crim. P. 28 (interpreters in criminal proceedings), LR Cv 54 (taxation of costs in civil cases), and Criminal Justice Act Plan for the District of Rhode Island.

LR Gen 109 BANKRUPTCY

(a) References and Withdrawals of References of Bankruptcy Cases. All cases arising under Title 11 shall be referred automatically to the bankruptcy judge(s) of this District. The reference of any case or proceeding or any portion thereof may be withdrawn at any time by the District Court, *sua sponte*, or, for good cause shown, upon the motion of any party. A motion for withdrawal of a reference shall not automatically stay any proceeding, but the District Court in its discretion may order a stay.

If a bankruptcy judge or district judge determines that entry of a final order or judgment by a bankruptcy judge would not be consistent with Article III of the United States Constitution in a particular proceeding referred under this rule and determined to be a core matter, the bankruptcy judge shall, unless otherwise ordered by the District Court, hear the proceeding and submit proposed findings of fact and conclusions of law to the District Court.

The district judge shall make a de novo review upon the record or, after additional evidence, of any portion of the bankruptcy judge's findings of fact or conclusions of law to which specific written objection has been made in accordance with the federal and local rules of bankruptcy procedure. The district judge may accept, reject, or modify the proposed findings of fact or conclusions of law, receive further evidence, or recommit the matter to the bankruptcy judge with instructions.

The District Court may treat any order of the Bankruptcy Court as proposed findings of fact and conclusions of law in the event the District Court concludes that the bankruptcy judge could not have entered a final order or judgment consistent with Article III of the United States Constitution.

(b) Jury Trials in Bankruptcy Court. Pursuant to 28 U.S.C. § 157(e), a bankruptcy judge may conduct jury trials in bankruptcy proceedings where the right to a jury trial applies and all parties have consented.

(c) Reports and Recommendations by Bankruptcy Judge.

(1) Time for Objections. Any objection to proposed findings of fact and/or rulings of law by a bankruptcy judge in a proceeding shall be filed and served within 14 days after such proposed findings and rulings are served on the objecting party.

(2) Content of Objections. Any objection to the proposed findings of fact and/or rulings of law shall specify the proposed findings and/or rulings to which objection is made and the basis for the objection(s), and be accompanied by a transcript of any evidentiary hearing(s) before the bankruptcy judge. The objection shall comply with LR Cv 7.

(3) Responses and Replies. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and

file a reply to the response within 7 days thereafter. Any response and /or reply shall comply with LR Cv 7. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in opposition to an objection to a bankruptcy judge's proposed findings of fact and rulings of law.

(d) Appeals to Bankruptcy Appellate Panel. In accordance with 28 U.S.C. §158(b)(6), appeals from any judgment, order or decree of a bankruptcy judge which are referred to in 28 U.S.C. § 158(a) will be heard and determined by the U.S. Bankruptcy Appellate Panel for the First Circuit unless a party elects to have the appeal heard by the District Court in accordance with Bankruptcy Rule 8005.

(e) Appeals to District Court. Except as otherwise provided in this subsection (e) or elsewhere in these rules, or unless otherwise ordered by the District Court, appeals or motions for leave to appeal to the District Court from any judgment, order or decree of a bankruptcy judge shall be governed by the applicable provisions of Rules 8001-8028 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules").

(1) Notice of Appeal. Upon the filing of a notice of appeal to the District Court, the bankruptcy clerk shall promptly transmit the following to the District Court in accordance with Bankruptcy Rule 8003:

(A) Notice of appeal;

(B) Judgment, order, or decree that is the subject of the appeal;

(C) Bankruptcy Court docket sheet; and

(D) Appellate transmittal form.

(2) Notice of Appeal and Motion for Leave to Appeal. Upon the filing of a notice of appeal and a motion for leave to appeal to the District Court in accordance with Bankruptcy Rule 8004, the bankruptcy clerk shall promptly transmit the following to the District Court:

(A) Notice of appeal;

(B) Order or decree that is the subject of the appeal;

(C) Bankruptcy Court docket sheet;

(D) Appellate transmittal form; and

(E) Motion for leave to appeal.

(3) **Extensions of Time by a Bankruptcy Judge.** Extensions of time for filing notices of appeal may be granted by the bankruptcy judge in accordance with Bankruptcy Rule 8002(d). Extensions of time for filing motions for leave to appeal and designations of the record or issues on appeal may be granted by the bankruptcy judge for a period not to exceed 30 days.

(4) **Dismissal of Appeals by Bankruptcy Judge.** A bankruptcy judge may dismiss an appeal if the notice of appeal is not filed within the time specified in Bankruptcy Rule 8002.

(5) **Record on Appeal.** Upon the completion of the record on appeal, the bankruptcy clerk shall transmit the following to the District Court in accordance with Bankruptcy Rule 8010:

(A) Designation(s) of the contents of the record on appeal;

(B) Statement(s) of the issues on appeal;

(C) Opinion, findings of fact, and conclusions of law relating to the issues on appeal;

(D) Transcripts;

(E) Bankruptcy Court docket sheet; and

(F) Clerk's certification for transmittal of record on appeal.

(6) **Form of and Schedule for Filing Briefs**. Upon confirmation by the bankruptcy clerk that the record on appeal is complete in accordance with Bankruptcy Rule 8010, the District Court will set the briefing schedule, the form of which shall be governed by Bankruptcy Rules 8014 and 8015.

(7) **Appendices to Briefs.** Unless otherwise ordered by the District Court, appendices to briefs need not be filed with the Court.

(f) **Stays Pending Appeal to the District Court.** When a motion is made in the District Court in accordance with Bankruptcy Rule 8007(b) to stay a judgment, order or decree of a bankruptcy judge or for any other relief pending appeal, the movant shall set forth the reasons why a stay should be granted and the legal authorities supporting the stay, and file the following with its motion:

(1) a copy of the judgment, order or decree that the movant seeks to have stayed;

(2) a copy of the bankruptcy judge's order denying the movant's motion to stay; and

(3) any written decision(s) and/or transcript(s) of any oral decision(s) of the bankruptcy judge stating the reasons for the orders referred to in paragraphs (1) and (2) of this subsection.

Such motion and any related objection(s) and replies shall be governed by the applicable provisions of LR Cv 7.

(g) Local Bankruptcy Rules.

(1) Authority. The bankruptcy judge(s) may make and amend rules governing practice and procedure in all matters referred to and pending before them.

(2) Notice to District Court. The bankruptcy court must give notice to the District Court of any amendment to the bankruptcy court's local rules prior to such rules taking effect. After notice is given, such amendment shall take effect on the date specified by the bankruptcy court, unless abrogated by the District Court.

(h) Applicability of Local Rules. In proceedings before a bankruptcy judge, the local bankruptcy rules shall apply. In proceedings before the District Court, these Local Rules shall apply unless the Court otherwise directs.

(i) Discretion of District Court. This rule is not intended to restrict the District Court's discretion as to any aspect of any appeal.

Effective 12/1/17: §§(c)(2) and (f) amended. Effective 12/1/15: §(b) deleted; §(c) redesignated as (b); §(d)(3) amended and §(d) redesignated as (c); §(e) redesignated as (d); §§(f)(1) and (2) amended, (f)(3) deleted, (f)(4) and (5) renumbered as (f)(3) and (4), new §(f)(5) added, §(f)(6) amended, and §(f)(7) added, and §(f) redesignated as (e); §§(g), (h), (i), and (j) redesignated as (f), (g), (h), and (i). Effective 12/15/14: §(e) amended; §§(f)(1)-(5) amended; §(f)(6) deleted; §(f)(7) amended and redesignated as (f)(6); and §(g) amended. Effective 12/2/13: §§(a), (d)(1), and (f) amended. Effective 1/15/13: §(f)(5)(D) added. Effective 12/1/11: §§(f)(1), (f)(2), (f)(3), and (f)(5)(B) amended. The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 1/3/11: §(f)(6)(C) amended. Effective 12/1/09: §§(d)(1) and (3) amended. Effective 1/5/09: §(f)(6) amended. Effective 3/17/08: §(f)(7) amended.

CROSS-REFERENCES

See generally 28 U.S.C. § 151 et seq concerning cases and proceedings referred to, and appeals from, the Bankruptcy Court.

See Fed. R. Bankr. P. 9021 (entry of judgment) and 9033 (objections to bankruptcy judge's proposed findings and recommendations in non-core proceedings).

As to appeals, see generally Fed. R. Bankr. P. 8001 - 8020

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 narrowcast.***[See Note, end of Rule]** 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) 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.

Note: 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).

Effective 4/1/24: §§(a) and (b) amended. Effective 12/1/19: §(a) deleted; §§(b)-(c) amended and redesignated as (a)-(b); Effective 12/1/17: §(a) comment deleted; §(c)(2) amended. Effective 12/1/16: §(a) amended; new §(b) added; §(b) amended and redesignated as (c); comment amended. Effective 12/1/15: §(a) comment added; §(b) amended. Effective 12/2/13: §(b) amended; §§(b)(1)(A) and (B) added; §§(b)(2) and (3) deleted; and §(b)(4) amended and redesignated as (b)(2). Effective 3/17/08: §§(b) and (b)(1) amended; §§(b)(2) & (b)(3) added; and §(b)(2) redesignated as (b)(4).

LR Gen 113 AMENDMENTS TO LOCAL RULES

(a) **In General.** The Court may amend these Rules at any time in accordance with Fed. R. Civ. P. 83 and/or Fed. R. Crim. P. 57.

(b) **Comments.** Except as provided in subsection (c) of this Rule, prior to the adoption of any proposed amendment to these Rules, the Court will provide notice and opportunity for public comment in accordance with Fed. R. Civ. P. 83 and Fed. R. Crim. P. 57.

(c) **Emergency Amendments**. The Court may adopt *sua sponte* and without public comment any rule necessary to meet any condition of emergency. If such emergency rule is promulgated, public notice of it shall be given promptly after its adoption, and it shall be submitted for public consideration in accordance with subsection (b) during the next regular amendment cycle.

(d) **General Orders/Administrative Orders**. Nothing contained in these Rules shall restrict the Court from promulgating such General Orders, Administrative Orders, standing orders and/or other directives as its business may require.

Effective 4/1/24: §(b) deleted; §§(c)-(e) redesignated as (b)-(d). Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules.

CROSS-REFERENCE

See 28 U.S.C. § 2071(e) (emergency amendments to local rules).

LOCAL RULES GOVERNING ATTORNEY ADMISSIONS, APPEARANCES AND DISCIPLINE

[THIS PAGE INTENTIONALLY LEFT BLANK]

I. REGULATION OF ATTORNEY PRACTICE BEFORE THE COURT

LR Gen 201 PRACTICE BEFORE THIS COURT

(a) Requirement of Membership in Local Bar. In order to appear in and/or practice before this Court, a person must be a member of the Bar of this Court unless these Local Rules expressly provide otherwise.

A person who is not a member of the Bar of this Court may not sign any pleading or motion filed on behalf of a party unless these Local Rules expressly provide otherwise.

(b) Exceptions to Requirement of Membership. Notwithstanding the provisions of subsection (a), the following individuals may appear and/or practice before this Court:

(1) Attorneys for the United States. An attorney who is a member in good standing of the bar of another 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 for the United States or for any agency of the United States or for an officer of the United States in his or her official capacity.

(2) *Pro Hac Vice* Counsel. An attorney who satisfies the requirements of LR Gen 204(b) may appear and practice in this Court if admitted as *pro hac vice* counsel in accordance with the provisions of LR Gen 204.

(3) Attorneys in Removal Cases. An attorney who is a member of the bar of the Rhode Island Supreme Court, and who represents a party in a case removed pursuant to 28 U.S.C. §1441 *et seq* other than a party joining in the removal request, may appear and practice in this Court in that case, unless that attorney has been suspended or disbarred as a member of the bar of this Court.

(4) Parties Appearing *Pro se*. An individual who is not represented by counsel and who is a party to a pending case may appear on his or her own behalf subject to the limitations set forth in LR Gen 205. A *pro se* party shall be subject to and required to comply with all other applicable provisions of these rules.

(5) Attorneys in Transferred Cases. An attorney who is a member in good standing of the bar of another federal district court, and who represents a party in a case transferred to the District of Rhode Island from another district, may appear and practice in this Court in that case.

(6) Law Student Counsel. A Senior Law Student who is eligible to appear pursuant to LR Gen 206(e) may appear in this Court as a Law Student Counsel subject to the limitations in LR Gen 206(e).

(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.

Effective 4/1/24: §(b)(7) and (8) added. Effective 12/1/18: §(b)(6) amended. Effective 1/15/13: §(b)(6) added. Effective 1/3/11: §(b)(5) added. Effective 3/17/08: §(b)(3) amended.

CROSS-REFERENCES

See LR Gen 204 (*pro hac vice* counsel) and LR Gen 205 (*pro se* parties).

See also LR Gen 304(d) (Eligibility, Registration, and Passwords for electronic case filing.)

LR Gen 202 ELIGIBILITY AND PROCEDURE FOR ADMISSION

(a) Requirements for Admission. In order to be eligible for membership in the Bar of this Court, an attorney must:

(1) Be a member in good standing of the Bar of the Supreme Court of the State of Rhode Island; and

(2) Be a member in good standing in every other jurisdiction in which the attorney has been admitted to practice; and

(3) Certify that he or she has read and understands these Local Rules; and

(4) Establish to the satisfaction of this Court, that he or she is of good moral character and otherwise qualified and fit to be admitted to the Bar of this Court.

(b) Procedure for Admission.

(1) Application for Admission. An attorney applying for admission to the Bar of this Court must complete the 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. 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) Oath of Admission: 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.

Effective 4/1/24: §(b) amended; §(c) deleted. Effective 12/1/18: §§(a)-(c) amended to remove attendance at the Board of Bar Admissions course of instruction as a requirement for bar admission. Effective 12/1/16: §(a)(2)(B) amended. Effective 12/15/14: §§(b)(2) and (b)(4) amended. Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 1/3/11: §§(a)(2)(A), (a)(3), (b)(3), and (c)(1)(A) amended; and §§(c)(3), (c)(4) and running footnote deleted to reflect suspension of bar examination requirement. Effective 1/5/09: §(a)(1) amended. Effective 3/17/08: Rule amended to reflect change in name of Board of Bar Admissions and §§(b)(2) and (b)(4) amended.

CROSS-REFERENCES

See LR Gen 203 (Continuing Obligations of Members of Bar).

See also Administrative Order 2007-05 (change in names of Board of Bar Examiners and Board of Bar Examiners Fund; suspension of Bar examination; filing fees).

LR Gen 203 CONTINUING OBLIGATIONS OF MEMBERS OF BAR

(a) General. Unless otherwise permitted by the Court for good cause shown, in order to remain a member in good standing of the bar of this Court, an attorney must:

(1) remain a member in good standing of the Bar of the Supreme Court of the State of Rhode Island and all other bars to which he or she has been admitted; and

(2) not be suspended, disbarred or found unfit, for any reason, to continue practicing law by any other court or body having disciplinary authority over attorneys.

(b) Notifications

(1) By Counsel. Each member of the bar of this Court shall promptly notify the Court of:

(A) any change in the member's name, address, telephone number, fax number, e-mail address and/or law firm name shown on such member's application for admission or if the member has re-registered, on the most recent re-registration form by the member.

(B) any disciplinary proceedings initiated or disciplinary action taken against such member and/or any restrictions placed on such member's practice by any court or body having disciplinary authority over attorneys; and

(C) any conviction of such member for any crime regardless of whether the conviction resulted from a plea of guilty or *nolo contendere*, was not followed by a term of imprisonment and/or is pending on appeal.

(2) By the Court. Any notice sent to a member of the bar of this Court shall be deemed delivered if sent to the most recent address or fax number or e-mail address provided by such member pursuant to subsection (b)(1)(A) of this rule.

(c) Periodic Registration Procedure.

(1) Renewal of Bar Registration. Each member of the bar of this Court shall renew his or her bar registration between January 1 and March 31 of every fourth year ("Registration Renewal Period"), beginning with the year 2010. Bar registrations must be renewed even if an attorney has been a member for only a portion of the 4 years preceding the Registration Renewal Period.

(2) Notice by Clerk. At least 60 days prior to each deadline date for registration, the Clerk shall issue a notice and registration form to each attorney who is then registered as a member of this Court's bar.

(3) Method of Registration. A member shall register by:

(A) Completing and filing the registration form provided by the Clerk which form shall include: (i) a certification that the attorney continues to satisfy all of the requirements set forth in subsection (a) of this rule; and (ii) a statement as to whether the attorney has been convicted of a serious crime as defined in LR Gen 213(a)(3) or been disciplined by any other court or body having disciplinary authority over attorneys; and

(B) Paying the applicable registration fee established by the Court, except that the fee need not be paid by attorneys employed on a full-time basis by the United States and/or the State of Rhode Island.

(4) Action by the Court.

(A) Except as provided in subsection (B) of this subsection, upon receipt of an attorney's properly completed registration form and registration fee, the Clerk shall maintain the attorney's name on the list of active members of the bar of this Court.

(B) If an attorney fails to register in accordance with this Rule or if an attorney's registration form shows (i) that the attorney does not satisfy the requirements set forth in subsection (a) of this rule; (ii) that the attorney has been the subject of disciplinary action referred to in subsection (b)(1)(B) or (iii) that the attorney has been convicted of a crime as defined in subsection (b)(1)(C), the Clerk shall notify the Chief Judge who, then, may issue a show cause order as to why the attorney should not be administratively suspended or why disciplinary action should not be initiated pursuant to LR Gen 209.

(d) Effect of Failure to Register. An attorney's failure to register in accordance with the provisions of subsection (c) may be cured by filing the completed registration form no later than 60 days after the applicable deadline for registration and paying the registration fee and the late fee established by the Court except that the Court, for good cause shown, may permit the attorney to cure more than 60 days after the applicable deadline for registration.

An attorney who does not cure a failure to register within the aforesaid 60-day period, or at any extension permitted by the Court, must apply for reinstatement pursuant to LR Gen 215.

(e) Use of Registration Fees. All registration and late fees paid shall be deposited in the Bar Fund maintained by the Court and shall be used only for purposes benefitting the members of the bar of this Court in accordance with the regulations governing the Bar Fund adopted by this Court and any applicable regulations established by the Judicial Conference of the United States.

Effective 12/1/15: §(a)(1) amended. Effective 12/2/13: Footnote to §(c)(3)(B) deleted. Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 1/3/11: §(c) deleted; §§(d), (e), (f) redesignated as (c), (d), and (e); footnote added to §(c)(3)(B); and §(d) amended. Effective 1/5/09: §§(a)(1), (a)(2) and (d)(3)(A) amended.

CROSS-REFERENCES

See LR Gen 202 (attorney admissions to bar) and LR Gen 215 (reinstatement of bar membership).

See also LR Gen 304 (registration for Court's ECF filing system).

LR Gen 204 *PRO HAC VICE* COUNSEL

(a) Authorization to Appear and Practice. An attorney who is not a member of the bar of this Court may appear and practice before this Court in any case in which the attorney has been admitted to practice *pro hac vice*.

(b) Eligibility for *Pro Hac Vice* Admission. In order to be eligible for *pro hac vice* admission, an applicant must:

(1) Be a member in good standing of the bar of another state and another federal district court and the bar in every jurisdiction in which the attorney has been admitted to practice; and

(2) Establish, to the satisfaction of this Court, that he or she is of good moral character and otherwise qualified and fit to be admitted to practice *pro hac vice* before this Court.

(c) Procedure for Admission. An attorney seeking *pro hac vice* admission shall complete and file a motion provided by the Clerk, and pay the admission fee fixed by the Court. The admission fee will not be refunded if the motion for admission *pro hac vice* is denied.

A motion for admission *pro hac vice* shall be signed both by the applicant and by local counsel affiliated with the applicant.

(d) Local Counsel.

(1) In order to be admitted and/or remain as *pro hac vice* counsel, an attorney shall be affiliated with local counsel who is a member of the Bar of this Court and who has entered an appearance as co-counsel.

(2) Local counsel shall:

(A) Sign and be responsible to the Court for the content of all pleadings, motions, and other documents filed or served in the case; and

(B) Attend all court proceedings in the case unless excused by the judge for good cause shown; and

(C) Be fully prepared to assume sole responsibility for the conduct of the case in the event that *pro hac vice* counsel does not appear when required, has his or her *pro hac vice* status revoked or is unable to continue as counsel for any reason.

(3) In addition to the required signature of local counsel, *pro hac vice* counsel may sign pleadings, motions, and other documents filed or served in the case. *Pro hac vice* counsel may file pleadings, motions, and other documents with the Court, but only if:

(A) the documents have the required signature of local counsel, and

(B) local counsel has given *pro hac vice* counsel permission to affix local counsel's signature.

(4) In order to ensure that local counsel is able to properly perform his or her duties, *pro hac vice* counsel shall consult with, involve and fully inform local counsel with respect to all matters affecting the case.

(e) Admission and Revocation.

(1) The district judge to whom a case has been assigned shall have discretion to grant or deny motions for admission *pro hac vice* based upon the applicant's qualifications, character, past conduct and any other factors that bear on the applicant's fitness to practice in this Court.

(2) Permission to appear *pro hac vice* may be revoked upon motion of a party or, *sua sponte*, by the district judge to whom the case is assigned if the judge determines that *pro hac vice* counsel has failed to satisfy any applicable requirement of these rules or that the proper administration of justice so requires.

(3) No formal hearing shall be required prior to revocation. However, before revoking *pro hac vice* status, the judge shall provide counsel with notice and an opportunity to explain why *pro hac vice* status should not be revoked to the extent that such opportunity can be afforded without disrupting or delaying the proceedings.

(4) The revocation of *pro hac vice* status shall not prevent the Court from taking any other disciplinary action against counsel pursuant to any applicable provision of these Local Rules.

(f) Notification. *Pro hac vice* counsel shall promptly notify the Court of any change in counsel's name, address, telephone number, fax number, e-mail address and/or law firm name from that shown on counsel's application for *pro hac vice* admission.

Effective 12/1/19: §(c) deleted; §(d)-(g) redesignated as (c)-(f). Effective 12/15/14: §(d) amended; and §(g)(2) deleted and §(g)(1) redesignated as §(g). Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 1/3/11: §(b)(2) amended. Effective 1/5/09: §(d) amended. Effective 3/17/08: §(b)(2) (requiring that petitioning attorneys not be convicted of a

serious crime) was deleted; §(b)(3) redesignated as (b)(2); §(d) amended; §(e) reorganized into (e)(1)-(4) and (e)(1)-(3) redesignated as (e)(2)(A)-(C).

CROSS-REFERENCES

See LR Gen 201(b)(2) (appearance by *pro hac vice* counsel).

See also LR Gen 206(c) (designation of counsel to receive notices); LR Gen 308 (Signatures; and Administrative Order 2007-05 (change in name of Board of Bar Examiners Fund).

See also R.I. LBR 9010-1(b) (procedures for admission *pro hac vice* in Bankruptcy Court).

LR Gen 205 *PRO SE* LITIGANTS

(a) Eligibility to Appear *Pro Se*.

(1) An individual who is not represented by counsel and who is a party in a pending case may appear on his or her own behalf.

(2) An individual appearing *pro se* may not represent any other party and may not authorize any other individual who is not a member of the bar of this Court to appear on his or her behalf.

(3) A corporation, partnership, association or other entity may not appear *pro se*.

(b) Filing of Documents. Any document requiring a signature that is filed by a party appearing *pro se* shall bear the words "*pro se*" following that party's signature and shall state the party's mailing address, telephone number, e-mail address, and fax number, if any.

(c) Service on Party Acting *Pro Se*. The Court may order any party who is appearing without an attorney to designate a mailing address at which service upon that party can be made. Service may be made on such *pro se* party by mailing papers to that party at the designated mailing address.

(d) Notification

(1) Every *pro se* litigant shall inform the Clerk in writing of any change of name, mailing address, telephone number, e-mail address, and/or fax number within 14 days of such change.

(2) Any notice sent to and any paper served on a *pro se* litigant shall be deemed delivered if sent to the most recent mailing address provided by the litigant pursuant to subsection (b) or (c) of this Rule.

Effective 12/15/14: §§(b), (c), and (d) amended. Effective 1/15/13: §§(b) and (d)(1) amended. Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 12/1/09: §(d)(1) amended.

CROSS-REFERENCE

See LR Gen 201(b)(4) (appearance by *pro se* parties).

LR Gen 206 APPEARANCES AND WITHDRAWALS

(a) **In General.** In order to appear on behalf of a party in this Court, counsel must be a member of the bar of this Court or must qualify under one of the exceptions set forth in LR 201(b).

(b) **Appearance.** The filing of a written entry of appearance or any other document signed on behalf of a party constitutes an entry of appearance for that party. Once counsel enters an appearance for a party, counsel shall be obliged to continue representing that party unless and until allowed to withdraw in accordance with these rules.

(c) **Designation of Lead Counsel**. Each party shall designate one attorney to act as lead counsel for the case. Lead counsel shall have primary responsibility for the case.

(d) **Withdrawal of Appearance.** An attorney may withdraw his or her appearance on behalf of a party in the following manner:

(1) If there are no motions pending before the Court and no trial date has been set, the attorney may serve and file a notice of withdrawal on his or her client and all other parties, accompanied by an entry of appearance by successor counsel certifying that he or she is familiar with the case and is or will be fully prepared to address any matters pending in the case, including trial, without delaying the case; or

(2) Otherwise, the attorney must file a motion to withdraw, together with:

(A) An affidavit attesting to the fact that the party is not in the military service of the United States as defined in the Servicemembers Civil Relief Act of 2003 (50 U.S.C. §§ 3901-4043), as amended; and,

(B) A certification that:

(i) the client has been notified of the motion by both regular mail, postage prepaid, and by certified or registered mail, return receipt requested, or by any other method that satisfies the Court that notice has been given to the client; and,

(ii) the client has been advised that he or she may object to the motion and that any failure or delay in retaining substitute counsel may not be considered grounds for delaying the trial or any other matter scheduled in the case; and,

(C) The client's current address and a representation that counsel has made a reasonable effort to confirm that notices sent to that address are likely to be received by the client; and,

(D) A description of any motions or other matters pending in the case and a statement regarding the anticipated trial date.

(e) Appearances by Law Students.

(1) Authorization to Appear. A Senior Law Student may appear before this Court in a civil or criminal proceeding, without compensation, as Law Student Counsel under the direction of a Supervising Attorney.

(2) Eligibility to Appear as Law Student Counsel. In order to be eligible to appear as Law Student Counsel, a Senior Law Student must:

(A) be a student at an A.B.A. accredited law school, or be a recent graduate of such a school, awaiting the result of the first bar examination after the student's graduation;

(B) have successfully completed three semesters of law school study;

(C) be enrolled in, or have successfully completed, a course for credit in evidence or trial practice;

(D) be enrolled in, or have successfully completed, a course for credit in criminal procedure (for a student appearing in a criminal proceeding); and

(E) establish to the satisfaction of this Court that she or he is of good moral character and otherwise qualified and fit to appear pursuant to LR Gen 206.

(3) Application.

(A) An application to appear as Law Student Counsel shall be made by completing and filing a form provided by the Clerk. The form shall contain a certification that the Senior Law Student:

(i) has read and will abide by the Rules of Professional Conduct of the Supreme Court of the State of Rhode Island;

(ii) has read and understands these Local Rules; and

(iii) the Senior Law Student has met all of the requirements of LR Gen 206(e)(2).

(B) The application shall also be accompanied by a written recommendation from the dean of the law school, or her/his designee, attesting to the law student's good moral character, legal ability, and training.

(C) In each individual case in which a Senior Law Student wishes to appear, the supervising attorney shall file a "Motion to Appear as Law Student Counsel" that shall contain a document, signed by the client and approved by the supervising attorney, wherein the client acknowledges having been informed of the Law Student Counsel's status and authorizes the named student to appear for and represent the client in the litigation or proceedings identified in the document. No such acknowledgement is required to be attached if the Law Student Counsel will be representing the government. The supervising attorney shall also attach a copy of the Law Student Counsel's application to appear as Law Student Counsel to this motion. The District Judge or Magistrate Judge to whom a case has been assigned shall have discretion to grant or deny any Motion to Appear as Law Student Counsel.

(4) **Supervising Attorney**. In order to appear as a Law Student Counsel before this Court, the student shall be under the direct supervision of a member in good standing of the Bar of this Court who is a law school faculty member, licensed attorney in a legal services program or clinic conducted by a law school or non-profit organization, or an attorney employed with a governmental agency, including the United States Attorney's Office and the Federal Public Defender.

The supervising attorney, in addition to all of the other responsibilities of supervising the Law Student Counsel, is required to attend all Court proceedings when the Law Student Counsel is practicing, cosign all filings with the Court, and submit all filings through the Court's ECF system.

(5) **Revocation**. A Law Student Counsel acting under this rule shall comply with the Rules of Professional Conduct of the Supreme Court of the State of Rhode Island and the Local Rules of this Court. Failure of an attorney supervising students to provide proper training or supervision may be grounds for disciplinary action and/or revocation or restriction of the attorney's authority to supervise students.

(6) **Attorney/Client Communications**. The rules of law and of evidence relating to communications between attorney and client shall govern communications made or received by any law student acting under the provisions of this rule.

(7) **Compensation**. The expression "without compensation" used in this rule shall not be construed to prohibit the receipt of a fixed compensation paid regularly by a governmental agency or legal assistance program or law school clinical instruction program acting as the employer of a law student. Furthermore, any fees awarded in a case involving a Law Student Counsel, shall be awarded to the supervising attorney or organization, including any fees resulting from any hours worked by the Law Student Counsel on the case, but under no circumstances are any of the fees to go to the Law Student Counsel.

(8) **Notification**. Law Student Counsel shall promptly notify this Court in writing of any change in name, address, telephone number, fax number, and/or e-mail address from that shown on the application to appear as Law Student Counsel. Law Student Counsel shall also notify the Court in writing of any change regarding their eligibility to appear as Law Student Counsel.

Effective 12/1/18:§(c) deleted; §§(d)-(f) redesignated as §§(c)-(e); and §(d)(2)(A) and (e)(2)(E) amended. Effective 12/2/13: §§(f)(2)(A) and (f)(5). Effective 1/15/13: §(f) added.

CROSS-REFERENCE

See LR Gen 204 (admission and practice by *pro hac vice* attorneys).

LR Gen 207 EXCUSE FROM COURT APPEARANCES

(a) **How requested.** Counsel who wish to be excused from attendance in this Court at any time(s) may submit a written request to be excused. The request shall be submitted to the Court's electronic mailbox at excusals@rid.uscourts.gov and shall state:

(1) the period of time for which the excuse is requested; and

(2) the reason for the request (e.g. family vacation), except that if the reason involves a matter that is confidential or private, the request shall so state; and

(3) a list of any matters in which counsel is involved that have been scheduled or that counsel anticipates may be scheduled in this Court during the period for which the excuse is requested.

(b) **Service of Request.** If any matters are scheduled during the period for which an excuse is requested, the request shall be served on all other counsel in those matters. If the request is for a period of 14 days or more, the request shall be served upon counsel in each case pending before this Court in which counsel making the request has entered an appearance. If the request is for a period of less than 14 days, said request shall be filed with the Court only.

Effective 12/1/18: §(a) deleted; §§(b)(1) and (2) redesignated as (a) and (b); title of rule modified; and comment deleted. Effective 1/15/13: §(b)(1) and (b)(2) amended. Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 12/1/09: §(b)(2) amended. Effective 3/17/08: §(b)(1) amended and comment added.

CROSS-REFERENCE

See LR Gen 206 (attorney appearances and withdrawals).

II. ATTORNEY CONDUCT AND DISCIPLINE

LR Gen 208 STANDARDS OF PROFESSIONAL CONDUCT

The Standards of Professional Conduct for attorneys appearing and/or practicing before this Court shall be the Rules of Professional Conduct as adopted by the Rhode Island Supreme Court, as the same may from time to time be amended, and any standards of conduct set forth in these Rules. Attorneys who are admitted or permitted to practice before this Court or who participate in any way in any cases pending in this Court shall comply with the Standards of Professional Conduct.

Effective 12/1/19: §(b) deleted.

CROSS-REFERENCE

See LR Gen 209 (Basis for Disciplinary Action)

LR Gen 209 BASIS FOR DISCIPLINARY ACTION

(a) **Conferred Jurisdiction**. Any attorney allowed to practice before this Court shall be deemed to have conferred disciplinary jurisdiction upon this Court for any alleged attorney misconduct arising during the course of a case pending before this Court or the Bankruptcy Court in which that attorney has participated in any way.

(b) **Forms of Discipline.** When an attorney, after notice and an opportunity to be heard, has been found to have engaged in misconduct, the Court may:

(1) Disbar or suspend the attorney from practicing before this Court, if the attorney is a member of the bar of this Court; or

(2) Publicly or privately reprimand or censure the attorney; or

(3) Take such other disciplinary action against the attorney as the circumstances may warrant, including but not limited to the imposition of monetary sanctions.

The provisions of this subsection (b) shall not limit, in any way, the authority of an individual judge to impose any sanctions or take any other disciplinary action that is permissible and appropriate pursuant to the Local Rules or otherwise.

(c) **Misconduct.** Misconduct for which an attorney may be disciplined pursuant to LR Gen 209 may include:

(1) Violation of the Standards of Professional Conduct referred to in LR Gen 208;

(2) Intentional violation of these Local Rules or any order of this Court or the Bankruptcy Court;

(3) Failure to promptly provide the notifications required by LR Gen 203(b)(1)(B) and/or (C);

(4) Conduct which resulted in suspension, disbarment or any other disciplinary action taken against the attorney by any other court or disciplinary body having disciplinary authority over attorneys;

(5) Conviction of a crime; and/or

(6) A pattern or practice of violating §§526, 527, or 528 of the Bankruptcy Code.

Effective 12/1/18: §§(a)-(c) amended. Effective 12/1/15: §(a) amended, §§(c), (c)(2), (c)(4), and (c)(5) amended, and §(c)(6) added. Effective 12/1/11: Scrivener's error in §(c) fixed. §(c)(a)-(e) changed to (c)(1)-(5).

LR Gen 210 DISCIPLINARY PROCEEDINGS

(a) Definition of "Court." As used in LR Gen 210, the term "Court" refers to the active district judges of this Court, and any action taken or required by the "Court" refers to action by a majority of the active district judges.

(b) Initiation of Proceedings. Whenever allegations of misconduct by an attorney admitted or permitted to practice before this Court come to the Court's attention, whether by complaint or otherwise, and the applicable procedure is not otherwise provided for by these Local Rules, the Court may initiate disciplinary proceedings in any one or more of the following ways:

(1) If the matter has not already been referred by an individual judge to a disciplinary agency with jurisdiction over the attorney, the Court may refer the matter to such agency with a request that the agency report its actions to the Court. However, any action taken by the agency shall not necessarily preclude additional disciplinary action by this Court.

(2) Designate a magistrate judge or appoint special counsel to investigate the matter, to make appropriate recommendations to this Court, and to perform any other duty specified by the Court. The Court shall consider any recommendation made by the magistrate judge or special counsel but such recommendation will not be binding upon the Court.

(3) Provide written notice to the attorney specifying the alleged misconduct and affording the attorney an opportunity to explain, either verbally or in writing, why he or she believes that formal disciplinary proceedings should not be commenced.

(4) In cases where the attorney has been notified in accordance with subsection (3) and has failed to provide a satisfactory reason why formal disciplinary proceedings should not be commenced, or in cases where there does not appear to be any dispute with respect to the relevant facts, the Court may commence formal disciplinary proceedings in accordance with LR Gen 210(c).

(c) Commencement of Formal Proceedings.

(1) Formal disciplinary proceedings against an attorney shall be commenced by the issuance of an order by the Court directing the attorney to appear and show cause why disciplinary action should not be taken against the attorney for reasons stated in the order.

(2) The order may be served upon the attorney by mailing a copy to him or her at the address provided by the attorney pursuant to these Local Rules or by any other means reasonably calculated to provide notice to the attorney.

(3) The attorney shall file a written response to the show cause order and the allegations of misconduct contained therein within 14 days from the date of the order. If any issue of fact is raised in the response or if the attorney wishes to be heard in mitigation, the Court shall set the matter for hearing in accordance with LR Gen 210(d).

(d) Hearing

(1) Forum. In the Court's discretion, any hearing conducted pursuant to LR Gen 210 may be conducted before a magistrate judge or bankruptcy judge designated by the Court, a single district judge or all of the active judges of the Court who are eligible and able to participate. However, if the disciplinary proceeding was initiated by a complaint by a district judge, magistrate judge, or bankruptcy judge; or, if a magistrate judge or bankruptcy judge made any recommendation to the Court pursuant to LR Gen 210(b)(2), any such hearing shall not be conducted by that judge, nor shall that judge participate in any decision or other action taken by the Court with respect to the matter.

(A) If the hearing is conducted by a district judge, the Court may authorize that district judge to order whatever disciplinary action is appropriate under these Local Rules without further action by the Court.

(B) If the hearing is conducted by a magistrate judge or bankruptcy judge, the magistrate judge or bankruptcy judge shall submit findings of fact and recommendations for disposition to the Court and the Clerk shall serve a copy of the findings and recommendations upon the attorney and any special prosecutor appointed by the Court.

(C) Within 14 days from the date of the order, the attorney and/or any special prosecutor appointed by the Court may serve and file written objections to the report. Failure to file an objection within the 14-day period shall be deemed a waiver of any objection. Those portions of the magistrate judge or bankruptcy judge's findings and recommendations to which objection is made shall be reviewed by the Court *de novo* based on the record compiled before the magistrate judge or bankruptcy judge. The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge or bankruptcy judge or it may receive further evidence or recommit the matter to the magistrate judge or bankruptcy judge with instructions.

(2) Conduct of Hearing. The Court may elect to appoint a special prosecutor to present evidence at any disciplinary hearing and to cross-examine any witnesses. The respondent attorney shall have a similar right to present evidence and cross-examine witnesses and to be represented by counsel.

Effective 12/1/18: §§(a)-(d) amended. Effective 12/1/15: §§(d)(1)(A)-(C) amended. Effective 12/1/11: §§(c)(3) and (d)(1)(C) amended. The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 12/1/09: §§(c)(3) and (d)(1)(C) amended.

CROSS-REFERENCES

See LR Gen 101(f) (defining "Court" generally); LR Gen 209 (Basis for Disciplinary Action) and LR Gen 211 (Disciplinary Action by Court).

See also LR Cv 72 (authority of magistrate judges).

LR Gen 211 DISCIPLINARY ACTION BY COURT

Upon a finding by the Court, or an individual district judge acting pursuant to LR Gen 210(d)(1), that an attorney has engaged in misconduct, the Court or, if authorized, the district judge may enter an order imposing discipline in accordance with these Local Rules.

Effective 12/1/18: Rule amended.

CROSS-REFERENCES

See LR Gen 209 (Basis for Disciplinary Action) and LR Gen 210 (Disciplinary Proceedings).

LR Gen 212 DISBARMENT BY CONSENT

(a) Procedure. Any attorney admitted to practice before this Court who is the subject of an investigation into, or is a respondent in a pending proceeding involving, allegations of misconduct may consent to disbarment, but only by delivering to this Court an affidavit stating that the attorney wishes to consent to disbarment and that:

(1) The attorney's consent is freely and voluntarily given and the attorney is not subjected to coercion or duress; and

(2) The attorney is fully aware of the implications of consenting; and

(3) The attorney is aware of the pending investigation or proceeding and that grounds exist for disciplinary action, the nature of which the attorney shall specifically set forth; and

(4) The attorney acknowledges that the material facts alleged are true; and

(5) The attorney so consents because the attorney knows that the attorney could not successfully defend himself against the charges.

Upon receipt of the required affidavit, the Court shall enter an order disbarring the attorney.

(b) Confidentiality of Supporting Papers. The order disbarring the attorney on consent shall be a matter of public record. However, the affidavit required under the provisions of this rule shall not be publicly disclosed or made available for use in any other proceeding except upon order of this Court.

CROSS-REFERENCES

See LR Gen 209 (Basis for Disciplinary Action) and LR Gen 216 (public access to and confidentiality of papers in disciplinary proceedings).

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 a finding of guilt or the return of a guilty verdict as to a serious crime, as hereinafter defined, or the entry of a plea of guilty or *nolo contendere* to such crime, 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 the finding of guilt, the return of a guilty verdict, or 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.

Effective 12/1/11: §§(a)(1)(A) and (a)(2) amended. Effective 10/1/09: §(a)(1) amended and redesignated as (a)(1)(A) and (a)(1)(B); §(a)(2) amended.

CROSS-REFERENCES

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

LR Gen 214 ACTION TAKEN BY OTHER COURTS OR DISCIPLINARY AGENCIES

(a) Show Cause Order. When a certified copy of a judgment or order is filed with this Court showing that an attorney who is a member of the Bar of this Court or who is admitted to practice before this Court *pro hac vice* has been disciplined or found incapacitated to practice by any other court of the United States, the District of Columbia, any state, territory, commonwealth or possession of the United States or by any agency having disciplinary authority over attorneys, whether by reason of misconduct, mental infirmity or addiction to drugs or intoxicants, this Court shall, forthwith:

(1) provide the attorney with a copy of the judgment or order; and

(2) issue an order directing the attorney to show cause, within 14 days from the date of the order, why this Court should not impose the identical discipline and/or make a similar finding of incapacity.

In the event the action imposed in the other jurisdiction has been stayed there, any reciprocal action taken by this Court shall be deferred until such stay expires.

(b) Disciplinary Action. If the attorney fails to show cause within the aforesaid 14-day period, this Court shall impose the identical discipline or make the identical finding of incapacity.

(c) Effect of Decision by Other Tribunal.

(1) If, with respect to the action taken by the other tribunal, this Court finds:

(A) that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process, or

(B) that there was such an infirmity of proof establishing the misconduct or incapacity as to give rise to the clear conviction that this Court could not, consistent with its duty, accept as final the tribunal's conclusion on that subject;

(C) that the imposition of the same discipline or the making of the same finding by this Court would result in grave injustice; or

(D) that the conduct at issue is deemed by this Court to warrant substantially different action,

then this Court may enter such other orders as it deems appropriate.

(2) In all other respects, a final adjudication in another jurisdiction that an attorney has been guilty of misconduct or found incapacitated shall establish conclusively

the misconduct or incapacity for purposes of any proceeding under LR Gen 214. Where an attorney has been found to be incapacitated, the Court shall enter an order placing the attorney on inactive status, in which case the attorney may not practice before this Court unless and until reinstated pursuant to LR Gen 215.

Effective 12/1/18: §(c)(2) amended. Effective 12/1/11: §(a)(2) amended. The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 12/1/09: §§(a)(2) and (b) amended.

CROSS-REFERENCE

See LR Gen 212 (Disbarment by Consent).

LR Gen 215 REINSTATEMENT OF MEMBERSHIP

(a) Application for Reinstatement.

(1) An individual who has ceased to be a member of the Bar of this Court for any reason, including disbarment, suspension, failure to comply with the requirements for continuation of membership, resignation or failure to renew membership in a timely manner, may apply for reinstatement by filing a completed application for reinstatement on a form provided by the Clerk and paying the applicable reinstatement fee established by the Court.

(2) An attorney who has been suspended also shall file an affidavit of compliance with the provisions of the order of suspension along with the application for reinstatement.

(3) An attorney who has been disbarred after hearing or by consent may not apply for reinstatement until at least 5 years after the effective date of disbarment.

(4) An attorney who was placed on inactive status because of incapacity also shall file, along with his or her application, a written waiver of any doctor/patient privilege with respect to relevant treatment of the attorney during the period of incapacity. In addition, such attorney shall disclose the name of every psychiatrist, psychologist, physician and hospital or other institution by whom or in which the attorney has been examined or treated for any condition or conditions relating to the incapacity since being placed on inactive status and a written consent authorizing each of them to disclose any relevant information and provide any relevant records requested by the Court or special counsel.

(b) Procedure on Application. In ruling on an application for reinstatement, the Court may proceed in any of the following ways:

(1) Summarily approve or reject the application if the appropriate action to be taken is clear from the face of the application and there are no facts in dispute.

(2) Designate a magistrate judge or appoint a special counsel to investigate and recommend to the Court whether or not the application should be approved; provided, however, that such recommendation will not be binding upon the Court.

(3) Promptly schedule the matter for a hearing before the Court, a single district judge designated by the Court or a magistrate judge designated by the Court. However, if a magistrate judge has made a recommendation pursuant to this subsection, the hearing shall not be conducted by that magistrate judge.

(A) If the hearing is conducted by a district judge, the Court may authorize that district judge to rule on the application without further action by the Court.

(B) If the hearing is conducted by a magistrate judge, the matter shall be dealt with in the manner described in LR Gen 210(d)(1)(B)-(C).

(c) Conduct of Hearing. At the hearing, the applicant shall have the burden of demonstrating by clear and convincing evidence that he or she is of good moral character and otherwise qualified and fit to practice law before this Court, and that the applicant's resumption of the practice of law before this Court will not adversely affect the interests of potential clients, public confidence in the integrity of the Bar of this Court or the proper administration of justice.

(1) The Court may elect or appoint a special counsel to present evidence at the hearing and to cross examine the witnesses.

(2) The applicant shall have a similar right to present evidence and cross examine witnesses and to be represented by counsel.

Effective 12/1/18: §(b)(3)(B) amended. Effective 12/15/14: §(a)(4) amended. Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 1/3/11: §(c) amended. Effective 3/17/08: §(a)(1) amended.

CROSS-REFERENCE

See LR Gen 210(d)(conduct of disciplinary hearing).

LR Gen 216 PUBLIC ACCESS AND CONFIDENTIALITY

(a) Publicly Available Records. All filings, orders, and proceedings involving allegations of misconduct by an attorney shall be public, except:

(1) Any document filed or action taken pursuant to LR Gen 210(b) prior to the commencement of formal disciplinary proceedings under LR Gen 210(c); or

(2) When the Court, *sua sponte*, or in response to a motion for protective order, orders that such matters shall not be made public; provided, however, that any finding of misconduct shall be public.

(b) Respondent's Request. The respondent-attorney may request that the Court make any matter public that would not otherwise be public under LR Gen 216.

Effective 12/1/18: §§(a) and (b) amended.

CROSS-REFERENCES

See LR Gen 210 (Disciplinary Proceedings) and LR Gen 212(b) (confidentiality of papers in disbarment-by-consent proceedings).

[THIS PAGE INTENTIONALLY LEFT BLANK]

LOCAL RULES GOVERNING
ELECTRONIC CASE FILING

[THIS PAGE INTENTIONALLY LEFT BLANK]

LR Gen 301 GENERAL

(a) **Applicability.** These rules govern electronic case filing in the United States District Court for the District of Rhode Island and establish procedures for the signing, filing, service, maintenance and verification of documents by electronic means.

(b) **Scope of Electronic Filing**. Except as provided in LR Gen 302 and LR Gen 303, all documents submitted for filing in civil and criminal cases by an attorney who has been admitted to the bar of this Court or allowed to practice before this Court, regardless of the commencement date of the action, shall be electronically filed in PDF format using ECF. Documents filed electronically constitute filing with the Court as defined in Fed.R.Civ.P. 5(d) and Fed.R.Crim.P. 49(d).

Effective 1/3/11: Rule added.

CROSS-REFERENCES

See LR Gen 302 (Exemptions and Exceptions to ECF); LR Gen 303 (Special Filing Requirements); LR Cv 5 (Form and Filing of Documents); LR Cr 57 (Form and filing of documents).

See also Fed. R. Civ. P. 5(c); Fed. R. Civ. P. 5(d); Fed. R. Crim P. 49(d).

LR Gen 302 EXEMPTIONS AND PRO SE LITIGANTS

(a) **Attorney Exemption.** If filing electronically would create an undue hardship for an attorney, the attorney may request an exemption from the Clerk of Court and permission to file documents conventionally. The request must be made in writing, and must contain a detailed explanation of the reason(s) for the request. The Clerk may grant an exemption on such terms and conditions as are appropriate and reasonable.

(b) ***Pro Se* Litigants.** A non-incarcerated *pro se* litigant in a pending case may apply to the Court for permission to file and receive documents electronically on a form prescribed by the Clerk's Office. If the Court grants a *pro se* litigant permission to file documents electronically, that permission is limited to the case specified, and the Court may withdraw that permission at any time during the pendency of a case.

In the absence of a court order authorizing electronic filing, all *pro se* litigants shall conventionally file and serve all documents in accordance with the provisions of the Federal Rules of Civil Procedure and Criminal Procedure and the Local Rules of this Court, and all electronically filed documents must be conventionally served on the *pro se* litigant.

Effective 12/1/17: §(a) amended; comment in §(a) and §§(b) and (c) deleted; and§(d) redesigned as (b). Effective 12/15/14: §(d) amended. Effective 1/3/11: Rule added.

CROSS-REFERENCES

See LR Gen 201(b)(3) (Exceptions to Requirements of Membership); LR Gen 205 (*Pro Se* Litigants); LR Gen 304 (Eligibility, Registration, and Passwords).

LR Gen 303 SPECIAL FILING REQUIREMENTS

(a) Civil Case Opening Documents.

(1) Complaints and Notices of Removal. Absent an exemption under LR Gen 302, complaints or notices of removal, together with the civil cover sheet and a summons for each defendant to be served, shall be filed electronically, and the required filing fee shall be paid at the time of filing. The Clerk's Office will issue a summons for each defendant to be served to the filer.

(2) Other Civil Case Initiating Documents. Civil case initiating documents not mentioned in (a)(1), or to be filed under seal, shall be filed conventionally, together with the civil cover sheet, a summons for each defendant to be served, and the required filing fee. The Clerk's Office will issue a summons for each defendant to be served to the filer.

(b) Miscellaneous Case Opening Documents. Absent an exemption under LR Gen 302, miscellaneous case opening documents shall be filed electronically, and the required filing fee shall be paid at the time of filing.

(c) Other Documents to be Conventionally Filed. The following documents must be conventionally filed:

(1) Consent to Proceed Before a Magistrate Judge;

(2) All pleadings and documents filed by prisoner *pro se* litigants and non-prisoner *pro se* litigants not granted permission to file documents electronically;

(3) The charging document in a criminal case, such as the complaint, indictment and information;

(4) Affidavits for search and arrest warrants and related papers.

(d) Format of Electronically Filed Documents. Documents must be formatted for electronic filing by converting the original word processing document into PDF, resulting in what is referred to as a "native PDF" or "text PDF." PDF images created by scanning paper documents should be avoided unless the filer does not possess a word processing file version of the document (e.g., Exhibits).

Unless otherwise required by statute, rule, or court order, documents that require an original signature(s) other than that of the Filing User must be submitted in a scanned PDF format, and the Filing User must maintain the document with the original signature.

Effective 12/1/19: §(d) amended. Effective 12/1/18: §(c)(1)-(2) and (7)-(8) deleted, and (3)-(6) redesignated as (1)-(4). Effective 12/1/17: §(b) amended; §(c)(3) and (10) deleted; and §(c)(4)-(8) and (10) redesignated as (c)(3)-(8).

Effective 12/1/16 §(c)(1) deleted, and §§(c)(2)-(11) redesignated as (c)(1)-(10). Effective 12/1/15: §(c) deleted; §§(d)(1), (d)(1)(D), (d)(2), (d)(2)(A), (d)(2)(G), and (d)(3) deleted, §(d)(1)(A)-(C), (E), (F), (d)(2)(B)-(F) and (H) redesignated as (c)(1)-(11); new §(d) added. Effective 12/15/14: §(a) amended; §(a)(2) redesignated as (b); §(b) redesignated as §(c); §§(c)(1)(B) and (c)(2)(B) amended; §(c)(4) deleted; and §(c) redesignated as §(d). Effective 1/3/11: Rule added.

CROSS-REFERENCES

See LR Gen 102 (Documents Containing Confidential Information); LR Cv 5 (Form and Filing of Documents); LR Cv 5.1 (Proof of Service of Summons and Other Documents); and LR Cv 9 (Requests for Emergency Relief).

See also Fed. R. Civ. P. 4; Fed .R .Civ . P. 5.2; Fed .R. Crim. P. 5; Fed .R .Crim. P. 20; and Fed. R. Crim. P. 49.1.

LR Gen 304 ELIGIBILITY, REGISTRATION, PASSWORDS

(a) ECF Login and Password. An attorney admitted to the bar of this Court pursuant to LR Gen 202 will automatically become a Filing User of the Court's ECF system and will be permitted to file documents electronically using ECF without further authorization. The Filing User will receive notification from the Court of the user login and password after admission.

An attorney eligible to appear before the Court pursuant to LR Gen 201(b), and not otherwise prohibited from filing documents electronically under the Local Rules, must register as a Filing User of the Court's ECF system. Registration will be on an ECF Registration Form provided by the Clerk. Once ECF registration is completed, the Filing User will receive notification from the Court of the user login and password and be permitted to file documents electronically.

(b) Confidentiality of Login and Password. Filing Users agree to protect the security of their passwords and immediately notify the Clerk's Office if they learn that their password has been compromised.

Effective 12/1/18: §(c) deleted. Effective 12/1/17: §(a) amended; and comment in §(b) deleted. Effective 12/1/15: §§(a) and (b) amended; §(d) deleted. Effective 1/3/11: Rule added.

CROSS-REFERENCES

See LR Gen 201 (Practice before Court); LR Gen 203 (Continuing Obligations of Members of the Bar).

LR Gen 305 CONSEQUENCES OF ELECTRONIC FILING

(a) **Filing Defined**. The electronic filing of a document through ECF consistent with these Local Rules, together with the transmission of a NEF from the Court's ECF system, constitutes filing for all purposes of the Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure and the Local Rules of this Court, and constitutes entry of the document on the docket maintained by the Clerk pursuant to Fed. R. Civ. P. 58 and 79 and Fed. R. Crim. P. 55.

(b) **Confirmation of Court Filing.** A document electronically filed through the Court's ECF system shall be deemed filed on the date and time stated on the NEF received from the Court.

(c) **Official Record.** When a document has been filed electronically, the official record is the electronic recording of the document as stored by the Court, and the filing party is bound by the document as filed. Before filing a document with the Court, the Filing User must verify the accuracy and/or legibility of the document.

(d) **Filing Deadlines.** Electronic filing does not alter the filing deadline for that document. All electronic filings must be completed before midnight local time in order to be considered timely filed that day unless a different time is established by court order.

Effective 12/2/13: §(b) amended. Effective 1/3/11: Rule added.

CROSS-REFERENCES

See Fed. R. Civ. P. 6(a)(4); Fed. R. Civ. P. 58; Fed. R. Civ. P. 79; Fed. R. Crim. P. 55.

LR Gen 306 ENTRY OF COURT-ISSUED DOCUMENTS

(a) Entry; Force and Effect. All orders, decrees and judgments of the Court will be entered electronically, and the minutes of proceedings will be entered electronically, in accordance with these Local Rules, which will constitute entry on the docket kept by the Clerk under Fed. R. Civ. P. 58 and 79 and Fed. R. Crim. P. 55. Any order or other court-issued document entered electronically which contains a "/s/" in place of an original signature of a judge or clerk has the same force and effect as if the judge or clerk had signed a paper copy of the order and it had been entered on the docket in a conventional manner.

(b) Text Orders. A judge or authorized member of the Court staff may issue orders by a text-only entry on the Court's docket without an attached document. The text-only entry shall constitute the only Court order on the matter and such orders are official and binding. The parties will receive notice of such an order through the NEF.

(c) Proposed Orders. Proposed orders shall not be filed unless requested by the Court. When so requested, the Filing User shall submit a copy of the proposed order to the Clerk's Office by e-mail in word processing format.

Effective 12/2/13: §(a) amended. Effective 1/3/11: Rule added.

CROSS-REFERENCES

See Fed. R. Civ. P. 58; Fed. R. Civ. P. 79; Fed. R. Crim. P. 55.

LR Gen 308 SIGNATURES

(a) ECF Login and Password as Signature; Format of Signature Block. The user login and password required to submit documents to the ECF system shall serve as that user's signature for purposes of Fed. R. Civ. P. 11 and for all other purposes under the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure and these Local Rules. All electronically filed documents must include a signature block with the attorney's name, bar registration number, address, telephone number, and e-mail address.

(b) Restrictions on Use of ECF Login and Password. No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.

(c) Documents Requiring Multiple Signatures. The filer of any document requiring more than one signature (e.g., pleadings filed by *pro hac vice* lawyers, stipulations, joint status reports) must list thereon all the names of other signatories with a signature block for each as described in (a). By submitting such a document, the filing attorney certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filing attorney has their actual authority to submit the document electronically. A signatory or party who disputes the authenticity of an electronically filed document containing such "signatures" must file an objection to the document within 14 days of service of the NEF. The filing attorney shall retain any records evidencing this concurrence for future production, if necessary.

Effective 12/1/19: §(c) amended. Effective 12/1/18: §§(a) and (c) amended. Effective 1/3/11: Rule added.

CROSS-REFERENCES

See LR Gen 204 (*Pro Hac Vice* Counsel); LR Gen 304(b) (Confidentiality of Login and Password); LR Cv 5 (Form and Filing of Documents); LR Cr 57 (Form and Filing of Documents).

See also Fed. R. Civ. P. 11.

LR Gen 311 TECHNICAL FAILURE; FILING USER SYSTEM FAILURE

(a) **Definition.** A technical failure is deemed to have occurred when the Court's ECF site cannot accept filings continuously or intermittently over the course of any period of time greater than one hour after 12:00 p.m. (noon) on a given day. Known system outages will be posted on the Court's website, if possible.

(b) **Filing Options.** A Filing User experiencing a technical failure may conventionally file the document or send the PDF document to an email address set up by the Court, if it is accompanied by a declaration attesting to the Filing User's attempts to timely file the document using ECF.

(c) **Relief.** A Filing User whose filing is made untimely as the result of a technical failure of the Court's ECF site may seek appropriate relief from the Court.

(d) **Filing User System Failure.** Problems on the Filing User's end, such as connection problems, problems with the Filing User's Internet Service Provider (ISP), or hardware or software problems, will not constitute a technical failure under LR Gen 311(a) nor excuse an untimely filing. However, the Filing User may conventionally file the document or send the PDF document to an email address set up by the Court, if it is accompanied by a declaration attesting to the Filing User's attempts to timely file the document using ECF.

Effective 1/3/11: Rule added.

LR Gen 314 REFUND OF ELECTRONIC FILING FEES

(a) Authority of the Clerk. The Clerk is authorized to administer refunds of all duplicative or erroneous fees paid to the Court electronically. The Clerk may refund only duplicative payments in which the payor has inadvertently paid the filing fee more than once in the same case, resulting in two or more identical credit card charges and erroneous payments in which the payor has inadvertently made a fee payment when no fee was due.

(b) Requests for Refund.

(1) Application. A payor seeking a refund must complete an Application for Refund form. The completed Application for Refund form, along with supporting documentation, shall be submitted to the Clerk's Office via email.

(2) Verification of Erroneous Payment. The Clerk, upon verification of an error, shall process the refund to the same credit card from which the duplicative or erroneous payment was made.

(c) Review of Denial of Refund. If the Clerk denies the application for refund, the payor may, within 14 days of the denial, file a motion requesting that the presiding judge or the Chief Judge, if it is not case specific, review the denial.

Effective 12/1/15: Rule added.

[THIS PAGE INTENTIONALLY LEFT BLANK]

LOCAL RULES APPLICABLE TO CIVIL PROCEEDINGS

[THIS PAGE INTENTIONALLY LEFT BLANK]

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. Any person filing a complaint in a civil case or any other document that requires a file to be opened shall contemporaneously file a completed 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.

(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.

(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.

Effective 4/1/24: §(b) amended. Effective 12/1/17: §(b) amended and comment removed. Effective 12/1/15: §(b) amended and comment added. Effective 12/1/11: (b) amended. Effective 10/1/09: New §(e) added, and old §(e) redesignated §(f). Effective 1/5/09: §(a)(3) amended. Effective 3/17/08: §§(a)(3) and (d) amended.

CROSS-REFERENCES

See LR Cv 5.1 (Proof of Service of Summons and Other Documents), LR Cv 5.2 (Notice by Publication), LR Cv 7 (Motions and Other Papers) 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).

LR Cv 5.1 PROOF OF SERVICE OF SUMMONS AND OTHER DOCUMENTS

(a) Summons. Unless service is waived, proof of service of a summons must be filed with the Court within 14 days after service is made. Except for service by a United States marshal or deputy marshal, the proof of service must consist of an affidavit by the person who made service certifying:

(1) the date and manner of service;
(2) the names of the persons served; and
(3) the addresses of the persons served.

(b) Certificates of Service as to Filings Other Than the Summons. Unless a document is served through the ECF system, any document filed after the complaint required to be served by other means must contain a certificate of service stating:

(1) the date and manner of service;
(2) the names of the persons served; and
(3) the addresses of the places of delivery, as appropriate for the manner of service.

The certificate of service shall be affixed to the documents filed with the Court.

Effective 12/1/18: §(b) amended. Effective 12/2/13: §(a)(1) amended; and §(a)(2)-(3) and §(b) added. Effective 1/15/13: §(b) deleted. Effective 12/1/11: §§(b)(2) and (4) amended 12/1/2011. The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 1/3/11: §(a)(1) amended. Effective 10/1/09: §(a)(1) amended. Effective 1/5/09: §(b)(2) amended.

CROSS-REFERENCES

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

LR Cv 5.2 NOTICE BY PUBLICATION

Whenever notice by publication is required, proof of publication shall be in the form of an affidavit that provides:

(1) a copy of the notice as published;

(2) the date(s) of publication; and

(3) the name of the newspaper or other periodical in which the notice was published and the page number on which the notice appeared.

LR Cv 7 MOTIONS AND OTHER PAPERS

(a) In General.

(1) Request for Relief. A request for a court order must be made by motion. A motion must be in writing unless made during a hearing or trial or if the Court permits otherwise.

(2) Contents of a Motion.

(A) Grounds and Relief Sought. All motions must state with particularity the grounds for seeking an order, the relief sought, and the legal argument necessary to support it.

(B) Accompanying Documents. A separate memorandum of law need not be filed. However, if a party chooses to file a memorandum of law, it must be served as an attachment to the motion and not as a separate docket entry.

(3) Response. Any party may file a response to a motion, the contents of which are governed by LR Cv 7(a)(2). The response must be filed within 14 days after service of the motion unless the Court shortens or extends the time.

(4) Reply to Response. Although the filing of a reply is not required, any reply to a response must be filed within 7 days after service of the response. A reply shall not present matters that do not relate to the response, or reargue or expand upon the arguments made in support of the motion.

(5) Sur-replies. Sur-replies may only be filed with prior leave of Court.

(b) Record Citations in Administrative Appeals. Any motion, response or reply filed in a case involving an appeal from the ruling or determination of an administrative tribunal, including but not limited to Social Security disability determinations, shall include all pertinent citations to the administrative record.

(c) Need for Hearing. All motions and responses shall contain a statement by counsel as to whether oral argument and/or an evidentiary hearing is requested; and, if so, the estimated time that will be required.

Effective 12/1/17: §(a) amended; §§(b), (c) and (d)(1)-(3) deleted; §(d)(4) redesignated as (b); and §(e) redesignated as (c). Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 12/1/09: §§(b)(1) and (b)(2) amended. Effective 1/5/09: Title and §(d)(1) amended. Effective 3/17/08: §§(b)(1), (b)(2), (c) and (d)(1) amended, and §(d)(4) added.

CROSS-REFERENCES

See LR Gen 102 (Motions to Seal); LR Cv 37 (Motions to Compel Discovery), LR Cv 56 (Motions for Summary Judgment), LR Cv 72 and LR Cr 57.2 (Objections to Reports and Recommendations); LR Cr 12 (Discovery Motions in Criminal Cases); and LR Cr 47 (Motions and Other Papers).

See generally Fed. R. Civ. P. 6(a) (computation of time); LR Gen 303 (Special Filing Requirements).

LR Cv 9 REQUEST FOR EMERGENCY/EXPEDITED RELIEF OR FOR THREE-JUDGE DISTRICT COURT

When a document is filed containing a request for a temporary restraining order, any other form of emergency relief, or the appointment of a three-judge court, such request shall be noted in all capital letters on the first page to the right of, or immediately beneath, the case caption, and shall set forth the basis for the request.

In addition, the party making the request shall promptly communicate the request to the deputy clerk for the judge to whom the case is assigned.

Effective 12/1/17: Rule amended.

CROSS-REFERENCES

See LR Cv 7 (Motions and Other Papers).

LR Cv 9.1 NOTICE OF RELATED ACTIONS OR PROCEEDINGS

Whenever a case pending in this Court involves a claim, occurrence, or event which is at issue in a proceeding pending before another tribunal, any party or counsel having knowledge of such other proceeding shall promptly file a "Notice of Related Proceedings." Such notice shall identify the other proceeding, the tribunal before which it is pending, and the claim, occurrence, or event pending before that tribunal.

LR Cv 15 MOTIONS TO AMEND

A motion to amend a pleading shall be filed in accordance with LR Cv 7, explain how the amended pleading differs from the original and why the amendment is necessary, and be accompanied by a complete and signed copy of the proposed amended pleading. If the motion to amend is granted, the Clerk shall file the proposed amended pleading.

Effective 12/1/19: Rule amended. Effective 12/1/17: Rule amended.

CROSS-REFERENCE

See LR Cv 7 (Motions and Other Papers).

LR Cv 16 INITIAL SCHEDULING CONFERENCE

(a) Initial Scheduling Conference. The initial scheduling conference referred to in Fed. R. Civ. P. 16(a) may be conducted by the district judge to whom a case is assigned, or the magistrate judge assigned to the case.

(b) Statement of Claims. At least 7 days before the conference, counsel for each party asserting a claim (including a counterclaim and/or cross claim) shall file with the Court a brief (2-3 page) written statement listing the elements, with a short description of the facts in support thereof, that must be proven in order to prevail on that claim or counterclaim.

(c) Attendance of Counsel. Lead counsel and any local counsel are required to attend the conference, unless explicitly excused by the Court prior to the conference.

Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 1/3/11: §(b) amended. Effective 12/1/09: §(b) amended. Effective 3/17/08: §(b) (re: topics to be addressed at scheduling conference) deleted; §(c) amended and redesignated as §(b); §(d) redesignated as §(c).

CROSS-REFERENCES

See LR Cv 26 (Discovery).

See also LR Gen 206(c)(notices to counsel) and LR 206(d) (designation of lead counsel).

LR Cv 23 CLASS ACTIONS

Any pleading asserting a claim by or against a class shall:

(a) bear, next to the caption, the designation "Class Action"; and

(b) contain a section entitled "Class Action Allegations" immediately after the allegation of jurisdictional grounds, which section shall contain:

(1) a reference to the specific provision(s) in Rule 23(b) of the Federal Rules of Civil Procedure under which it is claimed that the action may be brought as a class action; and

(2) sufficient allegations to support the claim that the action may be brought as a class action, including but not limited to:

(A) the number or approximate number of the members of the class;

(B) a description of who is in the class;

(C) the basis upon which it is claimed that the party asserting the claim will fairly and adequately protect the interest of the class, or, if the claim is asserted against a class, that the named members of the class will fairly and adequately protect the interests of that class; and

(D) the questions of law or fact claimed to be common to the class.

Effective 3/17/08: §(b) amended.

LR Cv 26 DISCOVERY

(a) **Discovery Conference.** Unless the Court otherwise orders, within 14 days after the last answer or responsive pleading has been filed by all parties against whom claims have been asserted, the parties shall confer for the purposes specified by Fed. R. Civ. P. 26(f); provided, however, that if in lieu of an answer, a motion is filed that, if granted, would dispose of the entire case, the time for the parties' conference may be deferred until not later than 14 days after such answer or pleading is thereafter filed.

(b) **Discovery Plan.** Counsel may, but are not required to, present any written discovery plan. However, counsel shall be prepared to present any discovery plan verbally at the initial Rule 16 conference.

(c) **Close of Discovery.** Unless the Court otherwise orders, pretrial discovery must be completed by the discovery closure date. However, the parties may agree that specified discovery which has been initiated before the discovery closure date may be completed subsequent to that date, so long as such completion does not affect the pretrial schedule or any trial date established by the Court.

(d) **Requests for Admission.** Requests for admission may be served following the discovery closure date with leave of court, upon motion which includes the proposed requests.

(e) **Service of Discovery by Electronic Means.** Service of discovery by electronic means is permitted.

Effective 12/2/13: §(e) added. Effective 12/1/11: §(d) added. The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 1/3/11: §(c) amended. Effective 12/1/09: §(a) amended. Effective 3/17/08: §(c) added.

CROSS-REFERENCES

See also LR Cv 5(d) (regarding the filing of discovery documents), LR Cv 16 (initial scheduling conference), LR Cv 33 (interrogatories), LR Cv 34 (requests for production), LR Cv 36 (admissions), and LR Cv 37 (Motions to Compel Discovery).

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.

Effective 4/1/24: Rule added.

LR Cv 33 INTERROGATORIES

(a) Filing. Except in connection with motions to compel answers or more responsive answers, neither interrogatories nor answers or objections to interrogatories shall be filed with the Court.

(b) Objections. Each objection and the grounds therefor shall be stated separately under each individual request. When an objection is made to any interrogatory, or sub-part thereof, it shall state with specificity all grounds upon which the objecting party relies. Any ground not stated in an objection shall be deemed waived. The requirement that the grounds for objecting be stated with specificity under each individual request precludes the consideration of any generic general objections.

Effective 12/1/19: §(b) deleted and §(c) redesignated as (b). Effective 12/1/18: §(c) amended. Effective 1/5/09: §(c) added.

CROSS-REFERENCES

See LR Cv 5(d) (filing of discovery documents), LR Cv 26 (Discovery), and LR Cv 37 (Motions to Compel Discovery).

LR Cv 34 REQUESTS FOR PRODUCTION

(a) Filing. Except in connection with motions to compel production, neither requests for production nor responses or objections thereto shall be filed with the Court.

(b) Objections. Each objection and the grounds therefor shall be stated separately under each individual request. When an objection is made to any request, or sub-part thereof, it shall state with specificity all grounds upon which the objecting party relies. Any ground not stated in an objection shall be deemed waived. The requirement that the grounds for objecting be stated with specificity under each individual request precludes the consideration of any generic general objections.

Effective 12/1/19: §(b) deleted and §(c) redesignated as (b). Effective 12/1/18: §(c) amended. Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules.

CROSS-REFERENCES

See LR Cv 5(d) (filing of discovery documents), LR Cv 26 (Discovery), and LR Cv 37 (Motions to Compel Discovery).

LR Cv 36 REQUESTS FOR ADMISSION

(a) Filing. Except in connection with motions to compel further responses, neither requests for admissions nor responses or objections to requests for admissions shall be filed with the Court.

(b) Objections. When an objection is made to any request, or sub-part thereof, it shall state with specificity under each individual request all grounds upon which the objecting party relies. Any ground not stated in an objection shall be deemed waived. The requirement that the grounds for objecting be stated with specificity under each individual request precludes the consideration of any generic general objections.

Effective 12/1/19: §(b) deleted and §(c) amended and redesignated as (b).

CROSS-REFERENCES

See LR Cv 5(d) (filing of discovery documents), LR Cv 26 (Discovery), and LR Cv 37 (Motions to Compel Discovery).

LR Cv 37 MOTIONS TO COMPEL DISCOVERY

(a) Form. A motion to compel a response or further response to an interrogatory, request for production, or request for admission shall state the interrogatory or request, the response made, if any, and the reasons why the movant maintains that the response is inadequate. Motions to compel shall comply with the requirements of LR Cv 7.

(b) Time for Compliance. When a motion to compel discovery is granted, the required response shall be provided within 21 days or such other time as the Court may order.

Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 12/1/09: §(b) amended.

CROSS-REFERENCES

See LR Cv 7 (Motions and Other Papers), LR Cv 26 (Discovery), LR Cv 33 (Interrogatories), LR Cv 34 (Requests for Production) and LR Cv 36 (Requests for Admission).

LR Cv 39 OPENING STATEMENTS; USE OF RECORDED TESTIMONY; TIME LIMITS

(a) Opening Statements. An opening statement shall not be argumentative and shall not exceed 30 minutes unless otherwise permitted by the Court. Counsel for a defendant may make an opening statement either after the opening statement of the plaintiff or after the plaintiff has rested. Counsel for a defendant may not make an opening statement after the plaintiff has rested unless evidence will be presented on behalf of that defendant.

(b) Recorded Conversations or Testimony.

(1) At least 14 days prior to empanelment, counsel for any party that proposes to offer a recorded conversation or any portion thereof as evidence shall furnish the Court and counsel with:

(A) a chronologically arranged list showing the date of, participants in, and approximate playing time of each such recording; and

(B) a transcript of each such conversation.

(2) Before offering any recorded conversation, counsel shall edit out footage that contains no audible discussion or contains irrelevant material so that the jury will not be required to listen for protracted periods of time to portions of recordings that provide little or no assistance in determining the pertinent facts. In order to achieve that objective, counsel shall meet and confer, in advance, in an effort to resolve any disputes with respect to editing.

(3) Within 7 days after such transcripts have been furnished or such other period of time as the Court may allow, counsel for any party disputing the audibility, completeness, or admissibility of any such recording or the accuracy of such transcript shall file an objection identifying the recording and/or transcript or the particular portion to which objection is being made as well as the nature of and grounds for the objection. In the case of an objection that any portion of a recorded conversation has been omitted, the party making such objection shall set forth the omitted portion(s) of the recording(s) together with a statement explaining why the omitted portion(s) should be included.

(4) Any objections to the accuracy or completeness of transcripts shall be accompanied by copies of the transcripts objected to on which proposed deletions and corrections are noted.

(5) Any dispute regarding editing and/or the accuracy of transcripts shall be called to the Court's attention promptly.

(6) Failure to comply with the provisions of this subsection (b) may be considered by the Court as a waiver by the proponent of the right to offer the recorded conversation(s) at issue; or, alternatively, as a waiver of the right to object to admission of the

recorded conversation(s) and/or to dispute the accuracy or completeness of the transcript, as the case may be.

(c) Time Limits.

(1) The Court, in its discretion, may limit the time for any trial, hearing, or other proceeding, for any argument, or for the examination of any witness or completing the examination of any witness in such manner and upon such terms as may be just under the circumstances.

(2) Upon request by a party, the Court, in its discretion, may extend any time limits established pursuant to paragraph (c)(1) of this Rule. In determining whether to extend such time limits, the Court may consider:

(A) whether the party has adequately explained the purposes for which the additional time would be used and why the additional evidence or argument to be presented is essential to fairly decide the matter;

(B) whether the party has effectively and efficiently made full use of the time allocated to that party; and

(C) any other matters that may be relevant.

Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 12/1/09: §(b)(1) amended.

CROSS-REFERENCES

See LR Cr 23 (Opening Statements; Use of Recorded Testimony; Time Limits in criminal cases).

LR Cv 39.4 SETTLEMENT

(a) Settlements on Behalf of Minors or Incompetents. In order to obtain court approval of any settlement on behalf of a minor or incompetent, a motion for approval must be filed and approved by the Court. Motions for approval shall be accompanied by the following:

(1) a report from the guardian, guardian *ad litem* or next friend explaining why the proposed settlement is in the best interest of the minor or incompetent and should be approved;

(2) a statement setting forth the terms of the settlement and precisely how and to whom the settlement proceeds will be distributed, including the amounts to be paid to counsel as fees and/or reimbursement for expenses incurred;

(3) a copy of any settlement agreement and/or release that is to be executed on behalf of the minor or incompetent;

(4) an explanation as to how the proceeds payable to the minor or incompetent are to be safeguarded to ensure that they will be applied to his or her benefit;

(5) a copy of any trust or other document establishing the method by which the funds payable to the minor or incompetent will be safeguarded to ensure that any amounts payable to the minor or incompetent will be applied for the minor's or incompetent's benefit; and

(6) in personal injury cases, a complete description of the injuries sustained, whether any of them are permanent, copies of all relevant medical reports, and an itemized statement of all past and future medical expenses that may have been or are likely to be incurred.

The documents referred to in paragraphs (4) - (6) may be filed under seal if necessary to safeguard the privacy of the minor or incompetent person.

Effective 12/1/19: §(a)-(b) deleted; §(c) redesignated as (a). Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 12/1/09: §§(a) and (b) amended.

CROSS-REFERENCES

See LR Cv 54 (Costs) and LR Gen 102 (filing of documents containing confidential information).

LR Cv 41 DISMISSALS FOR LACK OF PROSECUTION

The Court may issue an order to show cause at any time as to why the case should not be dismissed for lack of prosecution. If good cause is not shown within the time prescribed by the show cause order, the Court may dismiss the case.

Effective 12/1/19: Rule amended.

CROSS-REFERENCES

See LR Cv 5.1 (Proof of Service of Summons and Other Documents).

LR Cv 47 EMPANELMENT OF AND COMMUNICATION WITH JURORS

(a) In General. Jury empanelment shall be conducted in the manner determined by the presiding judicial officer and prescribed by any applicable statutes or rules of civil procedure.

(b) Voir Dire Questions. If and when directed by the Court, counsel shall submit a list of any questions that counsel requests the Court to ask prospective jurors during voir dire examination. Proposed questions for the jury voir dire shall be served and submitted to the Court at least 5 days prior to empanelment.

(c) Challenges. Challenges of individual prospective jurors for cause shall be made on the record but out of the hearing of the other prospective jurors. At the discretion of the Court, challenges may be made orally or by executing challenge slips and presenting them to the Clerk.

(1) Unless the Court otherwise orders, in any case in which there is a single plaintiff and a single defendant entitled to an equal number of peremptory challenges, the challenges shall be exercised alternately and one by one, with the plaintiff exercising the first challenge.

(2) In any other case, the order of challenges shall be determined by the Court.

(d) Communication with Jurors. Unless otherwise permitted by the Court, no attorney, party, or agent of an attorney or party shall communicate directly or indirectly with a juror during or after the trial of a case.

Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 12/1/09: §(b) amended.

CROSS-REFERENCES

See LR Gen 107.1(g) (transcripts of petit jury empanelments), and LR Cr 24 (Empanelment of and Communication with Jurors in criminal cases).

As to restrictions on communications with jurors, see United States v. O'Brien, 972 F.2d 12 (1st Cir. 1992)(unauthorized communications between persons associated with case and jurors deemed presumptively prejudicial) and United States v. Kepreos, 759 F.2d 961 (1st Cir.), cert. denied 474 U.S. 901 (1985)(post-verdict communications with jurors prohibited unless under supervision of court in extraordinary circumstances).

LR Cv 51 WAIVER OF JURY INSTRUCTIONS

The failure to submit a request for instructions or an objection to a requested instruction in accordance with the orders of the Court may be deemed a waiver of the right to make such request or objection and/or a waiver of any claim or defense for which no request was submitted.

CROSS-REFERENCES

See LR Cv 5(a)(4) (demand for jury trial).

LR Cv 53 ADR REFERRALS

Referrals of cases for alternative dispute resolution proceedings shall be in accordance with the Court's Alternative Dispute Resolution Plan, which Plan is hereby incorporated in these Rules.

LR Cv 54 COSTS

(a) Timing of Request. Within 14 days after entry of judgment, a party seeking an award of costs shall file and serve on all other parties a bill of costs. Failure to file a bill of costs within that time shall constitute a waiver of any claim for costs unless the Court otherwise orders, for good cause shown.

(b) Form of Request.

(1) A bill of costs shall be prepared on forms provided by the Clerk's Office and shall specify each item of costs claimed.

(2) A bill of costs shall be supported by a memorandum of law and an affidavit that:

(A) the amounts listed in the bill of costs are correct; and

(B) all services reflected in the bill of costs were actually performed and were necessary to the presentation of the applicant's case; and

(C) all disbursements reflected in the bill of costs represent obligations actually incurred and necessary to the presentation of the applicant's case; and

(D) all costs are properly claimed and allowable.

(c) Taxation by Clerk. The taxation of costs shall be in accordance with Fed. R. Civ. P. 54(d)(1). The Clerk shall notify all parties of the costs allowed.

(d) Motion to Review the Clerk's Action. The taxation of costs by the Clerk shall be final unless modified by the Court. Any challenge to the costs taxed by the Clerk shall be in the form of a motion, which motion shall be served and filed within 7 days after notification pursuant to subsection (c) of this Rule, and shall state the reason for the challenge and the authorities upon which the moving party relies. Within 7 days of the filing of the motion, any party objecting to the motion may file a response.

(e) Resolution of Motion. Within 14 days after a motion to review the Clerk's action is filed, all interested parties shall meet and confer in an effort to resolve the motion. The meeting shall be initiated by the moving party, who shall notify the Court promptly as to whether the issues have been resolved. If all issues have been resolved, the parties shall promptly submit a proposed order. If all issues have not been resolved, the Court will make a final determination with respect to the taxation of costs.

Effective 12/1/17: §(d) amended. Effective 12/1/16: §(c) amended. Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 1/3/11: §§(a)-(e) amended. Effective 6/16/10: Notice of Errata correcting §§(a), (d), and (e). Effective 12/1/09: §§(a), (d), and (e) amended.

CROSS-REFERENCES

See 28 U.S.C. §1924 (affidavit in support of each item of costs). See also LR Cv 54.1 (Attorneys' Fees); LR Cv 62 (Bonds); and LR Cv 65.1 (Security and Sureties).

LR Cv 55 DEFAULT AND DEFAULT JUDGMENT

(a) **Default**. The Clerk shall enter a default upon an application by a party that conforms to the requirements of Fed. R. Civ. P. 55(a).

(b) **Default Judgment**. Not less than 14 days after filing of a motion for entry of default judgment made against a party not represented by counsel, the moving party shall file with the Court a certification that:

(1) The party against whom a default judgment is sought is not in the military service of the United States as defined by the Servicemembers Civil Relief Act of 2003, as amended; and

(2) Notice of the motion was sent to the party against whom the judgment is sought by first class mail and certified mail, return receipt requested, at the address where the party was served with process, and the party's last known address, if different. The certificate shall include the return receipt, or, if unavailable, a statement of the measures taken to attempt service and verify receipt by the defaulted party.

Effective 12/1/16: §§(a), (b), and (c) deleted; new §§(a) and (b) added. Effective 12/2/13: §(c) amended.

CROSS-REFERENCE

See LR Cv 5.2 (Notice by Publication).

LR Cv 56 MOTIONS FOR SUMMARY JUDGMENT

(a) Statement of Undisputed Facts.

(1) A motion for summary judgment shall be accompanied by a separate Statement of Undisputed Facts that concisely sets forth all facts that the movant contends are undisputed and entitle the movant to judgment as a matter of law.

(2) The Statement of Undisputed Facts shall be a separate filing, not an attachment to the motion for summary judgment. Each "fact" shall be set forth in a separate, numbered paragraph and shall identify the evidence establishing that fact, including the page and line of any document to which reference is made, unless opposing counsel has expressly acknowledged that the fact is undisputed.

(3) For purposes of a motion for summary judgment, any fact alleged in the movant's Statement of Undisputed Facts shall be deemed admitted unless expressly denied or otherwise controverted by a party objecting to the motion. An objecting party that is contesting the movant's Statement of Undisputed Facts shall file a Statement of Disputed Facts, which shall be numbered correspondingly to the Statement of Undisputed Facts, and which shall identify the evidence establishing the dispute, in accordance with the requirements of paragraph (a)(2).

(4) If an objecting party contends that there are additional undisputed facts not contained in the moving party's statement of undisputed facts which preclude summary judgment, that party shall file a separate Statement of Undisputed Facts setting forth such additional undisputed facts. Such statement shall be prepared in accordance with the requirements of paragraph (a)(2), except that the additional undisputed facts shall be numbered consecutively to the moving party's undisputed facts.

(5) If an objecting party files a separate statement of additional undisputed facts and the movant contests any of those facts, the movant shall file a separate statement setting forth what additional facts are disputed, numbered correspondingly to the opposing party's additional undisputed facts, at the same time it files its reply pursuant to LR Cv 7.

(b) Supporting Documents. Unless otherwise requested or permitted by the Court, only the relevant portion(s) of documents submitted in support of or in opposition to a motion for summary judgment shall be included in the attachments.

(c) Successive Motions. No party shall file more than one motion for summary judgment unless the Court otherwise permits for good cause shown.

(d) Objections and Replies. The timing and filing of objections and replies in connection with motions for summary judgment shall be governed by LR Cv 7, unless otherwise directed by the Court.

Effective 12/1/17: §(a)(1),(2), and (5) amended. Effective 1/3/11: §(d) added. Effective 1/5/09: §§(a)(2) and (a)(4) amended; §(a)(5) added. Effective 4/10/08: §§(a)(1) and (a)(4) amended. Effective 3/17/08: §§(a)(3) and (a)(4) amended.

CROSS-REFERENCE

See LR Cv 7 (Motions and Other Papers).

LR Cv 58.1 SATISFACTION OF JUDGMENTS

(a) Entry by Clerk. Satisfaction of a money judgment shall be entered by the clerk without order of the court:

(1) upon payment into Court of the amount of the judgment, plus any costs taxed, interest added, and any fees due;

(2) upon the filing of a satisfaction of judgment by the judgment creditor, or the creditor's attorney;

(3) if the judgment is in favor of the United States, upon the filing of a satisfaction of judgment executed by the United States Attorney; or

(4) upon registration of a certified copy of a satisfaction of judgment entered in another district court.

(b) Payment Into Court. When satisfaction is made by payment of money into court, that fact shall be noted in the entry of satisfaction.

CROSS-REFERENCE

See LR Cv 69 (Writs of Execution; Related Proceedings)

LR Cv 62 BONDS

Unless the Court otherwise orders, a bond staying execution of a money judgment shall be in the amount of the judgment, plus an additional 10% of that amount to cover interest and any award for delay, plus an amount established by law or directed by the Court to cover costs.

Effective 12/1/19: Rule amended to remove the word "supersedeas." Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules.

CROSS-REFERENCE

See LR Cv 54 (Costs) and LR Cv 65.1 (Security and Sureties).

LR Cv 65.1 SECURITY AND SURETIES

(a) Security. Except as otherwise provided by law or by order of the Court, a bond or similar undertaking must be secured by:

(1) the deposit of cash or obligations of the United States in the amount of the bond; or

(2) the guaranty of a company or corporation holding a certificate of authority from the Secretary of the Treasury pursuant to 31 U.S.C. § 9304 et seq; or

(3) the guaranty of an individual resident of this District who owns and pledges as security real property in which such individual has equity that exceeds the amount of the bond.

(b) Individual Sureties. An individual acting as surety pursuant to paragraph (a)(3) of this rule shall execute and file an affidavit that includes:

(1) the individual's full name, occupation, and residential and business addresses; and

(2) a statement that the affiant will not encumber or dispose of the property while the bond remains in effect; and

(3) a statement from the clerk of the city or town wherein the property is located setting forth the assessed value of the property, or, alternatively, an appraisal by a licensed appraiser; and

(4) a title report from a member of the bar of the state in which the property is located certifying that such individual is the record owner of the property and listing the amount(s) of all liens and mortgages on the property, including all but the current year's real estate taxes.

(c) Members of the Bar and Court Officers Ineligible. No member of the bar or officer or employee of the Court may be surety or guarantor of any bond or undertaking in any proceeding in this Court.

(d) Execution of Bond. Except as otherwise provided by law, it shall be sufficient if a bond or similar undertaking is executed by the surety or sureties alone, and not by the party on whose behalf such security is provided.

(e) Approval of Bond. Except as otherwise provided by law, the Clerk may approve a bond the amount of which has been fixed by the Court or by statute or rule and which is secured in the manner provided by subsections (a)(1) - (a)(3) of this Rule.

(f) **Service.** The party on whose behalf a bond is given shall promptly after approval and filing of the bond serve a copy of it on all other parties to the proceeding.

(g) **Modification of Bond.** The amount or terms of a bond or similar undertaking may be changed at any time as justice requires, by order of the Court on its own motion or on motion of a party.

CROSS-REFERENCES

See LR Cv 62 (Bonds) and LR Cv 65.2 (Security for Costs).

LR Cv 65.2 SECURITY FOR COSTS

(a) **Security for Costs.** The Court may require any party to furnish security for costs in an amount and on such terms as are just. The Court may modify an order to furnish security for costs at any time.

(b) **Failure to Furnish Security.** The failure of a party to furnish security for costs, after being directed to do so, may be grounds for an involuntary dismissal under Fed. R. Civ. P. 41(b), or an entry of default under Fed. R. Civ. P. 55.

CROSS-REFERENCES

See LR Cv 54 (Costs) and 65.1 (Security and Sureties).

LR Cv 67 DEPOSIT AND WITHDRAWAL OF FUNDS

(a) Receipt of Funds.

(1) Court Order Required. No funds shall be sent to the Court or its officers for deposit into the registry of the Court without an order signed by the presiding judge. The party making the deposit shall serve the order permitting the deposit or transfer on the Clerk of Court.

(2) Deposit with the Treasurer of the United States. Unless otherwise ordered, all funds ordered to be paid to the Court or its officers shall be deposited with the Treasurer of the United States in the name and to the credit of this Court pursuant to 28 U.S.C. §2041 through the depositories designated by the Treasury to accept such deposit on its behalf.

(b) Investment of Registry Funds.

(1) Court Registry Investment System (CRIS). Unless otherwise ordered, funds on deposit with the Court ordered to be placed in some form of interest-bearing account in accordance with Fed. R. Civ. P. 67 will be placed in the Court Registry Investment System (CRIS) administered through the Administrative Office of the United States Courts. The Director of the Administrative Office of the United States Courts is designated as custodian for all CRIS funds.

Deposits made with the CRIS will be pooled with those on deposit with the Treasury to the credit of other courts in the CRIS and used to purchase Government Account Series securities through the Bureau of Public Debt, which will be held at the Treasury in an account in the name and to the credit of the Director of the Administrative Office of the United States Courts.

(2) Interest-Bearing Funds. A separate account for each case will be established in the CRIS Liquidity Fund titled in the name of the case giving rise to the investment in the fund. Income generated from fund investments will be distributed to each case based upon the ratio each account's principal and earnings has to the aggregate principal and income total in the fund after the CRIS maintenance fee described in (c) has been applied. Reports showing the interest earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in the CRIS and made available to litigants and/or their counsel.

(3) Interpleader Funds. Interpleader funds deposited under 28 U.S.C. §1335 are considered a "Disputed Ownership Fund" (DOF), a taxable entity that requires tax administration. Unless otherwise ordered by the Court, interpleader funds shall be deposited in the DOF established within the CRIS. The custodian shall be responsible for meeting all DOF tax administration requirements, and is authorized and directed to deduct the DOF fee on assets on deposit in the DOF for management of investments and tax administration. The custodian is further authorized and directed to withhold and pay federal taxes due on behalf of the DOF.

For each interpleader case, an account shall be established in the CRIS Disputed Ownership Fund, titled in the name of the case giving rise to the deposit invested in the fund. Income generated from fund investments will be distributed to each case after the DOF fee described in (c) has been applied and tax withholdings have been deducted from the fund. Reports showing the interest earned and the principal amounts contributed in each case will be available through the FedInvest/CMS application for each court participating in the CRIS and made available to litigants and/or their counsel. On appointment of an administrator authorized to incur expenses on behalf of the DOF in a case, the case DOF funds should be transferred to another investment account directed by court order.

(c) Maintenance of Interest-Bearing Funds

(1) Non-DOF Maintenance Fees. The custodian is authorized and directed to deduct a fee of an annualized 10 basis points on assets on deposit for all CRIS funds, excluding the case funds held in the DOF, for the management of investments in the CRIS. The fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to individual accounts.

(2) DOF Maintenance Fees. The custodian is authorized and directed to deduce the DOF fee of an annualized 20 basis points on assets on deposit in the DOF for management of investments and tax administration. The DOF fee is assessed from interest earning to the pool before a pro rata distribution of earnings is made to individual accounts.

(d) Disbursement of Funds.

(1) Disbursement of Interest Bearing Funds. No interest-bearing funds may be paid out of the registry except by order of the Court. The custodian shall disburse all registry principal and income, if applicable, less the registry fee assessment, pursuant to the Court's order. Any such order shall set forth the funds in question and name(s) of the payee(s).

(2) Disbursement of Non-Interest Bearing Funds. No non-interest bearing funds may be paid out of the registry except by order of the Court. Any such order shall set forth the funds in question and name(s) of the payee(s).

Effective 12/1/17: §(a)(1)-(2) amended, and §(a)(3) deleted; §§(b)-(c) amended; and new §(d) added. Effective 12/1/11: §(c) amended. Effective 3/17/08: §(b) amended.

CROSS-REFERENCES

See LR Cv 7 (Motions and Other Papers).

See also 28 U.S.C. §§2041-2043 (deposit and withdrawal of court registry funds).

LR Cv 69 WRITS OF EXECUTION

(a) Execution. Except where stayed by statute, rule or order of the Court, a party in whose favor judgment has been entered may execute on the judgment 14 days after judgment has been entered on a form provided by the Clerk's Office.

(b) Requests for Writ of Execution. A request for a writ of execution shall be accompanied by an affidavit that states:

(1) the amount due on the judgment and an explanation of how that amount has been calculated;

(2) that a demand for payment has been made and refused; and

(3) what efforts have been made to recover the judgment.

(c) Return of Execution. An officer to whom a writ of execution is delivered shall make return thereon to the clerk within the time prescribed in the writ unless the Court otherwise directs. If no time is prescribed, the return shall be made immediately after execution or, if execution is not made, within 60 days after delivery.

When a sale is made pursuant to a writ of execution, the return shall be made within 30 days after the sale unless a different time is prescribed by law or by the Court.

Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 1/3/11: §(a) amended. Effective 12/1/09: §(a) amended.

CROSS-REFERENCE

See LR Cv 58.1 (Satisfaction of Judgments).

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) Objections to Rulings on Nondispositive Matters.

(1) Time for Objections; Failure to File. An objection to an order or other ruling by a magistrate judge in a nondispositive matter referred under Fed. R. Civ. P. 72(a) shall be filed and served within 14 days after such order or ruling is served. The objecting party shall also order a transcript of any evidentiary hearing(s) before the magistrate judge within the same 14-day period. Failure to file specific objections and order the transcript in a timely manner constitute 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 order or ruling in a nondispositive matter shall set forth the basis of the objection and comply with LR Cv 7.

(3) Responses and Replies. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and file a reply to the response within 7 days thereafter. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in response to an objection to 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 14 days after such Report and Recommendation is served on the objecting party. The objecting party shall also order a transcript of any evidentiary hearing(s) before the magistrate judge within the same 14-day period. Failure to file specific objections and order the transcript 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 specify the findings and/or recommendations to which objection is made and the basis for the objection. The objection shall comply with LR Cv 7.

(3) Responses and Replies. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and file a reply to the response within 7 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.

Effective 12/1/17: §§(c)(2) and (d)(2) amended. Effective 12/15/14: §§(c)(3) and (d)(3) amended. Effective 12/2/13: §§(c)(1)-(3) amended. Effective 12/1/11: §§(c)(1), (c)(2), (d)(1), and (d)(2) amended. The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 12/1/09: §§(c)(1), (c)(3), (d)(1), and (d)(3) amended. Effective 10/1/09: §§(c)(1) and (d)(1) amended.

CROSS-REFERENCES

See LR Cv 73 (Consent to Order of Reference), and LR Cr 57.2 (Duties of magistrate judge in criminal matters).

See also: Fed.R.Civ.P. 72 and 73; and 28 U.S.C. §636 (setting forth jurisdiction and duties of magistrate judges).

LR Cv 73 CONSENT TO ORDER OF REFERENCE

(a) Trial by Magistrate Judge. A full-time or recalled magistrate judge may conduct a jury or non-jury trial in a civil case if all parties consent and the district judge to whom the case has been assigned approves.

(b) Notification of Option to Consent.

(1) When a civil action or notice of removal is filed, the Clerk, with the permission of the district judge to whom the case is assigned, shall give written notice to the parties of the option to consent to a trial before, or other disposition of the case by, a magistrate judge and shall provide the parties with a consent form. The notice shall inform the parties that they are free to withhold consent without adverse consequences, and that the executed form must be returned within the time specified in the notice issued by the Clerk.

(2) At any time thereafter, the district judge to whom the case has been assigned may again authorize the Clerk to advise the parties of their opportunity to consent to a trial before, or other disposition of the case by, a magistrate judge, in which case the Clerk shall send a similar notice to the parties.

(3) A district judge or magistrate judge shall not be informed of a party's response to the Clerk's notification unless all parties have consented to a trial before a magistrate judge.

Effective 12/1/18: §(b)(1) amended. Effective 12/1/17: §(b)(1) amended. Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules.

CROSS-REFERENCES

See LR Gen 303(c)(3) (Consent to Proceed Before a Magistrate Judge filed conventionally), and LR Cv 72 (magistrate judge authority in civil cases).

See also 28 U.S.C. §636(c) (setting forth jurisdiction and duties of magistrate judges), and Fed .R. Civ. P. 73.

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.

Effective 4/1/24: Rule added.

LR Cv 81 REMOVAL FROM STATE COURT

(a) It is the responsibility of the party filing the notice of removal to ensure that the state court record is filed with the Court. Within 14 days after filing a notice of removal, the party filing the notice shall do whatever is necessary to enable the clerk of the state court to assemble and electronically transmit a certified copy of the docket sheet and all documents filed in the case being removed.

(b) The Court may direct the party filing the notice to furnish and to file certified copies of the docket sheet and all documents filed in the case being removed if the clerk of the state court is unable to electronically transmit the record or if the record is unusually voluminous.

Effective 12/1/15: §§(a)(1)-(2) and (b)(1)-(2) deleted, and new (a) and (b) added. Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 12/1/09: §(b) amended.

CROSS-REFERENCES

See LR Gen 201(b)(3) (attorney appearances in removal cases).

28 U.S.C. §1441 et seq. (governing removal of cases from state court).

LOCAL ADMIRALTY RULES

[THIS PAGE INTENTIONALLY LEFT BLANK]

LAR A AUTHORITY AND SCOPE

(1) **Authority.** The local admiralty rules of the United States District Court for the District of Rhode Island ("the Court") are promulgated by a majority of the judges as authorized by and subject to the limitations of Fed. R. Civ. P. 83.

(2) **Scope.** The local admiralty rules apply only to civil actions that are governed by Rule A of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions. All other local rules are applicable in these cases, but to the extent that another local rule is inconsistent with the applicable local admiralty rule, the local admiralty rule governs.

(3) **Citation.** The local admiralty rules may be cited by the letters "LAR" and the capital letter and numbers in parentheses that appear at the beginning of each section. The capital letter is intended to associate the local admiralty rule with the Supplemental Rule that bears the same capital letter.

(4) **Definitions.** In addition to the definitions in LR Gen 101(f), the following definitions shall apply:

(a) "Supplemental Rule" followed by a capital letter, e.g., Supplemental Rule C, means a Supplemental Rule for Admiralty or Maritime Claims and Asset Forfeiture Actions;

(b) "Keeper" means any person or entity appointed by the Marshal to take physical custody of and maintain the vessel or other property under arrest or attachment;

(c) "Substitute custodian" means the individual who or entity that, upon motion and order of the Court, assumes the duties of the Marshal or keeper with respect to the vessel or other property that is arrested or attached.

Effective 1/15/13: Rule added.

LAR B MARITIME ATTACHMENT AND GARNISHMENT

(1) Affidavit That Defendant Is Not Found Within the District. The affidavit or declaration required by Supplemental Rule B(1) to accompany the complaint, and the affidavit or declaration required by Supplemental Rule B(2)(c), shall list the efforts made by and on behalf of the plaintiff to find and serve the defendant within the district.

(2) Notice of Attachment. In an action where any property of a defendant is attached, the plaintiff shall make a diligent search to locate the defendant and give prompt notice to the defendant of the attachment. Such notice shall be in writing, and may be given by telex, telegram, cable, fax, e-mail, or other verifiable electronic means.

Effective 1/15/13: Rule added.

LAR C ACTIONS IN REM: SPECIAL PROVISIONS

(1) Publication of Notice of Action and Arrest. The notice required by Supplemental Rule C(4) shall be published once in the *Providence Journal* and/or such other publication as the Court shall order, and plaintiff's attorney shall file with the Clerk a copy of the notice as it was published. The notice shall contain:

(a) The court, title, and number of the action;

(b) The date of the arrest;

(c) The identity of the property arrested;

(d) The name, address, and telephone number of the attorney for plaintiff;

(e) A statement that the claim of a person who is entitled to possession or who claims an interest pursuant to Supplemental Rule C(6)(a) must be filed with the Clerk and served on the attorney for plaintiff within 14 days after publication;

(f) A statement that an answer to the complaint must be filed and served within 30 days after publication, or, alternatively, within 21 days after filing a statement of interest, and that otherwise, default may be entered and condemnation ordered;

(g) A statement that intervenor claims by persons or entities claiming maritime liens or other interests shall be filed within the time fixed by the Court; and

(h) The name, address, and telephone number of the Marshal, keeper, or substitute custodian.

(2) Default in Actions In Rem

(a) Notice Required. A party seeking a default judgment in an action *in rem* must satisfy the Court that notice of the action and arrest of the property has been given:

(1) by publication as required in LAR C(1),

(2) by service upon the Marshal, keeper, substitute custodian, master, or other person having custody of the property, and

(3) by mailing notice to every other person who has not appeared in the action and is known to have an interest in the property.

(b) 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 as the current owner,

all those who have filed a preferred ship/fleet mortgage and all those who have filed a notice of claim of lien as recorded in the United States Coast Guard General Index or Abstract of Title (GG-1332).

(2) If the defendant property is a vessel numbered as provided in the Federal Boat Safety Act, 46 U.S.C. § 12301(a), (i.e., state registered vessels), 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 property interests and/or security interests, the plaintiff must attempt to notify all persons named in the records of each such registry.

(3) Entry of Default and Default Judgment. After the time for filing an answer has expired, the plaintiff may move for entry of default under LR Cv 55. The Court will enter default upon showing that:

(a) Notice has been given as required by LAR C(2)(a), and

(b) Notice has been attempted as required by LAR C(2)(b) where appropriate, and

(c) The time to answer by claimants of ownership to or possession of the property has expired, and

(d) No answer has been filed or no one has appeared to defend on behalf of the property. The plaintiff may move for judgment under LR Cv 55 at any time after default has been entered.

Effective 1/15/13: Rule added.

LAR D POSSESSORY, PETITORY, AND PARTITION ACTIONS

In a possessory action under Supplemental Rule D, a judicial officer may order that the statement of right or interest and answer be filed on a date earlier than 21 days after arrest. The order may also set the date for expedited hearing of the action.

Effective 1/15/13: Rule added.

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

(1) Itemized Demand/or Judgment. The demand for judgment in every complaint filed under Supplemental Rule B or Supplemental Rule C shall allege the dollar amount of the debt or damages for which the action was commenced. The demand for judgment shall also allege the nature of other items of damage. The amount of the special bond posted under Supplemental Rule E(5)(a) may be based upon these allegations.

(2) Salvage Action Complaints. In an action for a salvage reward, the complaint shall allege the dollar value of the vessel, cargo, freight, and other property salved, and the dollar amount of the reward claimed.

(3) Verification of Pleadings. Every complaint in Supplemental Rule B, C, and D actions shall be verified upon oath or solemn affirmation, or in the form provided by 28 U.S.C. § 1746, by a party or by an authorized officer of a corporate party. If no party or authorized corporate officer is present within the district, verification of a complaint may be made by an agent, attorney in fact, or attorney of record, who shall state the sources of the knowledge, information and belief contained in the complaint; declare that the document verified is true to the best of that knowledge, information, and belief; state why verification is not made by the party or an authorized corporate officer; and state that the affiant is authorized so to verify. A verification not made by a party or authorized corporate officer will be deemed to have been made by the party as if verified personally. If the verification was not made by a party or authorized corporate officer, any interested party may move, with or without requesting a stay, for the personal oath of a party or an authorized corporate officer, which shall be procured by commission or as otherwise ordered.

(4) Review by Judicial Officer. Unless otherwise required by the judicial officer, the review of complaints and papers called for by Supplemental Rules B(1) and C(3) does not require the affiant party or attorney to be present. The applicant for review shall include a form of order to the Clerk which, upon signature by the judicial officer, will direct the arrest, attachment or garnishment sought by the applicant. In exigent circumstances, the certification of the plaintiff or his attorney under Supplemental Rules B and C shall consist of an affidavit or a declaration pursuant to 28 U.S.C. § 1746 describing in detail the facts that establish the exigent circumstances.

(5) Return of Service. The party who requests a warrant of arrest or process of attachment or garnishment shall provide instructions to the Marshal. A person specially appointed by the Court under Supplemental Rules B or C who has served process of maritime attachment and garnishment or a warrant of arrest that seized property shall promptly file a verified return showing the name of the individual on whom the process or warrant was served, the identity of the person or entity on whom service was made, the documents served, the manner in which service was completed (e.g., personal delivery), and the address, date and time of service.

(6) **Appraisal.** In the event the parties do not promptly and mutually agree on the amount of substitute security, an order for appraisal of property so that security may be given or altered will be entered upon motion. If the parties do not agree in writing upon an appraiser, a judicial officer will appoint the appraiser. The appraiser shall be sworn to the faithful and impartial discharge of the appraiser's duties before any federal or state officer authorized by law to administer oaths. The appraiser shall give 1 day's notice of the time and place of making the appraisal to counsel of record. The appraiser shall promptly file the appraisal with the Clerk and serve it upon counsel of record. Unless otherwise ordered, the appraiser's fee shall be paid by the moving party, but it is a taxable cost of the action.

(7) **Security Deposit for Seizure of Vessels.** The first party who seeks arrest or attachment of a vessel or property aboard a vessel shall deposit with the Marshal an amount deemed necessary and appropriate by the Marshal to cover the expenses of the Marshal including, but not limited to, dockage, keepers, maintenance, and insurance. The Marshal is not required to execute process until the deposit is made. The party shall advance additional sums from time to time, at the Marshal's request, to cover estimated expenses. A party who fails to advance such additional sums may not participate further in the proceedings except by order of the Court. The Marshal may, upon notice to all parties, petition the Court for an order to release the vessel if additional sums are not advanced within 3 days after the request.

Notwithstanding the provision of this LAR, seamen may institute and prosecute suits and appeals in their own names and for their own benefit for wages or salvage or the enforcement of laws enacted for their health or safety without prepaying fees or costs or furnishing security therefore.

(8) **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 substitute custodian, anyone having a claim against the vessel or property is required to present the claim by filing an intervening complaint and obtain a warrant of arrest, and not by filing an original complaint, unless otherwise ordered by a judicial officer. No formal motion to intervene is required. The intervening party shall serve a copy of the intervening complaint and warrant of arrest upon all parties to the action and shall forthwith deliver a conformed copy of the complaint and warrant of arrest to the Marshal, who shall deliver the copies to the vessel or custodian of the property. Intervenors shall thereafter be subject to the rights and obligations of parties, and the vessel or property shall stand arrested, attached, or garnished by the intervenor. An intervenor shall not be required to advance a security deposit to the Marshal for seizure of a vessel as required by LAR (E)(10).

(b) **Sharing Marshal’s, Keeper’s and Substitute Custodian’s Fees and Expenses (Custodia Legis Expenses).** An intervenor shall owe a debt to any party that has previously advanced funds to cover the expenses of the Marshal, Keeper and/or Substitute Custodian, enforceable on motion, consisting of the intervenor's share of

such fees and expenses in the proportion that the intervenor's claim bears to the sum of all the claims. If a party plaintiff seeks to vacate or to permit the vacating of an arrest, attachment or garnishment, it may be vacated upon such terms and conditions as the Court may order, and if there are other plaintiffs remaining the Court may order them to share their responsibility to the Marshal, Keeper, and or Substitute Custodian for fees and expenses in proportion to the remaining claims and for the duration of the custody because of each claim, and otherwise as the Court may determine.

(9) Custody of Property

(a) **Safekeeping of Property.** When a vessel or other property is brought into the Marshal's custody by arrest or attachment, the Marshal shall arrange for adequate safekeeping, which may include the placing of keepers on or near the vessel. A substitute custodian in place of the Marshal may be appointed by order of the Court. Notice of the application to appoint a substitute custodian must be given to all parties and the Marshal. The application must show the name of the proposed substitute custodian, the location of the vessel during the period of custody, and the proposed insurance coverage.

(b) **Insurance.** The Marshal may procure insurance to protect the Marshal, keepers, and substitute custodians from liabilities assumed in arresting and holding the vessel, cargo, or other property, in performing protective services, and in maintaining the Court's custody. Any party who applies for arrest or attachment shall reimburse the Marshal for premiums paid for the insurance and shall be an added insured on the policy. The party who applies for removal of the vessel, cargo, or other property to another location, for designation of a substitute custodian, or for other relief that will require an additional premium, shall reimburse the Marshal therefor. The premiums charged for the liability insurance are taxable as administrative costs while the vessel, cargo, or other property is in custody of the Court.

(c) **Cargo Handling, Repairs, and Movement of the Vessel**

(1) **Cargo Handling, Repairs, and Movement of the Vessel.** Following arrest or attachment of a vessel, no cargo handling, repairs, or movement may be made without an order of Court. The applicant for an order shall give notice to the Marshal and to all parties of record.

(2) If an applicant shows adequate insurance to indemnify the Marshal for liability, the Court may order the Marshal to permit cargo handling, repairs, or movement of the vessel, cargo, or other property. The costs and expenses of such activities shall be borne as ordered by the Court. Any party of record may move for an order to dispense with keepers or to remove or place the vessel, cargo, or other property at a specified facility, to designate a substitute custodian, or for similar relief. Notice of the motion shall be given to the Marshal, keeper or substitute custodian, and to all parties of record. The

judicial officer may require that adequate insurance on the property will be maintained by the successor to the Marshal, before issuing the order to change arrangements.

(d) Claims by Suppliers for Payment of Charges. A person who has furnished supplies or services to a vessel, cargo, or other property in custody of the Court, who has not been paid, and who claims the right to payment as an expense of administration, shall 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.

(10) Sale of Property

(a) Notice. Unless otherwise ordered upon good cause shown or as provided by law, notice of sale of property in an action *in rem* shall be published in the *Providence Journal* and/or such other publication as the Court may order at least once a week for 2 successive weeks with the date of sale being at least 14 days after the date the first notice of sale is published.

(b) Payment of Bid. These provisions apply unless otherwise ordered in the order of sale:

(1) The person whose bid is accepted shall immediately pay the Marshal the full purchase price if the bid is $1,000 or less.

(2) If the bid exceeds $1,000, the bidder shall immediately pay the Marshal a deposit of at least $1,000 or 10% of the bid, whichever is greater, and shall pay the balance within 3 days.

(3) If an objection to the sale is filed within the period in LAR E(10)(b)(2), the bidder is excused from paying the balance of the purchase price until 3 days after the sale is confirmed.

(4) Payment shall be made in cash, by certified check, or by cashier's check.

(c) Late Payment. If the successful bidder does not pay the balance of the purchase price within the time allowed, the bidder shall pay the Marshal, Keeper or Substitute Custodian the cost of keeping the property from the due date until the balance is paid, and the Marshal may refuse to release the property until this charge is paid.

(d) Default. If the successful bidder does not pay the balance of the purchase price within the time allowed, the bidder shall be in default, and the judicial officer may accept the second highest bid or may arrange a new sale. The defaulting bidder's

deposit shall be forfeited and applied to any additional costs incurred by the Marshal because of the default, and the balance shall be retained in the registry of the Court awaiting its order.

(e) **Report of Sale by Marshal.** At the conclusion of the sale, the Marshal shall forthwith file a written report with the Court setting forth the notice given; the fact of the sale; the date of the sale; the names, addresses, and bid amounts of the bidders; the price obtained; and any other pertinent information.

(f) **Time and Procedure for Objection to Sale.** An interested person may object to the sale by filing a written objection with the Clerk within 3 days following the sale, serving the objection on all parties of record, the successful bidder, and the Marshal, and depositing a sum with the Marshal that is sufficient to pay the expense of keeping the property for at least 7 days. Payment to the Marshal shall be in cash, certified check, or cashier's check. The Court shall hold a hearing on the confirmation of the sale.

(g) **Confirmation of Sale.** The sale shall be submitted to the Court for confirmation. The Marshal shall transfer title to the purchaser upon the order of the Court.

(h) **Disposition of Deposits**

(1) If the objection is sustained, sums deposited by the successful bidder will be returned to the bidder forthwith. The sum deposited by the objector will be applied to pay the fees and expenses incurred by the Marshal in keeping the property until it is resold, and any balance remaining shall be returned to the objector. The objector will be reimbursed for the expense of keeping the property from the proceeds of a subsequent sale.

(2) If the objection is overruled, the sum deposited by the objector will be applied to pay the expense of keeping the property from the day the objection was filed until the day the sale is confirmed, and any balance remaining will be returned to the objector forthwith.

(11) **Presentation of Emergency Matters.** Emergency matters will be handled in accordance with LR Gen 105(c).

(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.

Effective 4/1/24: §(12) added. Effective 1/15/13: Rule added.

LAR F LIMITATION OF LIABILITY

(1) Security for Costs. The amount of security for costs under Supplemental Rule F(1) shall be $1,000, and security for costs may be combined with security for value and interest unless otherwise ordered.

(2) Order of Proof at Trial. In an action where vessel interests seek to limit their liability, the damage claimants shall offer their proof first, whether the right to limit arises as a claim or as a defense. Nothing in this LAR shall alter the burden of proof for any party.

Effective 1/15/13: Rule added.

LOCAL RULES APPLICABLE TO CRIMINAL PROCEEDINGS

[THIS PAGE INTENTIONALLY LEFT BLANK]

LR Cr 6 GRAND JURY MATTERS

(a) Terms of Grand Jury.

(1) Grand juries shall be chosen and grand juries shall serve in accordance with the Court's Jury Selection Plan.

(2) Upon request by the United States Attorney and approval by the Court, a special grand jury may be chosen and convened to serve for such term as the Court may provide.

(b) Return and Filing of Indictments. All grand jury indictments shall be returned to a district judge or a magistrate judge in open court unless otherwise directed by a district judge. Every indictment shall be filed immediately with the Clerk, and an arraignment shall be scheduled promptly before a magistrate judge, unless otherwise ordered.

(c) Motions and Pleadings Concerning Grand Jury. All motions and other documents relating to grand jury matters shall be automatically sealed by the Clerk. Parties do not need to file a separate motion to seal in regard to these matters, provided that the document be stamped or labeled by the party on the cover page "FILED UNDER SEAL."

(d) Confidentiality of Grand Jurors. The names of any individuals drawn or selected to serve on a grand jury shall not be made public or disclosed to any person other than an authorized Court employee or authorized representative of the United States Attorney, unless the Court orders otherwise pursuant to 28 U.S.C. §1867(f).

(e) Grand Jury Security. When a grand jury is in session, the area surrounding the grand jury room shall be secured, and no unauthorized persons shall be permitted access to such area.

Effective 12/1/17: §(c) amended.

CROSS-REFERENCES

See LR Gen 102 (Documents Containing Confidential Information).

See also 28 U.S.C. §1867(f) (confidentiality of jury selection documents) and Fed.R.Crim.P. 6(e) (restricting disclosure of grand jury proceedings).

LR Cr 11 PLEAS AND PLEA AGREEMENTS

(a) Time and Form. In cases where a plea agreement is reached, the government shall notify the Court of the existence of the plea agreement as soon as possible and file a written plea agreement with the Court at least 7 days prior to jury empanelment. The Court will consider the timeliness of the filing of a plea agreement when determining whether, in calculating the guideline sentence range, the defendant should receive a reduction for acceptance of responsibility. The Court will not accept any plea agreement that is not in writing.

(b) Plea Agreement as to an Information. In cases where a written plea agreement is filed as to an information, the Court may schedule a combined arraignment and plea hearing before a district judge.

Effective 12/1/18: Rule redesignated as §(a), and §(b) added. Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 12/1/09: Rule amended. Effective 3/17/08: §(b) re: required certification of defendant's medications deleted, and §(a) redesignated as an unlettered paragraph.

LR Cr 12 PRETRIAL MOTIONS

(a) Form and Content. Every pretrial motion and any objection thereto shall comply with the requirements of LR Cr 47 of these Local Rules.

(b) Discovery Motions.

(1) All motions for discovery shall specify exactly what the movant seeks.

(2) No motions seeking discovery shall be filed unless counsel first confers with opposing counsel to determine if the information sought will be provided without the need for the filing of a motion.

(3) Any motion for discovery shall bear a certification by counsel for the movant:

(A) that all counsel concerned have conferred in good faith and have been unable to resolve the dispute(s); or

(B) that counsel for the movant has made a good faith attempt to confer with opposing counsel but that opposing counsel has failed to respond.

(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; and

(B) whether 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).

(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 (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)(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.

(d) Need for Evidentiary Hearing. All motions and objections shall contain a statement by counsel as to whether oral argument and/or an evidentiary hearing is requested; and, if so, the estimated time that will be required.

(e) Speedy Trial Orders. Any order presented by counsel granting a motion for a continuance and excluding the resulting delay from the calculation of time under the Speedy Trial Act shall state the Court's finding that the ends of justice served by the continuance outweigh the interest of the public and the defendant in a speedy trial.

Effective 4/1/24: §(c) amended. Effective 12/1/19: §(b) deleted; §(c)-(f) redesignated as (b)-(e).

CROSS-REFERENCES

See LR Cr 47 (Motions and Others Papers).

See also 18 U.S.C. §§ 3161 et seq. (Speedy Trial Act).

LR Cr 16 PRETRIAL DISCLOSURES

Within 7 days after arraignment, the attorney for the government and the attorney for the defendant shall exchange written requests for disclosure of material and information pursuant to Fed. R. Crim. P. 16(a) and (b), unless within the 7-day period, the party entitled to disclosure notifies the other in writing that it is waiving all or part of its discovery rights provided under Fed. R. Crim. P. 16(a) or (b).

Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 12/1/09: Rule amended.

CROSS-REFERENCES

See LR Cr 12(b) (discovery motions) and LR Cr 23(b) (recorded conversations).

LR Cr 17 SUBPOENAS

(a) Subpoena *Duces Tecum*

(1) Subpoenas for the Production Before Trial.

(A) A subpoena *duces tecum* for the production, before trial, of documents, objects or other materials described in Fed. R. Crim. P. 17(c)(1) may be issued only upon the granting of a motion made in accordance with LR Cr 47. Any such motion shall be served on all other parties, unless the Court, for good cause shown, permits the subpoena to be issued *ex part*e.

(B) "Good cause" for the issuance of an *ex parte* subpoena *duces tecum* shall require, among other things, a showing that the documents sought are relevant to the proceeding in question and that disclosure of the subpoena (or of the documents sought) could unfairly harm the party's case.

(C) Any such subpoena, whether issued *ex parte* or upon notice, shall be returnable to the Court. All other parties shall be entitled to inspect any item(s) produced unless otherwise ordered by the Court for 7 days after production. During the 7-day period, the documents are held in temporary custody by the Clerk, and shall not be placed in the public case file. After the 7-day period expires, the party requesting the production of the documents, objects, or other materials shall retrieve the produced items from the Court.

(2) Subpoenas for the Production At Trial or Hearing. All subpoenas for the production of documents, objects, and other material described in Fed. R. Crim. P. 17(c)(1) at trial or at an evidentiary hearing shall be made returnable to the Court at the place, date, and time of such trial or hearing, unless otherwise ordered by the Court.

(b) Subpoena *Ad Testificandum*. Except as provided in Fed. R. Cr. P. 17(f) (subpoenas for depositions) or as otherwise ordered by the Court, a subpoena for the attendance of witnesses may be issued only to require the appearance of a witness at trial or at an evidentiary hearing, and such subpoena shall be returnable to the Court at the time and place of such trial or hearing.

Effective 12/15/14: §(a)(1)(C) merged into §(a)(1)(D); and §(a)(1)(D) amended and redesignated as §(a)(1)(C).

CROSS-REFERENCES

See LR Gen 102(a)(4) (regarding the filing of *ex parte* motions).

See also Fed. R. Crim. P. 17(f) (subpoenas for depositions).

LR Cr 17.1 PRETRIAL CONFERENCE

Lead counsel and local counsel, if any, shall attend all pretrial conferences, unless the Court otherwise permits for good cause shown.

CROSS-REFERENCES

See LR Gen 206(d) (designation of lead counsel), LR Cr 12 (Pretrial Motions) and LR Cr 47 (Motions and Other Papers).

See also LR Cv 16(c) (attendance of counsel at scheduling conference in civil cases).

LR Cr 23 OPENING STATEMENTS; USE OF RECORDED TESTIMONY; TIME LIMITS

(a) Opening Statements. An opening statement shall not be argumentative and shall not exceed 30 minutes unless otherwise permitted by the Court. Counsel for the defendant may make an opening statement either after the opening statement of the government, or after the government has rested. Counsel for a defendant may not make an opening statement after the government has rested unless evidence will be presented on behalf of that defendant.

(b) Recorded Conversations or Testimony.

(1) At least 14 days prior to empanelment, counsel for any party that proposes to offer a recorded conversation or any portion thereof as evidence shall furnish the Court and counsel with:

(A) a chronologically arranged list showing the date of, participants in, and approximate playing time of each such recording; and

(B) a transcript of each such conversation.

(2) Before offering any recorded conversation, counsel shall edit out footage that contains no audible discussion or contains irrelevant material so that the jury will not be required to listen for protracted periods of time to portions of recordings that provide little or no assistance in determining the pertinent facts. In order to achieve that objective, counsel shall meet and confer, in advance, in an effort to resolve any disputes with respect to editing.

(3) Within 7 days after such transcripts have been furnished or such other period of time as the Court may allow, counsel for any party disputing the audibility, completeness, or admissibility of any such recording or the accuracy of such transcript shall file an objection identifying the recording and/or transcript or the particular portion to which objection is being made as well as the nature of and grounds for the objection. In the case of an objection that any portion of a recorded conversation has been omitted, the party making such objection shall set forth the omitted portion(s) of the recording(s) together with a statement explaining why the omitted portion(s) should be included.

(4) Any objections to the accuracy or completeness of transcripts shall be accompanied by copies of the transcripts objected to on which proposed deletions and corrections are noted.

(5) Any dispute regarding editing and/or the accuracy of transcripts shall be called to the Court's attention promptly.

(6) Failure to comply with the provisions of this subsection (b) may be considered by the Court as a waiver by the proponent of the right to offer the recorded conversation(s)

at issue; or, alternatively, as a waiver of the right to object to admission of the recorded conversation(s) and/or to dispute the accuracy or completeness of the transcript, as the case may be.

(c) Time Limits.

(1) The Court, in its discretion, may limit the time for any trial, hearing, or other proceeding, for any argument, or for the examination of any witness or completing the examination of any witness in such manner and upon such terms as may be just under the circumstances and with due regard for the defendant's constitutional right to a fair trial.

(2) Upon request by a party, the Court, in its discretion, may extend any time limits established pursuant to subsection (c)(1) of this Rule. In determining whether to extend such time limits, the Court may consider:

(A) whether the party has adequately explained the purposes for which the additional time would be used and why the additional evidence or argument to be presented is essential to fairly decide the matter;

(B) whether the party has effectively and efficiently made full use of the time allocated to that party; and

(C) any other matters that may be relevant.

Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 12/1/09: §(b)(1) amended.

CROSS-REFERENCES

See LR Cv 39 (Opening Statements; Use of Recorded Testimony; Time Limits in civil cases).

LR Cr 24 EMPANELMENT OF AND COMMUNICATION WITH JURORS

(a) In General. Jury empanelment shall be conducted in the manner determined by the presiding judicial officer and prescribed by any applicable statutes or rules of criminal procedure.

(b) Objection to Empanelment by Magistrate Judge. A defendant who objects to jury empanelment by a magistrate judge must communicate such objection to the Court at least 7 days prior to empanelment. A defendant who signs a consent to jury empanelment by a magistrate judge waives any right to object to such empanelment.

(c) Voir Dire Questions. If and when directed by the Court, counsel shall submit a list of any questions that counsel requests the Court to ask prospective jurors during voir dire examination. Proposed questions for the jury voir dire shall be served and submitted to the Court at least 5 days prior to empanelment.

(d) Challenges for Cause. Challenges of individual prospective jurors for cause shall be made on the record but out of the hearing of the other prospective jurors. At the discretion of the Court, challenges may be made orally or by executing challenge slips and presenting them to the Clerk.

(e) Peremptory Challenges. Peremptory challenges shall be exercised orally or by executing challenge slips which shall thereupon be presented to the Clerk. Such challenges shall be exercised in the order prescribed by the presiding judicial officer.

(1) Order of Challenges. Unless the Court otherwise orders, in cases where the government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges, the challenges shall be exercised in the following order:

Government 1

Defendant 2

Government 1

Defendant 2

Government 1

Defendant 2

Government 1

Defendant 2

Government 1

Defendant 1

Government 1

Defendant 1

(2) **Alternate Jurors.** Unless the Court otherwise orders, peremptory challenges to alternate jurors shall be exercised alternately by the government and the defendant(s), with the government exercising the first challenge.

(f) **Foreperson**. The Court may select one of the jurors to act as foreperson or may leave it to the jurors to select a foreperson.

(g) **Communication with Jurors.** Unless otherwise permitted by the Court, no attorney, party, or agent of an attorney or party shall communicate directly or indirectly with a juror during or after the trial of a case.

Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 12/1/09: §§(b) and (c) amended.

CROSS-REFERENCES

See LR Gen 107.1(g) (regarding petit jury transcripts); LR Cv 47(d) (Empanelment of and Communication with Jurors in civil cases).

As to restrictions on communications with jurors, see United States v. O'Brien, 972 F.3d 12 (1st Cir. 1992) (unauthorized communications between persons associated with case and jurors deemed presumptively prejudicial) and United States v. Kepreos, 759 F.2d 961 (1st Cir.), cert. denied 474 U.S. 901 (1985)(post-verdict communications with jurors prohibited unless under supervision of court in extraordinary circumstances).

LR Cr 32 SENTENCING AND PRESENTENCE REPORTS

(a) Sentencing Witnesses; Expert Report. If defense counsel intends to present any witness, including any expert witness and/or any report produced by an expert, at the sentencing hearing, counsel shall inform the Court and the government of such intent and shall provide the government with a copy of any such report at least 7 days prior to the sentencing hearing, unless otherwise ordered.

(b) Presentence Investigative Report.

(1) Confidentiality of Presentence Reports.

(A) Presentence reports prepared pursuant to Fed. R. Crim. P. 32(d) shall not be disclosed by the Probation Office or made public except:

(i) to the defendant or his counsel, to the United States Attorney, or to agencies with statutory responsibilities requiring review of a report; or

(ii) as may be ordered by the Court.

(B) When a demand for disclosure of a presentence report and/or for testimony regarding a presentence report is made by way of subpoena or other judicial process to a probation officer of this Court, the probation officer shall file a petition seeking instruction from the Court with respect to responding to the subpoena. No disclosure shall be made except upon an order issued by this Court.

Effective 12/1/19: §(b)(1) deleted; §(b)(2) redesignated as (b)(1). Effective 12/1/11: §(a) deleted; §§(b) and (c) redesignated as §§(a) and (b). The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 3/17/08: §(a) amended.

CROSS-REFERENCES

See LR Cr 11 (Pleas).

See also LR Gen 102 (Documents Containing Confidential Information).

LR Cr 44.1 REPRESENTATION OF MULTIPLE DEFENDANTS

(a) In General. Unless otherwise expressly permitted by the Court, no attorney, or group of attorneys who are associated together in the practice of law, shall represent multiple defendants or targets of a grand jury investigation in the same criminal case.

(b) Certification. In order to assist the Court in determining whether joint representation should be permitted, counsel seeking to provide joint representation shall provide the Court with the following:

(1) a written certification by counsel that, after careful investigation of potential conflicts of interest, it is clear that no actual conflict is foreseeable; and

(2) a written certification by each person to be represented, giving informed consent to such multiple representation and waiving the right to separate representation and, when applicable, waiving the attorney/client privilege.

Such certifications shall be in a form substantially as set forth in a form to be provided by the Clerk's Office.

Effective 3/17/08: Final sentence amended.

LR Cr 46 SECURITY AND SURETIES

(a) Security. Except as otherwise provided by law or by order of the Court, a bond or similar undertaking must be secured by:

(1) the deposit of cash or obligations of the United States in the amount of the bond; or

(2) the guaranty of an individual resident of this District who owns and pledges as security real property in which such individual has equity that exceeds the amount of the bond.

(b) Individual Sureties. An individual acting as surety pursuant to paragraph (a)(3) of this rule shall execute and file an affidavit that includes:

(1) the individual's full name, occupation, and residential and business addresses; and

(2) a statement that the affiant will not encumber or dispose of the property while the bond remains in effect; and

(3) a statement from the clerk of the city or town wherein the property is located setting forth the assessed value of the property, or, alternatively, an appraisal by a licensed appraiser; and

(4) a title report from a member of the bar of the state in which the property is located certifying that such individual is the record owner of the property and listing the amount(s) of all liens and mortgages on the property, including all but the current year's real estate taxes.

(c) Members of the Bar and Court Officers Ineligible. No member of the bar or officer or employee of the Court may be surety or guarantor of any bond or undertaking in any proceeding in this Court.

(d) Execution of Bond. Except as otherwise provided by law, it shall be sufficient if a bond or similar undertaking is executed by the surety or sureties alone, and not by the party on whose behalf such security is provided.

(e) Approval of Bond. Except as otherwise provided by law, the Clerk may approve a bond the amount of which has been fixed by the Court, or by statute or rule, and which is secured in the manner provided by subsections (a)(1) - (a)(3) of this Rule.

(f) Modification of Bond. The amount or terms of a bond or similar undertaking may be changed at any time, as justice requires, by order of the Court on its own motion or on motion of a party.

(g) Return of Bond. No item surrendered as a condition of bail shall be returned, nor shall any obligation of surety be discharged, except upon written order of the Court.

Effective 12/1/19: §(g) added from deleted LR Cv 46.1; Effective 1/5/09: §(a)(2) deleted, and §(a)(3) re-designated as (a)(2).

CROSS-REFERENCES

See LR Cr 46 (Return of Bond) and LR Cv 65.1 (security and sureties in civil cases).

See 31 U.S.C. § 9304 et seq. (certificates of authority)

LR Cr 47 MOTIONS AND OTHER PAPERS

(a) In General.

(1) Request for Relief. A request for a court order must be made by motion. A motion must be in writing unless made during a hearing or trial or if the Court permits otherwise.

(2) Contents of a Motion.

(A) Grounds and Relief Sought. All motions must state with particularity the grounds for seeking an order, the relief sought, and the legal argument necessary to support it.

(B) Accompanying Documents. A separate memorandum of law need not be filed. However, if a party chooses to file a memorandum of law, it must be served as an attachment to the motion and not as a separate docket entry.

(3) Response. Any party may file a response to a motion, the contents of which are governed by LR Cr 47(a)(2). The response must be filed within 14 days after service of the motion unless the Court shortens or extends the time.

(4) Reply to Response. Although the filing of a reply is not required, any reply to a response must be filed within 7 days after service of the response. A reply shall not present matters that do not relate to the response, or reargue or expand upon the arguments made in support of the motion.

(5) Sur-replies. Sur-replies may only be filed with prior leave of Court.

(b) Need for Hearing. All motions and responses shall contain a statement by counsel as to whether oral argument and/or an evidentiary hearing is requested; and, if so, the estimated time that will be required.

Effective 12/1/17: §(a) amended; §§(b)-(d) deleted; and §(e) redesignated as (b). Effective 12/1/11: The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective12/1/09: §(b)(1) amended. Effective 1/5/09: Title and §§(b)(2)and (d)(1) amended. Effective 3/17/08: §(b)(2) deleted (re: reply briefs); §(b)(3) redesignated as (b)(2); §§(c) and (d)(1) amended; and §(d)(4) added.

CROSS-REFERENCES

See LR Cr 12 (Pretrial Motions) and LR Cr 57(a) (form of documents filed).

See also LR Gen 102 (filing and sealing of confidential documents) and LR Cv 7 (motions in civil cases).

See generally Fed. R. Crim. P. 45(a) (computation of time).

LR Cr 49 PROOF OF SERVICE

(a) Certificates of Service. Unless a document is served through the ECF system, any document required to be served by other means must contain a certificate of service stating:

(1) the date and manner of service;
(2) the names of the persons served; and
(3) the addresses of the places of delivery, as appropriate for the manner of service.

The certificate of service shall be affixed to the documents filed with the Court.

Effective 12/1/18: Rule added.

LR Cr 57 FORM AND FILING OF DOCUMENTS

(a) Form and Content of Documents. All documents filed in a criminal case shall be on 8½" x 11" paper and shall include the following:

(1) Captions. All documents containing the caption of a case shall include the full caption showing the names of all parties. Documents filed after a case is docketed also shall 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) Signing of Documents. 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 a defendant proceeding *pro se*, by the defendant 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 shall also bear the attorney's bar number, and the name, address, fax number and e-mail address of the attorney's agency or law firm.

(b) Criminal Cover Sheet. When an information or indictment or any other document in a criminal case that requires a file to be opened is filed, the government shall contemporaneously file a completed criminal action 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.

Effective 1/5/09: §(a)(3) amended. Effective 3/17/08: §(a)(3) amended.

CROSS-REFERENCES

See LR Cv 5 (form and filing of documents in a civil case); LR Cr 47 (Motions and Other Papers).

LR Cr 57.2 AUTHORITY OF MAGISTRATE JUDGES IN CRIMINAL 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) Objections to Rulings on Nondispositive Matters.

(1) Time for Objections. An objection to an order or other ruling by a magistrate judge in a nondispositive matter referred under Fed. R. Crim. P. 59(a) shall be filed and served within 14 days after such order or ruling is served. The objecting party shall also order a transcript of any evidentiary hearing(s) before the magistrate judge within the same 14-day period.

(2) Content of Objections. An objection to a magistrate judge's order or ruling in a nondispositive matter shall set forth the basis of the objection and comply with LR Cr 47.

(3) Responses and Replies. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and file a reply to the response within 7 days thereafter. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in response to an objection to a magistrate judge's order or ruling. Any response and/or reply shall comply with LR Cr 47.

(d) Objections to Reports and Recommendations.

(1) Time for Objections. Any objection to a Report and Recommendation by a magistrate judge shall be filed and served within 14 days after such Report and Recommendation is served on the objecting party. The objecting party shall also order a transcript of any evidentiary hearing(s) before the magistrate judge within the same 14-day period.

(2) Content of Objections. An objection to a magistrate judge's Report and Recommendation shall specify the findings and/or recommendations to which objection is made and the basis for the objection. The objection shall comply with LR Cr 47.

(3) Responses and Replies. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and file a reply to the response within 7 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 Cr 47.

Effective 12/1/17: §§(c)(2) and (d)(2) amended. Effective 12/15/14: §§(c)(3) and (d)(3) amended. Effective 12/2/13: §§(c)(1) – (c)(3) amended, and comment added. Effective 12/1/11: §§(c)(1), (c)(2), (d)(1), and (d)(2). The numerical references in this rule were altered as part of the restyling of numerical references throughout the Local Rules. Effective 12/1/09: §§(c)(1), (c)(3), (d)(1), and (d)(3) amended.

***COMMENT**

Under 18 U.S.C. §3145(a) and (b), a party may have a release or detention order issued by a magistrate judge reviewed by a district judge by filing a "motion" with the Court. However, since these orders relate to nondispositive matters referred to a magistrate judge under Fed. R. Crim. P. 59(a), parties may file a response to the motion for review of a release or detention order within 14 days after the motion is served, and the moving party may file a reply 14 days thereafter in line with LR Cr 57.2(c).

CROSS-REFERENCES

See LR Cr 47 (Motions and Other Papers) and LR Cv 72 (duties of magistrate judge in civil matters).

See also: Fed.R.Crim.P. 58 (duties of magistrate judge in misdemeanor and petty offense cases); 28 U.S.C. § 636 (setting forth jurisdiction and duties of magistrate judges); 18 U.S.C. §§ 3401-3402 (setting forth magistrate judges' jurisdiction to conduct trials of misdemeanors); and 18 U.S.C. §§ 3141-3146 (bail; release and detention orders).

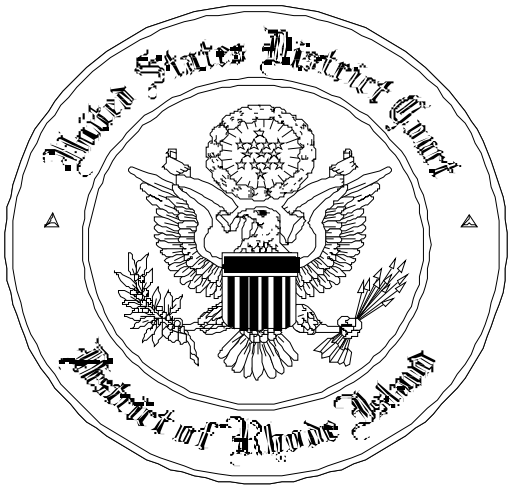
LR Cr 58 FORFEITURE OF COLLATERAL

(a) **Generally**. A person who is charged with a petty offense referred to in subsection (b) of this Rule, may, in lieu of appearance, post collateral in the amount indicated for the offense, waive appearance before a magistrate judge, and consent to the forfeiture of that collateral, unless either the charging document makes the appearance mandatory or the offense charged is not posted on the Forfeiture of Collateral Schedule approved by the Court.

(b) **Forfeiture of Collateral Schedule**. The offenses for which collateral may be posted and forfeited in lieu of appearance by the person charged, together with the amounts of the collateral to be posted, are set forth in the Forfeiture of Collateral Schedule on file in the Clerk's Office, as such schedule may be amended from time to time by the Court.

CROSS-REFERENCE

See LR Cr 57.2 (setting forth duties of magistrate judges).



ALTERNATIVE DISPUTE RESOLUTION PLAN

(Amended March 1, 2006)

"DISCOURAGE LITIGATION, PERSUADE YOUR NEIGHBOR TO COMPROMISE WHENEVER YOU CAN. POINT OUT TO THEM HOW THE NOMINAL WINNER IS OFTEN A REAL LOSER-IN FEES, EXPENSES, AND WASTE OF TIME"

-Abraham Lincoln-
1850

Amended
ALTERNATIVE DISPUTE RESOLUTION PLAN
United States District Court for the District of Rhode Island

Table of Contents

I. INTRODUCTION

The Alternative Dispute Resolution Act of 1998 requires that each district court authorize the use of Alternative Dispute Resolution ("ADR") in all civil actions, including adversary proceedings in bankruptcy. The United States District Court for the District of Rhode Island provides this manual as an overview of the Court's ADR Program. The program seeks to encourage mutually satisfactory resolution of disputes in the early stages of litigation. Such early case resolution is likely to make more efficient use of judicial and private resources.

II. ACCESS TO INFORMATION

Prior to the Rule 16 (b) Conference, the Court will include with the Notice and Order mailed to the parties, a brief summary of essential ADR information. Copies of the Plan are available upon written request to the ADR Administrator: 2 Exchange Terrace, Providence, RI 02903, and can also be found on the Court's website at www.rid.uscourts.gov.

III. CASES SUBJECT TO ADR

All civil cases filed in this district except bankruptcy appeals, prisoner matters, and social security appeals are eligible for referral to ADR. Voluntary ADR options are available. If parties do not select a voluntary option, they are referred to a Magistrate Judge Settlement Conference.

IV. DEFINITIONS

A. "***Arbitration***" is a non-binding, adjudicative process in which a neutral decides the rights and obligations of parties and imposes an appropriate remedy in the form of an award. (Where parties mutually consent, parties may opt to have their dispute resolved through "binding arbitration.")

B. **"*Magistrate Judge Settlement Conference***" is a non-binding settlement process involving a Magistrate Judge, who works with the parties and their counsel to identify issues, promotes settlement dialogue and, if possible, resolves the dispute in a mutually acceptable way.

C. ***"Mediation***" is a voluntary, non-binding dispute resolution method involving a neutral third party who tries to help the disputing parties reach a mutually agreeable solution.

D. "***Settlement Authority***" as used in this Plan means the individual with control of the full financial settlement resources involved in the case, including insurance and the full financial authority and ability to agree to a binding settlement agreement.

V. ADR ADMINISTRATOR

The ADR Administrator (the "Administrator") is appointed by the Chief Judge of the District Court and, while attached administratively to the Clerk's Office, reports directly to the Chief Judge. The Administrator possesses a full range of authority and responsibility to implement and direct the program options. In addition to directing and managing the court's ADR program, the Administrator also serves as a staff neutral, providing services as an arbitrator and mediator.

VI. PANEL OF NEUTRALS

The Court has established a panel of neutrals (the "Panel") comprised of individuals whose education, experience, training, and character qualifies them to act as neutrals in one or more of the ADR options implemented by the Court.

A. Appointment to the Panel

The Panel consists of persons appointed by the Chief Judge in consultation with the other district judges. Panel members may continue their appointment subject to demonstration of continued ADR education and the absence of any substantive change to the original application of the Panel member that would subject them to disqualification.

B. Qualifications and Training

Panel members are lawyers who have been admitted to the practice of law for at least ten years and who are currently members of the bar of the United States District Court for the District of Rhode Island. The panel also includes non-lawyers who possess special or unique expertise in particular fields and/or have substantial experience or training in one of the dispute resolution options, and are certified for inclusion on the Panel by the Court.

All persons selected as Panel members have undergone dispute resolution training prescribed by the Court, taken the oath set forth in 28 U.S.C. 453, and have agreed to follow the guidelines for the various options established by the Court.

C. Compensation

Magistrate judges presiding over settlement conferences and the Administrator serving in the capacity of arbitrator or mediator serve without compensation. Persons, other than the aforementioned, serving as neutrals receive no compensation for the first hour of their service. Thereafter, the parties are equally responsible for the neutral's compensation at a rate agreed to by the parties, but not to exceed $200 per hour.

D. Complaints, Reviews, and Appeals

1. Filing Complaints

Any participant in ADR who is dissatisfied with an aspect of the process, including the conduct of an ADR provider (other than a Magistrate Judge) or another participant, may file a written complaint with the Administrator. The complaint may be in the form of a letter and should include the name and docket number of the case, the names of the parties, counsel and ADR provider, the date(s) of the ADR proceeding, and the reason for the complaint. The Administrator shall keep a record of all complaints filed. Any participant in ADR with a complaint relative to the conduct of the ADR Administrator may file such complaint in writing with the Chief Judge.

2. Response to Complaints

Complaints from participants in ADR will be reviewed and addressed promptly. The Administrator will screen any complaints received and may discuss a complaint in confidence with the person who made it and with the ADR provider or other participants. The Administrator will then consider all information available. With the exception of complaints alleging material violations of the Local Rules, the Administrator may attempt to resolve a complaint informally, and if successful, may dismiss the complaint without further action. While protecting the confidentiality of information gathered during the investigation of a complaint, the Administrator will notify the person who made the complaint about the dismissal of the complaint. Otherwise, review of a complaint will be done in accordance with the procedures detailed below.

3. Review Procedures

If the Administrator initiates a review of the conduct of a participant in ADR (counsel, party or ADR provider) for any reason, the Administrator will notify the participant of the pending review in writing. The Administrator shall collect and review all pertinent information, including interviews with or written statements from the ADR provider, parties' counsel and court personnel. On the basis of the information gathered, the Administrator will make a recommendation as to what action to take. With regard to complaints about the conduct of ADR providers, options include, but are not limited to: terminating the review without action, setting conditions or requirements for the ADR provider to meet, or suspending or removing the ADR provider from the Panel. The Administrator will pass the recommendation to the Chief Judge or designee for review and approval. The Chief Judge may elect to conduct further investigation of the matter. Upon completion of the review, the Chief Judge may affirm or modify the Administrator's recommendation, or decide on alternative action. The decision of the Chief Judge shall be final. The Administrator will notify the complainant and the participant about whom the complaint was made in writing as to the outcome of the review.

4. Removal

The Administrator, after consultation with and the approval of the district judges, may remove or suspend an ADR provider from the Panel prior to completion of the review procedure upon the Administrator's determination that it is in the best interests of the ADR program to do so.

E. Conflict of Interest

A neutral must disclose all actual or potential conflicts of interest. A neutral should not serve if he or she knows of a conflict, unless the conflict is not significant and the parties all consent; otherwise, a neutral must withdraw if a conflict is significant.

VII. THE PROCESS

A. Rules Governing the ADR Process

ADR conference(s) shall be conducted in accordance with procedures outlined in this Plan.

B. Scheduling ADR Conferences

Upon the selected neutral receiving notice from the Administrator of his/her designation as a neutral, the neutral shall file his/her acceptance of the designation with the Clerk's Office with a copy to the Administrator, and shall promptly schedule the first meeting with the parties within 30 days, unless otherwise directed by the Court. Magistrate Judges schedule their own settlement conferences.

C. Time Frame for Conducting & Concluding ADR Settlement Efforts

At the discretion of the assigned district judge, the time frame for conducting and concluding ADR may be set forth in the Order of Referral. The deadline for concluding ADR may be extended by the Court upon good cause shown.

D. Location of ADR Conferences

Conferences may be conducted at such locations as are agreeable to the parties and the neutral assigned to the case. Space is available to conduct ADR conferences in the United States Courthouse. If the Court's facilities are desired, arrangements shall be made with the Administrator.

E. Duty to Attend and Participate

Unless expressly excused by the judicial officer or neutral assigned to the case, all parties, counsel of record, and corporate representatives or claims professionals having full Settlement Authority as defined in Section IV, shall attend all ADR conferences and participate in good faith. Failure to meet obligations under these rules may lead to disciplinary action.

VIII. CONFIDENTIALITY IN ADR PROCEEDINGS

ADR proceedings must be conducted in a manner that encourages an informal and confidential exchange among counsel, the parties, and the ADR provider(s) to facilitate resolution of disputes. The parties and the ADR provider shall not disclose information regarding the process, including settlement terms, to the Court or to third persons unless all parties otherwise agree. Parties, counsel, and neutrals, however, may respond to confidential inquiries or surveys by

persons authorized by the Court to evaluate the ADR program. Responses provided to such inquiries or surveys shall remain confidential and shall not be identified with particular cases.

The ADR process shall be treated as a compromise negotiation for purposes of the Federal Rules of Evidence. The ADR provider is disqualified as a witness, consultant, attorney, or expert in any pending or future action relating to the specific dispute, including actions between persons not parties to the ADR process.

IX. CONFIDENTIALITY IN ADR COMMUNICATIONS

The Clerk will file and include in the Court's record only the order referring a case to ADR and other routine ADR scheduling and proceeding notices.

Panel members must not disclose to or discuss with anyone, including the designated judge, any information relating to the ADR proceedings unless the parties specifically authorize disclosure. ADR neutrals must secure and ensure the confidentiality of ADR proceeding records. Panel members designated to serve as neutrals must keep confidential from other parties any information obtained in individual caucuses unless the party to the caucus specifically authorizes disclosure.

X. ADR OPTIONS

MEDIATION

Upon agreement of the parties, the case may be mediated. Parties shall make known their desire to pursue mediation by informing the ADR Administrator or the Court at the time of the Rule 16 Conference.

Within 10 days after having elected to pursue mediation the parties must arrange to confer with the Court's ADR Administrator in order to select a mediator to assist the parties in the resolution of the case. The parties must select from the Court's list of approved mediators (unless the court permits otherwise).

Upon selecting a mediator and having advised the ADR Administrator of the same, the Administrator shall file with the Court, the name of the mediator. If the parties are unable to reach agreement on the selection of a mediator, the ADR Administrator shall select a person from the list whose experience and qualifications are well suited to the appointment and the needs of the parties.

1. Preliminaries to Mediation

   A. Promptly after accepting the appointment, the mediator shall schedule the mediation session. The mediator shall send written notice to all parties, with a copy to the ADR Administrator, of the date, time and location of the session. The mediation session shall be held within sixty (60) days of the mediator's

acceptance unless extended by the Court for good cause. A request for postponement of a scheduled mediation session must be presented to the mediator and served upon the ADR Administrator without delay.

B. The parties may be required to submit to the mediator a written, confidential summary of the case. **The written summaries shall not be filed with, nor revealed to the Court.**

2. Procedures at the Mediation Session

Mediators are not bound to any particular procedure to effectuate settlement. The mediator may find it useful to meet separately with the parties in a caucus. Disclosures to the mediator in a caucus shall be treated confidentially unless the parties give permission to the mediator to use the disclosed information with the other party or parties. No transcripts or recordings shall be made of the proceedings.

The mediator may determine, with the consent of the parties, or by leave of the court when it is the court's practice to require such leave, that one or more additional mediation sessions would assist in the settlement of the case, and, if so, schedule another session.

The mediator shall report to the ADR Administrator only whether the case settled or not.

ARBITRATION

1. Actions Subject to Arbitration

A. Notwithstanding any provision of law to the contrary and except as provided in subsections (a), (b), and (c)) of 28 U.S.C. § 652 and subsection (d) of 28 U.S.C. § 654, this Court may allow the referral to arbitration of any civil action (including any adversary proceeding in bankruptcy) pending before it when the parties consent, except that referral to arbitration shall not be allowed when:

(1) the action is based on an alleged violation of a right secured by the Constitution of the United States; (2) jurisdiction is based in whole or in part on section 28 U.S.C. §1343 ; or (3) the relief sought consists of money damages in an amount greater than $150,000 (the Court may presume damages are not in excess of $150,000 unless counsel certifies that damages exceed such amount).

When parties select arbitration as the means by which they wish to attempt to resolve their case, they shall be deemed to have consented to the procedures that follow.[1]

Arbitrators

A. Selection.

The court develops and maintains by and through its ADR Administrator a list of qualified arbitrators. The list of arbitrators is located on the court's website (www.rid.uscourts.gov). The list can also be obtained by making a written request to the ADR Administrator at 2 Exchange Terrace, Providence, RI 02903.

1. **Prior to the Rule 16 Conference.** If the parties express an interest in pursuing Arbitration prior to the Rule 16 Conference, the parties may by mutual agreement select an arbitrator from the list of approved arbitrators. If the parties wish to pursue arbitration but are unable to reach agreement on the selection of an arbitrator, the ADR Administrator will select an arbitrator that is qualified to serve.

2. **Following the Rule 16 Conference.** Where the parties have indicated to the court at the time of the Rule 16 Conference that they wish to pursue arbitration, within ten days of the Conference, the parties shall submit the name of the arbitrator selected to the ADR Administrator. In the event that the parties fail to reach agreement on an arbitrator, the ADR Administrator will select a qualified arbitrator.

3. **Notification of Appointment.** The ADR Administrator shall promptly notify the arbitrator of his or her selection.

4. **Notification of Hearing.** When the selected arbitrator has agreed to serve, the arbitrator shall promptly send written notice to each party advising them of:

   His/her identity as the selected arbitrator;
   The date, time and location of the arbitration hearing (not to exceed sixty (60) days (except where extension of time is granted by leave of court) from the arbitrator's acceptance of the appointment.

B. Disclosure and Challenge Procedure

[1] These rules are an adaptation of rules employed by the American Arbitration Association in cases where a court orders, directs, or refers a matter to the American Arbitration Association (hereinafter "AAA"). The rules have been modified and adapted for use by this court.

Any person appointed as an arbitrator shall disclose to the Court and the parties any circumstance likely to affect impartiality, including any bias or any financial or personal interest in the result of the reference or any past or present relationship with the parties or their representative(s). Upon objection of a party to the continued service of a chosen arbitrator, unless waived by all parties, the parties shall select a new arbitrator from the court approved list or seek approval of the court to select an arbitrator who is not court approved.

C. Fees and Expenses

Arbitrators shall be paid for their services (including but not limited to preparation, hearing and rendering of an award or decision) at the rate of $200.00 per hour, equally split between the parties. Arbitrators shall be paid promptly when they file their awards with the court. Arbitrators may be reimbursed for reasonable expenses actually and necessarily incurred in connection with arbitration hearings.

D. Timing and Filing the Award

The award shall be in writing, signed by the arbitrator and mailed to the Court, specifically, to the attention of the ADR Administrator within 10 days of the conclusion of the arbitration.

E. Form of Decision and Delivery to the Court and Parties

The arbitrator's decision shall be in writing, signed by the arbitrator and shall include findings of fact and conclusions of law. The arbitrator shall transmit the decision to both the ADR Administrator and the parties. The original decision shall be delivered to the ADR Administrator (in a envelope under seal marked confidential) who in turn shall deliver the decision to the judge's calendaring clerk. The clerk shall not docket nor open the award under seal for a period of 30 days pending a demand, if any, for trial de novo.

F. Telephone Conference/Preliminary Hearing

At the arbitrator's discretion, a telephone conference call or a preliminary hearing shall be arranged by the arbitrator for the purpose of determining the appropriate procedures, as determined by the arbitrator, for briefing of the issues involved in the dispute, exchanging documents, scheduling an oral hearing, if necessary, and any other procedures that the arbitrator deems appropriate to render a decision.

G. Date, Time, and Place of Hearing

The arbitrator shall set the date, time, and place for each oral hearing, if such a hearing is deemed necessary. The Arbitrator shall mail to each party notice thereof at least seven (7) days in advance, unless the parties by mutual agreement waive such notice or modify the terms thereof.

H. Representation

Any party may be represented by counsel or other authorized representative. A party intending to be so represented shall notify the other party and the Court of the name and address of the representative at least three (3) days prior to the date set for the hearing at which that person is first to appear. When such a representative responds for a party, notice is deemed to have been given.

I. Stenographic Record

Any party desiring a stenographic record shall make arrangements directly with a stenographer and shall notify the other party of these arrangements in advance of the hearing. The requesting party or parties shall pay the cost of the record. If the transcript is agreed by the parties to be, or determined by the arbitrator to be, the official record of the proceeding, it must be made available to the arbitrator and to the other parties for inspection, at a date, time, and place determined by the arbitrator.

J. Attendance at Hearings

The arbitrator shall maintain the privacy of the hearings unless the law provides to the contrary. Any party or designated representative having a direct interest in the case is entitled to attend hearings. The arbitrator shall otherwise have the power to require the exclusion of any witness, other than a party or other essential person, during the testimony of any other witness. It shall be discretionary with the arbitrator to determine the propriety of the attendance of any other person.

K. Postponements

The arbitrator for good cause shown may postpone any hearing upon the request of a party or upon the arbitrator's own initiative, and shall also grant such postponement when all of the parties agree thereto. The court may direct in its sole discretion that postponement not be permitted.

L. Oaths

Before proceeding with the first hearing, the arbitrator may take an oath of office and, if required by law, shall do so. The arbitrator may require witnesses to testify under oath administered by any duly qualified person and, if it is required by law or requested by any party, shall do so.

M. Reference Proceedings in the Absence of a Party or Representative

Unless the law provides to the contrary, the arbitrator may proceed in the absence of any party or representative who, after due notice, fails to be present or fails to obtain a postponement. A decision shall not be made solely on the default of a party. The arbitrator shall require the party

who is present to submit such evidence as the arbitrator may require for the making of the Findings or Statement of Decision.

N. Serving of Notice

Each party shall be deemed to have consented that any papers, notices or process necessary or proper for the initiation or continuation of a case under these rules; for any court action in connection therewith; or for the entry of the Findings or Decision made under these procedures may be served on a party by mail addressed to the party or its representative at the last known address or by personal service, in or outside the state where the reference is to be held, provided that reasonable opportunity to be heard with regard thereto has been granted to the party. The parties may also use facsimile transmission, telex, telegrams or other written forms of electronic communication to give notices required by these procedures, but shall follow-up such communication with written notice served by mail.

O. Waiver of Rules

Any party who proceeds with the case after knowledge that any provision or requirement of these procedures has not been complied with and who fails to state an objection thereto in writing shall be deemed to have waived the right to object.

P. Closing of Hearing

The arbitrator shall specifically inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies or if satisfied that the record is complete, the arbitrator shall declare the hearing closed and a minute thereof shall be recorded. If briefs are to be filed, the hearing shall be declared closed as of the final date set by the arbitrator for the receipt of briefs. If documents are to be filed and the date set for their receipt is later than that set for the receipt of briefs, the later date shall be the date of closing the hearing. The time limit within which the arbitrator is require to make their Findings or Statement of Decision shall commence to run, in the absence of other agreements by the parties, upon the closing of the hearing.

Q. Arbitrator Immunity

Arbitrators who have been selected from the Court's approved Panel to serve in a specific case are performing quasi-judicial functions and are entitled to the immunities and protections that the law accords to persons serving in such capacity.

R. Trial de Novo.

Any party may demand a trial de novo in the district court by filing with the Clerk a written demand containing a short and plain statement of the reason for the demand. The party shall serve a copy of the demand upon all counsel of record and any unrepresented party. Such demand must be filed and served within 30 days of the date of the filing of the arbitration award, except that the United States, its officers and agencies, shall have 60 days to file and serve a written demand for trial de novo.

Upon the filing of the demand for trial de novo, the action shall be treated for all purposes as if it had not been referred to arbitration, except that no additional pretrial discovery shall be permitted without leave of the court for good cause. Any right of trial by jury that a party otherwise would have, shall be preserved inviolate. Withdrawal of the demand for trial de novo shall reinstate the arbitrator's award.

The assigned judge shall not admit any evidence at the trial de novo that there has been an arbitration proceeding, the nature or amount of any award, or any other matter concerning the conduct of the arbitration proceedings, unless:

(a) The evidence would otherwise be admissible under the Federal Rules of Evidence; or

(b) The parties have stipulated otherwise.

[THIS PAGE INTENTIONALLY LEFT BLANK]

TOPIC INDEX

[THIS PAGE INTENTIONALLY LEFT BLANK]

CONSOLIDATED TOPIC INDEX TO LOCAL RULES