

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

GENERAL ORDER
AMENDMENTS TO LOCAL RULES

Pursuant to 28 U.S.C. § 2071, Fed. R. Civ. P. 83(a)(1) and Fed. R. Crim. P. 57(a)(1), this Court hereby approves amendments to the Local Rules of the United States District Court for the District of Rhode Island, effective December 1, 2017. The Local Rules, as amended, shall govern all proceedings in this Court that are pending, commenced or re-opened on and after that date. The amended local rules are attached to this Order.

Date: November 20, 2017

/s/ William E. Smith
Chief Judge William E. Smith

/s/ John J. McConnell, Jr.
Judge John J. McConnell, Jr.

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 has consented to electronic filing pursuant to LR Gen 304(c) and LR Gen 309(b). Parties who are ineligible to file and receive documents electronically or exempt from electronic filing must be served conventionally pursuant to LR Cv 5.1(b).

- (B) **Criminal Cases.** A motion to seal in a criminal case must be conventionally served on all parties in the case pursuant to LR Cv 5.1(b).

- (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.

LR Gen 104 REMOVAL AND COPYING OF DOCUMENTS

[Rule deleted on 12/1/2017.]

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]

(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.

***Comment**

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

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.

LR Gen 112 USE OF ELECTRONIC DEVICES

- (a) **General Prohibition on Electronic Devices.** Except as provided in subsection (c) of this rule or expressly authorized by the Court, no person shall bring into the Courthouse or portion of the John O. Pastore Building occupied by the Court any electronic device capable of sending or receiving communications, making sound or video recordings, or making, recording or transmitting photographs or videos.
- (b) **Photographing, Recording, and Broadcasting.** Except to the extent expressly authorized by the Court, 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. The Court may permit photographing, recording or broadcasting of ceremonial proceedings upon such terms and conditions as the Court may specify.
- (c) **Exceptions.** 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 (b) 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 (b) and (c)(1). The Clerk will maintain a list of individuals authorized pursuant to this subsection.

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.

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) Records of administrative review proceedings other than social security cases;
 - (2) The state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings;
 - (3) Consent to Proceed Before a Magistrate Judge;
 - (4) All pleadings and documents filed by prisoner *pro se* litigants and non-prisoner *pro se* litigants not granted permission to file documents electronically;
 - (5) The charging document in a criminal case, such as the complaint, indictment and information;
 - (6) Affidavits for search and arrest warrants and related papers;
 - (7) Fed. R. Crim. P. 20 and Fed. R. Crim. P. 5 papers received from another court;
 - (8) Appearance Bonds.
- (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 in accordance with LR Gen 307.

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.
- (c) **Consent to Electronic Service.** ECF registration as a Filing User constitutes consent to electronic service of all documents as provided in these Local Rules and in accordance with the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

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.
- (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.

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.

**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.

LR Cv 15 MOTIONS TO AMEND

Any motion to amend a pleading shall be made promptly after the party seeking to amend first learns the facts that form the basis for the proposed amendment. 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.

**LR Cv 41.1 ADMINISTRATIVE CLOSURE OF CASES
SUBJECT TO BANKRUPTCY STAY**

[Rule deleted on 12/1/2017.]

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.

LR Cv 54.2 JUROR COSTS

[Rule deleted on 12/1/2017.]

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.

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).

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.

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; that the form is to be returned to the Clerk only if all parties consent; and that if all parties consent, 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.

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.

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.

LR Cr 57.1 APPLICATIONS FOR POST-CONVICTION RELIEF

- (a) **Form.** Any *pro se* petition* for post-conviction relief filed pursuant to 28 U.S.C. § 2254 or 28 U.S.C. § 2255 shall be on a form provided by the Clerk's Office. The Clerk shall make the form available upon request and without charge.
- (b) **Assignment.** Petitions for relief pursuant to 28 U.S.C. § 2255 shall be assigned to the district judge who sentenced the petitioner. If that district judge is unavailable to review the petition, the petition shall be randomly assigned to another district judge. Petitions for relief pursuant to 28 U.S.C. § 2254 shall be randomly assigned.
- (c) **Ineffective Assistance of Counsel Claims.** If a petitioner makes a claim of ineffective assistance of counsel based on counsel's failure to file a direct appeal, the petitioner shall append to his petition a sworn statement regarding the discussions the petitioner had with counsel regarding an appeal, specifically stating:
 - (1) whether counsel asked whether the petitioner wished to appeal; and
 - (2) whether petitioner ever told counsel that he wished to appeal.

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.