

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

IN RE: LOCAL RULES COMMITTEE

Misc. 06-102

ORDER

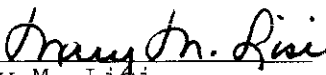
Pursuant to L.R. Gen 113 and by agreement of the Judges of this Court, C. Russell Bengtson, Steven M. Richard, Terrence P. Donnelly, Raymond A. Marcaccio, Stacey Nakasian, and Raymond Ripple are hereby appointed to the Local Rules Review Committee effective July 1, 2010. James T. Murphy and David A. Wollin are hereby appointed as Co-Chairs of the Committee effective July 1, 2010.

Therefore, the Local Rules Review Committee shall be composed of the following individuals, whose terms expire on the dates indicated next to their respective names.

| <u>Name</u>                | <u>Term Expires</u> |
|----------------------------|---------------------|
| James T. McCormick, Esq.   | June 30, 2011       |
| Anthony F. Muri, Esq.      | June 30, 2011       |
| James T. Murphy, Esq.      | June 30, 2011       |
| R. Daniel Prentiss, Esq.   | June 30, 2011       |
| Sara A. Rapport, Esq.      | June 30, 2011       |
| Mary McElroy, Esq.         | June 30, 2011       |
| Marc DeSisto, Esq.         | June 30, 2012       |
| Christopher Little, Esq.   | June 30, 2012       |
| Brooks R. Magratten, Esq.  | June 30, 2012       |
| James E. O'Neil, Esq.      | June 30, 2012       |
| Edward C. Roy, Jr., Esq.   | June 30, 2012       |
| Patricia A. Sullivan, Esq. | June 30, 2012       |
| David A. Wollin, Esq.      | June 30, 2012       |
| C. Russell Bengtson, Esq.  | June 30, 2013       |
| Terrence P. Donnelly, AUSA | June 30, 2013       |
| Raymond A. Marcaccio, Esq. | June 30, 2013       |
| Stacey P. Nakasian, Esq.   | June 30, 2013       |
| Steven M. Richard, Esq.    | June 30, 2013       |
| Raymond M. Ripple, Esq.    | June 30, 2013       |

Paul Goodale, *ex officio* reporter      n/a

So Ordered:

  
Mary M. Lisi  
Chief Judge  
Date: *June 3, 2010*

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

**LOCAL RULES REVIEW COMMITTEE**

**Minutes of March 7, 2011 Meeting**

On Monday, March 7, 2011, the Local Rules Review Committee met in the Jury Assembly Room of the United States District Court. There was a quorum.

Chief Judge Lisi addressed the committee, thanking it for its work and also touching upon several matters that the committee might address during this session. Judge Lisi then withdrew and the committee, with the assistance of USDC court staff, including David DiMarzio, Paulette Dube, Michael Simoncelli, and Paul Goodale began its work.

James Murphy and David Wollin co-chaired the meeting. The following matters were addressed:

Several new members were welcomed to the committee and several vacancies were filled. Mary McElroy agreed to chair the criminal rules subcommittee. Marc DeSisto agreed to chair the general rules subcommittee. Terrence Donnelly was added to the criminal rules subcommittee; Steve Richard was added to the general rules subcommittee; Raymond Marcaccio, Russell Bengtson and Raymond Ripple were added to the civil rules subcommittee.

The committee then addressed the following proposals with respect to possible revision of local rules:

- A. L.R. Gen. 106, relating to referrals for jury trials, “unless all parties agree otherwise” is an issue raised by the Court, as other districts do not have this rule. This issue was referred to the general rules subcommittee for consideration, evaluation and recommendation; R.R. Gen. 109 relating to bankruptcy appeals was addressed to the general rules subcommittee also.
- B. L.R. Gen. 209 relating to disciplinary actions initiated by the Court and is related to L.R. Gen. 214, governing reciprocal disciplinary proceedings. The Court asked that these be reviewed. They are referred to the general rules subcommittee for consideration, evaluation and recommendation, as well.
- C. LR Gen 210. This proposed change, along with the change to LR Gen 214, was discussed in a letter dated 4/1/11 from the Court, and referred to the subcommittee, as well.

- D. LR Cv 5 relating to the form and filing of documents is the subject of a recommendation by the Court that it be revised to include individuals filing complaints *pro se*. This proposal is referred to the civil rules subcommittee; similarly LR Cv 5.1 relating to process servers is referred to the civil rules subcommittee.
- E. LR Cv 67 relating to funds deposited with the Court and procedures relating thereto. The Court has suggested that this be revised to follow the schedule of the Judicial Conference of the United States approach. This is referred to the civil rules subcommittee for consideration, evaluation and recommendation.
- F. LR Cv 72 relates to appeals from magistrate rulings and transcripts. The issue of privacy issues with online transcripts is to be considered, evaluated and reported upon by the civil rules subcommittee.
- G. Certain suggestions received from the bar and public were referred to the Civil Rules Subcommittee (John Tarantino's proposed revisions of LR Cv 55 [Default Judgments] and a new rule regarding the filing of supplemental authority; Pat Rocha's revision of LR Cv 69 [Writs of Execution]); and the suggestions submitted by a *pro se* filer.
- H. The issue of transcripts and privacy considerations also is raised with respect to LR Cr 57.2, concerning appeals from orders or rulings by magistrate judges, and also LR Cr 57.1 with respect to applications for post-conviction relief and for habeas petitions. These issues are addressed to the criminal rules subcommittee for its consideration, evaluation and recommendation.
- I. Chief Judge Lisi's letter (dated 3/17/11) regarding the Court's suggested change to LR Cr 32 was discussed and referred to the criminal rules subcommittee for consideration, evaluation and recommendation.
- J. The issue of restyling numbers throughout the rules (for example, all references to "twenty-one days" would become "21 days," if accepted.) was discussed and the discussion and analysis will continue.

A holdover from the previous cycle is consideration of any proposed revision to LR Cv 26(d) (relating to requests for admission) and whether a definite time period should be added in any amendment. This was referred to the civil rules subcommittee.

A tabled amendment, from the last session, is consideration of any expedited non-dispositive motion practice. This likely will await appointment to a third judge to the court.

The Local Rules Review Committee report is due in June. The last full committee meeting likely will be scheduled in May. The next meeting of the Full Committee will be on Monday, April 25. In the interim the subcommittees will confer on the items referred to them.

Respectfully submitted,

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James T. Murphy  
Co-Chair

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

**LOCAL RULES REVIEW COMMITTEE  
APRIL 25, 2011**

The Local Rules Review Committee (“LRRC”) held a meeting on April 25, 2011 at 12:30 PM in the Jury Assembly Room of the United States Courthouse. James Murphy and David Wollin co-chaired the meeting. The following LRRC members and Court personnel were present: Anthony Muri, Pat Sullivan, Marc DeSisto, Dan Prentiss, Chris Little, Ray Marcaccio, Ray Ripple, David DiMarzio, Paulette Dube, Paul Goodale, and Michael Simoncelli. Co-chair James Murphy called the meeting to order at 12:35.

Mr. Murphy recapped the previous LRRC meeting, and mentioned that the proposals submitted by the Court, the bar, and the public were forwarded to the various subcommittees of the LRRC for review. He reported that the subcommittees had met and discussed the suggested amendments, and that the subcommittee chairs would report the recommendations of their subcommittee to the full committee.

Mr. Murphy started by reviewing the suggested amendments to the General Rules contained in the Court’s March 3, 2011 letter to the LRRC (LR Gen 106, LR Gen 109, and LR Gen 209), and those contained in a subsequent letter from the Court to the LRRC dated April 1, 2011 (LR Gen 210 and LR Gen 214). General Rules Subcommittee Chair Marc DeSisto explained that the subcommittee conferred, and agreed to recommend adoption of all of the Court’s suggested changes to the General Rules. The LRRC accepted the subcommittee’s recommendation.

Mr. Murphy next summarized the suggested civil rules amendments contained in the Court’s March 3 letter to the LRRC (LR Cv 5, LR Cv 5.1, LR Cv 67, LR Cv 72), the proposed amendment tabled from the 2009-2010 Local Rules review cycle (LR Cv 26), and the proposals received from the bar and public (suggested revisions to LR Cv 55, LR Cv 69, a new rule regarding the submission of supplemental authority, and various suggestions from a *pro se* litigant). Civil Rule Subcommittee chair Dan Prentiss reported that the subcommittee conferred and approved the Court’s proposed amendments to LR Cv 5, LR Cv 5.1, LR Cv 67, and LR Cv 72. The LRRC accepted the subcommittee’s recommendation.

Mr. Prentiss next explained John Tarantino’s suggested change to LR Cv 55, which proposed that the notice requirements for motions for default and motions for default judgment be eliminated. A redlined version of the subcommittee’s proposed revision was distributed to the LRRC. Ray Marcaccio asked if the subcommittee’s proposed amendment was Mr. Tarantino’s proposal. Mr. Prentiss explained that it was not: the subcommittee elected to drop the noticing

requirements for entries of default, but to keep them for motions for entry of default judgment. David Wollin asked if the requirement that service be made by certified and first-class mail, instead of personal service, for motions of entry of default judgment was in line with case law on the subject. Mr. Prentiss said that he believed that mail service was adequate. The LRRC accepted the subcommittee's recommendation.

Mr. Prentiss followed by explaining Pat Rocha's suggestion to eliminate section (b) of LR Cv 69 (writs of execution) so that the local rule conforms with Fed. R. Civ. P. 69. The subcommittee endorsed the change, and the LRRC accepted the subcommittee's recommendation. Mr. Prentiss also mentioned that the subcommittee considered Mr. Tarantino's other suggestion that the LRRC create a rule regarding the submission of supplemental authority that mirrors Fed. R. App. P. 28(j). The subcommittee declined to offer an amendment on that suggestion, but thanked Mr. Tarantino for his submission on the issue.

The Civil Rules Subcommittee also considered the suggestions proposed by Carol Pisani of Johnston, RI. The subcommittee reviewed her suggested changes, but elected to not recommend any changes to the LRRC based on her suggestions. The LRRC thanked Ms. Pisani for her proposals regarding the local rules.

Next, the discussion moved to LR Cv 26 (Discovery) and how it relates to requests for admission. The LRRC had submitted a change to LR Cv 26 during the last review cycle that exempted requests for admission from the discovery deadlines, but that change was tabled by the Judges because it lacked a deadline. Mr. Prentiss said that the subcommittee recognized the Court's concern, but felt that there was no way to set a firm cut-off date since the amount of time between the end of discovery and the trial often varies. The subcommittee elected to rewrite the amendment to LR Cv 26 as: "Unless the Court otherwise orders, requests for admission may be served at any time prior to trial. The pendency of outstanding requests for admission shall not be the basis for continuance of the trial date." This proposal led to significant discussion by the full Committee, and a number of alternative proposals were suggested in its place. Following this discussion, Mr. Prentiss revised the original proposal to read: "Requests for admission may be served following the discovery closure date with leave of Court, upon motion which includes the proposed requests." The LRRC accepted the subcommittee's recommendation.

Mr. Murphy pointed out that there were no members of the Criminal Rules Subcommittee present, but he summarized the rules referred to that subcommittee in the Court's March 3 letter. In addition, Paul Goodale briefly elaborated on the Court's March 17 letter recommending removal section (a) of LR Cr 32. Mr. Murphy added that he had spoken with Mary McElroy, the Criminal Rules Subcommittee chair, and that she would provide the co-chairs with a report of the subcommittee's actions. Once he receives the Criminal Rules Subcommittee's report, Mr. Murphy said that he would distribute it to the other members of the LRRC.

Tony Muri added that the ECF Subcommittee did not have any proposals to consider during this cycle.

David DiMarzio gave a summary of the restyling of numbers throughout the rules. He explained that numbers had been styled in a variety of ways throughout the rules: by spelling numbers out; by spelling numbers out with the Arabic numerals in parenthesis; and with Arabic numerals only. The Court has proposed that all numbers appear as Arabic numerals only to match the style in the Federal Rules. The LRRC accepted the Court's proposal.

The next meeting of the LRRC was scheduled for June 1, 2011 at 12:30 in the Jury Assembly Room of the Courthouse.

Mr. Murphy adjourned the meeting at 1:25 PM.

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

**LOCAL RULES REVIEW COMMITTEE  
JUNE 1, 2011**

The Local Rules Review Committee (“LRRC”) held a meeting on June 1, 2011 at 12:30 PM in the Jury Assembly Room of the United States Courthouse. James Murphy and David Wollin co-chaired the meeting. The following LRRC members and Court personnel were present: Pat Sullivan, Marc DeSisto, Dan Prentiss, Chris Little, Ray Marcaccio, Mary McElroy, Stacey Nakasian, David DiMarzio, Paulette Cieslak, Paul Goodale, and Michael Simoncelli. Co-chair James Murphy called the meeting to order at 12:35.

Mr. Murphy started the meeting by outlining the agenda items for the day’s meeting: the report of the Criminal Rules Subcommittee, a proposed amendment to LR Gen 213, and the LRRC’s final report.

Mary McElroy, the chair of the Criminal Rules Subcommittee, gave a brief summary of the Subcommittee’s report regarding the proposed amendments to the criminal rules. Ms. McElroy explained that her Subcommittee considered three amendments to the criminal rules: LR Cr 32 (repeal of (a) concerning the filing of motions for sentences outside the sentencing guidelines); LR Cr 57.1 (addition of a footnote clarifying the use of “petition” and “petitioner”), and LR Cr 57.2 (changes to (c)(1), (c)(2), (d)(1), and (d)(2) regarding the filing of transcripts in appeals from a Magistrate Judge’s ruling and in objections to a Magistrate Judge’s Report and Recommendation). She reported that the Subcommittee recommended adoption of the proposed rule changes. The LRRC accepted the subcommittee’s recommendation.

Mr. Murphy next explained that the Court had an additional proposal for the LRRC to consider regarding LR Gen 213 (Criminal Convictions). David DiMarzio explained that LR Gen 213 currently allows for the suspension of an attorney on receipt of a judgment showing conviction of a serious crime, or upon the entry of a plea of guilty or *nolo contendere*. Mr. DiMarzio added that the proposed amendment was needed to close a loophole in the present rule by ensuring that attorneys would also be suspended following receipt of an official record of “a finding of guilt or the return of a guilty verdict.” The LRRC voted to support the proposed rule change.

Mr. Murphy then asked if the subcommittee chairs had any other proposal to make. The Subcommittee chairs said that they no additional proposed rule changes.

Mr. DiMarzio explained that the Court would circulate a draft of the report detailing the actions taken at the April 25 and June 1 LRRC meetings. The draft would initially be sent to the



co-chairs to review, and if the draft was approved, it would then be circulated to the LRRC via email. Committee members would have ten days to review the draft report, and recommend any changes to the co-chairs. Following this review period, the co-chairs would submit the LRRC's final report, with a cover letter, to the Court by June 30, 2011.

Mr. Murphy adjourned the meeting at 12:55 PM.

# HANSON CURRAN LLP

COUNSELORS AT LAW

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KIRK HANSON 1948 - 1991

WILLIAM A. CURRAN 1957 - 2002

June 15, 2011

The Honorable Mary M. Lisi  
Chief Judge of the United States District Court  
United States District Court  
One Exchange Terrace  
Providence, RI 02903

Re: Annual Report of the Local Rules Review Committee

Dear Chief Judge Lisi:

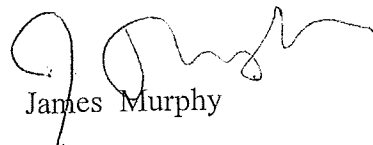
As the co-chairs of the Local Rules Review Committee, on behalf of the Committee, we hereby submit the enclosed Annual Report of the Local Rules Review Committee. Pursuant to LR Gen 113(b)(1), this report constitutes the Committee's Annual Report to the Court on the proposed amendments to the Local Rules. This Annual Report was adopted by vote of the Committee via email following the Committee's June 1, 2011 meeting.

The Committee began its work by asking for suggested changes to the Local Rules from the Bar and public during February 2011, and the Committee received four suggested changes (three from attorneys and one from the public). The Committee discussed these suggestions, along with those submitted by the Court, at its March 7, 2011 meeting. At the end of that meeting, in consideration of the volume of rules proposals, the Committee referred the suggested amendments to the various subcommittees. The co-chairs asked that the subcommittees confer during March and April on the suggested rule changes in their respective areas, and report to the chairs in advance of the April 25, 2011 meeting.

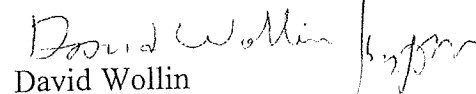
At the meeting on April 25, and a subsequent one on June 1, the Committee reviewed the work of the General Rules, Civil Rules, and Criminal Rules Subcommittees (there were no amendments for the ECF Subcommittee to consider), and the full Committee endorsed 16 rule changes. Many of the changes endorsed by the Committee were non-controversial, technical amendments to the Local Rules, but the Committee did recommend substantive changes to LR Cv 26 (Discovery), LR Cv 55 (Motions for Default and Default Judgment), LR Cv 69 (Writs of Execution), and LR Cr 32 (Sentencing and Presentence Reports). All of the recommended rule amendments are set forth in the Annual Report Table.

If you have any questions, feel free to contact us.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'James Murphy', with a large, stylized loop at the end.

James Murphy

A handwritten signature in dark ink, appearing to read 'David Wollin', with a long, horizontal stroke extending to the right.

David Wollin

Enclosure

cc: David DiMarzio  
Paul Goodale

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

**PROPOSED AMENDMENTS TO LOCAL RULES**

**JUNE 30, 2011**

| <u>Rule Number</u> | <u>Suggestion Received*</u>  | <u>Subcommittee Recommendation</u>  | <u>Full Committee Action</u> | <u>Court Action</u> |
|--------------------|--|---|------------------------------|---------------------|
| LR Gen 106         | <p>LR Gen 106 REFERRALS TO AND FROM OTHER DISTRICTS</p> <p>*****</p> <p>(c) <b>Trials and Other Proceedings.</b> Conferences and hearings may be held in either district. Jury trials shall be held in the district where the case originates <del>unless all parties agree otherwise.</del></p>   | The General Rules Subcommittee endorses the proposed change and recommends adoption by the Court. | PROPOSED CHANGE<br>ACCEPTED  |                     |
| LR Gen 109         | <p>LR Gen 109 BANKRUPTCY</p> <p>*****</p> <p>(f) Appeals to District Court</p> <p>*****</p> <p>(1) <b>Notice of Appeal.</b> When a notice of appeal is filed with the bankruptcy clerk, the bankruptcy clerk shall, forthwith, transmit a copy of the notice of appeal to the District Court clerk, together with a copy of the judgment, order or decree that is the subject of the appeal and the Appeal Cover Sheet. The District Court clerk, thereupon, shall treat the matter administratively as a newly filed case, but in accordance with <del>Interim Bankruptcy</del> Rule 8001(f)(2), the matter shall not be deemed “pending” in this Court until the record has been transmitted and docketed.</p> <p>(2) <b>Motion for Leave to Appeal.</b> When a motion for leave to appeal is filed with the bankruptcy clerk, the bankruptcy clerk shall, forthwith, transmit a copy of the motion to the District Court clerk, together with copies of the notice of</p> | The General Rules Subcommittee endorses the proposed change and recommends adoption by the Court. | PROPOSED CHANGE<br>ACCEPTED  |                     |

General/Attorney Rules

| <u>Rule Number</u> | <u>Suggestion Received*</u>   | <u>Subcommittee Recommendation</u> | <u>Full Committee Action</u> | <u>Court Action</u> |
|--------------------|---|------------------------------------|------------------------------|---------------------|
|                    | <p>appeal, the judgment, order or decree that is the subject of the proposed appeal, and any memorandum of counsel submitted in support of or in opposition to the motion. The District Court clerk, thereupon, shall treat the matter administratively as a newly filed case, but in accordance with <del>Interim</del> <u>Bankruptcy</u> Rule 8001(f)(2), the matter shall not be deemed "pending" in this Court until leave to appeal has been granted.</p> <p>(3) <b>Requests for Certification.</b> Any request by a party for the certification of an appeal directly to the Court of Appeals filed in the District Court pursuant to 28 U.S.C. 158(d)(2) and <del>Interim</del> <u>Bankruptcy</u> Rule 8001(f) shall be in the form of a motion complying with LR Cv 7.</p> <p>*****</p> <p>(5) <b>Dismissal of Appeals by Bankruptcy Judge.</b> A bankruptcy judge may dismiss an appeal if:</p> <p>*****</p> <p>(B) the appellant has failed to file a designation of the record or a statement of the issues within the time specified in <u>Bankruptcy</u> Rule 8006 or any extension thereof; or</p> <p>*****</p> |                                    |                              |                     |

General/Attorney Rules

| <u>Rule Number</u> | <u>Suggestion Received*</u>  | <u>Subcommittee Recommendation</u>  | <u>Full Committee Action</u> | <u>Court Action</u> |
|--------------------|--|---|------------------------------|---------------------|
| LR Gen 209         | <p><b>LR Gen 209 BASIS FOR DISCIPLINARY ACTION</b></p> <p>*****</p> <p>(c) <b>Misconduct.</b> Misconduct for which an attorney may be disciplined pursuant to this Rule 209 may include:</p> <p>(a)(1) Violation of the Standards of Professional Conduct referred to in LR Gen 208;</p> <p>(b)(2) Intentional violation of these Local Rules or any order of this Court;</p> <p>(c)(3) Failure to promptly provide the notifications required by LR Gen 203(b)(1)(B) and/or (C);</p> <p>(d)(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; and/or</p> <p>(e)(5) Conviction of a crime.</p> | The General Rules Subcommittee endorses the proposed change and recommends adoption by the Court. | PROPOSED CHANGE<br>ACCEPTED  |                     |

General/Attorney Rules

| <u>Rule Number</u> | <u>Suggestion Received*</u>   | <u>Subcommittee Recommendation</u>  | <u>Full Committee Action</u> | <u>Court Action</u> |
|--------------------|---|---|------------------------------|---------------------|
| LR Gen 210         | <p><b>LR Gen 210 DISCIPLINARY PROCEEDINGS</b></p> <p>*****</p> <p>(c) Commencement of Formal Proceedings.</p> <p>*****</p> <p>(3) The attorney shall file a written response to the show cause order and the allegations of misconduct contained therein within fourteen (14) days <del>after service</del> <u>from the date of the order</u>. 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 subsection (d) of this Rule.</p> <p>*****</p> <p>(d) Hearing</p> <p>(1) Forum.</p> <p>*****</p> <p>(C) Within fourteen (14) days <del>after being served</del> <u>from the date of the order</u>, 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 fourteen-day period shall be deemed a waiver of any objection. Those portions of the magistrate judge's findings and recommendations to which objection is made shall be reviewed by the Court <i>de novo</i> based on the record compiled before the magistrate judge. The Court may accept, reject, or modify, in whole or in part,</p> | The General Rules Subcommittee endorses the proposed change and recommends adoption by the Court. | PROPOSED CHANGE<br>ACCEPTED  |                     |

\* Unless otherwise indicated, the suggestion was made by the Court.



General/Attorney Rules

| <u>Rule Number</u> | <u>Suggestion Received*</u>   | <u>Subcommittee Recommendation</u>   | <u>Full Committee Action</u>               | <u>Court Action</u> |
|--------------------|---|--|--|---------------------|
|                    | <p>the findings or recommendations made by the magistrate judge or it may receive further evidence or recommit the matter to the magistrate judge with instructions.</p> <p>*****</p>   |  |  |                     |
| LR Gen 213         | <p><b>LR Gen 213 CRIMINAL CONVICTIONS</b></p> <p>(a) Criminal Convictions</p> <p>(1) <b>Summary Suspension.</b> 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 <i>pro hac vice</i> from practicing before this Court upon receipt of:</p> <p>(A) An official record of <u>a finding of guilt or the return of a guilty verdict as to a serious crime, as hereinafter defined,</u> or the entry of a plea of guilty or <i>nolo contendere</i> to <del>a serious</del> <u>such</u> crime, <del>as hereinafter defined,</del> in any court of the United States, the District of Columbia, any state, territory, commonwealth or possession of the United States, or;</p> <p>(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.</p> <p>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.</p> <p>(2) <b>Disciplinary proceeding.</b> 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</p> | <p>Due to time considerations, this suggested amendment was not referred to the General Rules Subcommittee, but was considered by the full LRRC at the June 1, 2011 meeting.</p> | <p><b>PROPOSED CHANGE<br/>ACCEPTED</b></p> |                     |

\* Unless otherwise indicated, the suggestion was made by the Court.

General/Attorney Rules

| <u>Rule Number</u> | <u>Suggestion Received*</u>  | <u>Subcommittee Recommendation</u>  | <u>Full Committee Action</u>    | <u>Court Action</u> |
|--------------------|--|---|---------------------------------|---------------------|
|                    | <p>proceeding so instituted shall not be brought to final hearing until all appeals from the conviction are concluded.</p> <p>An official record showing the entry of <u>the finding of guilt, the return of a guilty verdict</u>, or a plea of guilty or <i>nolo contendere</i>, 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.</p> <p>*****</p>  |   |                                 |                     |
| LR Gen 214         | <p><b>LR Gen 214 ACTION TAKEN BY OTHER COURTS OR DISCIPLINARY AGENCIES</b></p> <p>(a) <b>Show Cause Order.</b> 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 <i>pro hac vice</i> 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:</p> <ol style="list-style-type: none"> <li>(1) provide the attorney with a copy of the judgment or order; and</li> <li>(2) issue an order directing the attorney to show cause, within fourteen (14) days <u>after service from the date of the order</u>, why this Court should not impose the identical discipline and/or make a similar finding of incapacity.</li> </ol> <p>In the event the action imposed in the other jurisdiction has been stayed there, any reciprocal</p> | The General Rules Subcommittee endorses the proposed change and recommends adoption by the Court. | <b>PROPOSED CHANGE ACCEPTED</b> |                     |

\* Unless otherwise indicated, the suggestion was made by the Court.

General/Attorney Rules

| <u>Rule<br/>Number</u> | <u>Suggestion Received*</u>   | <u>Subcommittee Recommendation</u> | <u>Full Committee Action</u> | <u>Court<br/>Action</u> |
|------------------------|---|------------------------------------|------------------------------|-------------------------|
|                        | action taken by this Court shall be deferred until<br>such stay expires.<br>***** |                                    |                              |                         |

\* Unless otherwise indicated, the suggestion was made by the Court.

Civil Rules

| <u>Rule Number</u> | <u>Suggestion Received*</u>   | <u>Subcommittee Recommendation</u>  | <u>Full Committee Action</u> | <u>Court Action</u> |
|--------------------|---|---|------------------------------|---------------------|
| LR Cv 5            | <p>LR Cv 5 FORM AND FILING OF DOCUMENTS</p> <p>*****</p> <p>(b) Civil Cover Sheet. <del>Counsel</del> <u>Any person</u> filing a complaint in a civil case or any other document that requires a file to be opened shall contemporaneously file a completed AO Form JS-44 Civil Cover Sheet describing the type of case and identifying any related case previously filed or pending in this Court. The Clerk may reclassify a case if the cover sheet does not accurately describe its type. Cover sheets shall be provided by the Clerk upon request.</p> <p>*****</p>  | The Civil Rules Subcommittee endorses the proposed change and recommends adoption by the Court. | PROPOSED CHANGE ACCEPTED     |                     |
| LR Cv 5.1          | <p>LR Cv 5.1 SERVICE AND PROOF OF SERVICE</p> <p>*****</p> <p>(b) Private Process Servers.</p> <p>(2) To be considered for appointment, an applicant shall file an <u>affidavit application</u> setting forth the applicant's age, citizenship, criminal record (if any), and relevant experience and qualifications for the service of process. <u>The application shall be on a form provided by the Clerk.</u> In order to be appointed, an applicant must demonstrate:</p> <p>(A) sufficient knowledge and/or other experience to perform the duties required by law; and</p> <p>(B) sufficiently good character to discharge the duties of a process server.</p> | The Civil Rules Subcommittee endorses the proposed change and recommends adoption by the Court. | PROPOSED CHANGE ACCEPTED     |                     |

Civil Rules

| <u>Rule Number</u> | <u>Suggestion Received*</u>   | <u>Subcommittee Recommendation</u>   | <u>Full Committee Action</u>   | <u>Court Action</u> |
|--------------------|---|--|--|---------------------|
|                    | <p>*****</p> <p>(4) <u>Appointments will be made on an annual basis for the period of July 1 through June 30 may be renewed annually upon the filing of an affidavit stating that all information in the original affidavit and application is correct, together with a bond in the required amount.</u></p> <p>*****</p>                             |  |  |                     |
| LR Cv 26           | <p>In the 2009-2010 review cycle, the LRRC recommended a new section to LR Cv26. The section would have allowed counsel to serve requests for admissions “at any time prior to trial.” The Judges tabled this new recommendation, and asked the LRRC to consider adding a definite time period to the suggested amendment before resubmitting it.</p> | <p>The Civil Rules Subcommittee proposed the following revision to the amendment that the Court tabled after the 2009-10 cycle:</p> <p><u>(d) Unless the Court orders otherwise, requests for admission may be served at any time prior to trial. The pendency of outstanding requests for admission shall not be a basis for continuance of the trial date.</u></p>   | <p>After debate over the Civil Rules Subcommittee’s proposal, the LRRC decided to approve the following revision:</p> <p><u>(d) Requests for admission may be served following the discovery closure date with leave of court, upon motion which includes the proposed requests.</u></p> |                     |
| LR Cv 55           | <p>Attorney John Tarantino submitted a comment asking that the requirement in LR Cv 55 directing counsel to serve, with return receipt, motions for entry of default and motions for default judgment be removed from the rule.</p>   | <p>The Civil Rules Subcommittee considered Mr. Tarantino’s request, and opted to revise the rule as follows:</p> <p><del>A motion for entry of default or entry of a default judgment made against a party not represented by counsel shall be accompanied by a certification that:</del></p> <p>(a) <del>Notice of the motion was given to the party against whom a default or default judgment is sought by both regular mail, postage prepaid, and by certified or registered mail, return receipt requested. A copy of the return receipt shall be appended to the certification; Default: The Clerk shall enter a default upon an application by the plaintiff that conforms to the requirements of Fed. R.</del></p> | <p><b>PROPOSED CHANGE ACCEPTED</b></p>   |                     |

\* Unless otherwise indicated, the suggestion was made by the Court.

Civil Rules

| <u>Rule Number</u> | <u>Suggestion Received*</u> | <u>Subcommittee Recommendation</u>  | <u>Full Committee Action</u> | <u>Court Action</u> |
|--------------------|-----------------------------|---|------------------------------|---------------------|
|                    |                             | <p><u>Civ. P. 55(a)</u></p> <p>(b) <del>To the best of the movant's knowledge, the address set forth in such certification is the last known address of that party; and</del> <u>Default Judgment:</u></p> <p><u>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 plaintiff shall file with the Court a certification that:</u></p> <p><del>(e)(1)</del> <u>The party against whom a default or default judgment is sought is not in the military service of the United States as defined in the Soldiers' and Sailors' Civil Relief Act of 1940, as amended-; and</u></p> <p><u>(2) _____ Notice of the motion was served on 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 certification shall include the return receipt, or, if unavailable, a statement of the measures taken to attempt service and verify receipt by the defaulted party.</u></p> |                              |                     |

\* Unless otherwise indicated, the suggestion was made by the Court.

Civil Rules

| <u>Rule Number</u> | <u>Suggestion Received*</u>   | <u>Subcommittee Recommendation</u>  | <u>Full Committee Action</u> | <u>Court Action</u> |
|--------------------|---|---|------------------------------|---------------------|
| LR Cv 67           | <p>LR Cv 67 PARTIES' FUNDS DEPOSITED WITH CLERK OF COURT</p> <p>*****</p> <p>(c) Deduction of Court Fees. Any order obtained by a party that directs the Clerk to invest in an interest-bearing account or investment funds deposited in the Registry of the Court shall contain wording which directs the Clerk, pursuant to 28 U.S.C. § 1914(b), to deduct a fee in accordance with the schedule set by the Judicial Conference of the United States from the income earned on the funds deposited or invested <del>a fee in the amount of ten percent (10%) of the income earned</del>, whenever such income becomes available for such deduction, and without further order of the Court. Such a provision shall be included in the order regardless of the nature of the case in which the deposit was made.</p> | The Civil Rules Subcommittee endorses the proposed change and recommends adoption by the Court. | PROPOSED CHANGE ACCEPTED     |                     |

Civil Rules

| <u>Rule Number</u> | <u>Suggestion Received*</u>  | <u>Subcommittee Recommendation</u>   | <u>Full Committee Action</u> | <u>Court Action</u> |
|--------------------|--|--|------------------------------|---------------------|
| LR Cv 69           | Attorney Pat Rocha submitted a comment suggesting that section (b) of the rule be deleted because: (1) the procedure outlined in LR Cv 69(b) is not required under state law (as required by Fed. R. Civ. P. 69); and (2) the requirement of an affidavit creates an unnecessary and superfluous step in the collection process. | <p>The Civil Rules Subcommittee accepted the suggestion and modified the rule as follows:</p> <p>LR Cv 69 WRITS OF EXECUTION</p> <p>*****</p> <p><del>(b) Requests for Writ of Execution. A request for a writ of execution shall be accompanied by an affidavit that states:</del></p> <p><del>(1) the amount due on the judgment and an explanation of how that amount has been calculated;</del></p> <p><del>(2) that a demand for payment has been made and refused; and</del></p> <p><del>(3) what efforts have been made to recover the judgment.</del></p> <p><del>(e)(b)</del> Return of Execution.</p> <p>*****</p> | PROPOSED CHANGE ACCEPTED     |                     |



Civil Rules

| <u>Rule Number</u> | <u>Suggestion Received*</u>   | <u>Subcommittee Recommendation</u>  | <u>Full Committee Action</u> | <u>Court Action</u> |
|--------------------|---|---|------------------------------|---------------------|
| LR Cv 72           | <p>LR Cv 72 AUTHORITY OF<br/>MAGISTRATE JUDGES IN CIVIL CASES</p> <p>*****</p> <p>(c) Appeals from Rulings on<br/>Nondispositive Matters.</p> <p>(1) Time for Appeal; Failure to File.<br/>Any appeal from an order or other<br/>ruling by a magistrate judge in a<br/>nondispositive matter shall be filed<br/>and served within fourteen (14) days<br/>after such order or ruling is served on<br/>the appellant. <u>The appellant shall also<br/>order a transcript of any evidentiary<br/>hearing(s) before the magistrate judge<br/>within the same 14-day period.</u><br/>Failure to file specific objections <u>and<br/>order the transcript</u> in a timely manner<br/>constitutes waiver of the right to<br/>review by the district judge and the<br/>right to appeal the Court's decision.</p> <p>(2) Content of Appeal. Any such appeal<br/>shall consist of a notice of appeal<br/>setting forth the basis for the appeal;<br/><u>and</u> a memorandum of law which<br/>complies with LR Cv 7, <u>and a<br/>transcript of any evidentiary hearing(s)<br/>before the magistrate judge and/or any<br/>statements by the magistrate judge of<br/>the reasons for the order or ruling.</u></p> <p>*****</p> <p>(d) Objections to Reports and<br/>Recommendations.</p> <p>(1) Time for Objections; Failure to File.<br/>Any objection to a Report and<br/>Recommendation by a magistrate</p> | The Civil Rules Subcommittee endorses the<br>proposed change and recommends adoption<br>by the Court. | PROPOSED CHANGE ACCEPTED     |                     |

Civil Rules

| <u>Rule Number</u> | <u>Suggestion Received*</u>  | <u>Subcommittee Recommendation</u>   | <u>Full Committee Action</u>                                   | <u>Court Action</u> |
|--------------------|--|--|--|---------------------|
|                    | <p>judge shall be filed and served within fourteen (14) days after such Report and Recommendation is served on the objecting party. <u>The objecting party shall also order a transcript of any evidentiary hearing(s) before the magistrate judge within the same 14-day period.</u> Failure to file specific objections <u>and order the transcript</u> in a timely manner constitutes waiver of the right to review by the district judge and the right to appeal the Court's decision.</p> <p>(2) <b>Content of Objections.</b> An objection to a magistrate judge's Report and Recommendation shall be accompanied by a memorandum of law specifying the findings and/or recommendations to which objection is made, <u>and the basis for the objection, and a transcript of any evidentiary hearing(s) before the magistrate judge.</u> The memorandum shall comply with LR Cv 7.</p> <p>*****</p> |  |  |                     |
|                    | Attorney John Tarantino submitted a change suggesting that the LRRC consider an amendment allowing for the submission of supplemental authority similar to Fed. R. App. Proc. 28(j).   | The Civil Rules Subcommittee considered the proposal, but declined to recommend a change.    | The Full Committee accepted the subcommittee's recommendation. |                     |
|                    | The LRRC also received four comments from Ms. Carol Pisani of Johnston, Rhode Island suggesting various changes to the Local Rules. Copies of the comments are attached to this document.  | The Civil Rules Subcommittee considered the comments, but declined to recommend any changes. | The Full Committee accepted the subcommittee's recommendation. |                     |

Criminal Rules

| <u>Rule Number</u> | <u>Suggestion Received*</u>   | <u>Subcommittee Recommendation</u>   | <u>Full Committee Action</u> | <u>Court Action</u> |
|--------------------|---|--|------------------------------|---------------------|
| LR Cr 32(a)        | <p><b>LR Cr 32 SENTENCING AND PRESENTENCE REPORTS</b></p> <p><del>(a) Sentences Outside of the Guideline Range. Any request for a sentence outside of the applicable guideline range shall be made by a motion filed and served at least eleven (11) days prior to the date scheduled for sentencing and shall be accompanied by a memorandum setting forth the factual and legal grounds for the request.</del></p> <p><del>(b)(a) Sentencing Witnesses; Expert Report.</del></p> <p style="text-align: center;">*****</p> <p><del>(c)(b) Presentence Investigative Report.</del></p> <p style="text-align: center;">*****</p>                   | The Criminal Rules Subcommittee endorses the proposed change and recommends adoption by the Court. | PROPOSED CHANGE ACCEPTED     |                     |
| LR Cr 57.1         | <p><b>LR Cr 57.1 APPLICATIONS FOR POST-CONVICTION RELIEF</b></p> <p>(a) Form. Any <i>pro se</i> 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.</p> <p><u>*In this context, "petition" refers to both petitions for relief under §2254 and motions to vacate, set aside, or correct a sentence under § 2255; and "petitioner" refers to both petitioners seeking relief under §2254, and movants seeking to vacate, set aside, or correct a sentence under §2255.</u></p> | The Criminal Rules Subcommittee endorses the proposed change and recommends adoption by the Court. | PROPOSED CHANGE ACCEPTED     |                     |

\* Unless otherwise indicated, the suggestion was made by the Court.

Criminal Rules

| <u>Rule Number</u> | <u>Suggestion Received*</u>  | <u>Subcommittee Recommendation</u>  | <u>Full Committee Action</u>    | <u>Court Action</u> |
|--------------------|--|---|---------------------------------|---------------------|
| LR Cr 57.2         | <p>LR Cr 57.2 AUTHORITY OF MAGISTRATE JUDGES IN CRIMINAL CASES</p> <p>*****</p> <p>(c) Appeals from Rulings On Nondispositive Matters.</p> <p>(1) Time for Appeal. Any appeal from an order or other ruling by a magistrate judge in a nondispositive matter shall be filed and served within fourteen (14) days after such order or ruling is served on the appellant. <u>The appellant shall also order a transcript of any evidentiary hearing(s) before the magistrate judge within the same 14-day period.</u></p> <p>(2) Content of Appeal. Any such appeal shall consist of a notice of appeal setting forth the basis for the appeal; <u>and a memorandum of law which complies with LR Cr 47, and a transcript of any evidentiary hearing(s) before the magistrate judge and/or any statements by the magistrate judge of the reasons for the order or ruling.</u></p> <p>*****</p> <p>(d) Objections to Reports and Recommendations.</p> <p>(1) Time for Objections. Any objection to a Report and Recommendation by a magistrate judge shall be filed and served within fourteen (14) days after such Report and Recommendation is served on the objecting party. <u>The objecting party shall also order a transcript of any evidentiary hearing(s) before the</u></p> | <p>The Criminal Rules Subcommittee endorses the proposed change and recommends adoption by the Court.</p> | <p>PROPOSED CHANGE ACCEPTED</p> |                     |

Criminal Rules

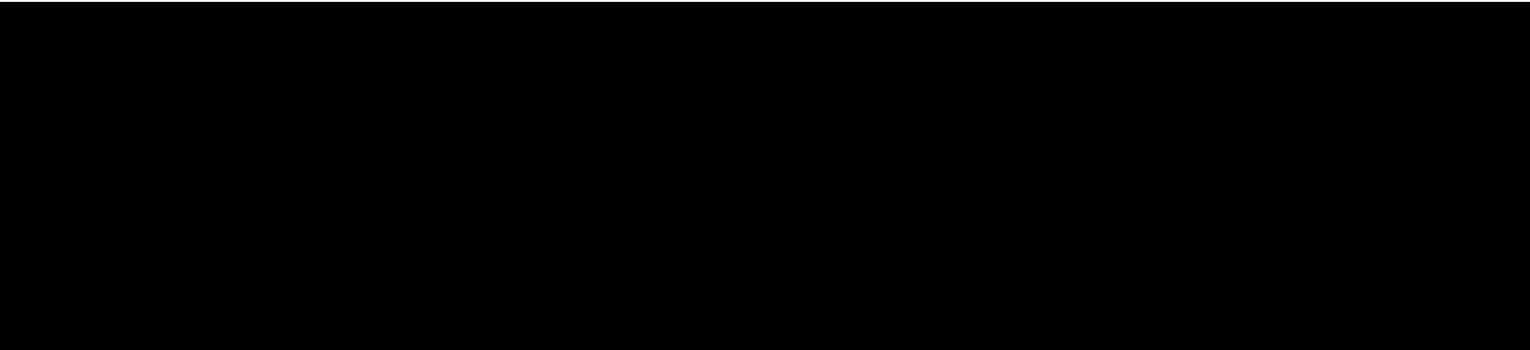
| <u>Rule Number</u> | <u>Suggestion Received*</u>   | <u>Subcommittee Recommendation</u> | <u>Full Committee Action</u> | <u>Court Action</u> |
|--------------------|---|------------------------------------|------------------------------|---------------------|
|                    | <p><del>magistrate judge within the same 14-day period.</del></p> <p>(2) Content of Objections. An objection to a magistrate judge's Report and Recommendation shall be accompanied by a memorandum of law specifying the findings and/or recommendations to which objection is made, <del>and the basis for the objection, and a transcript of any evidentiary hearing(s) before the magistrate judge.</del> The memorandum shall comply with LR Cr 47.</p> <p>*****</p> |                                    |                              |                     |

\* Unless otherwise indicated, the suggestion was made by the Court.

Other Comments/Changes

| <u>Rule Number</u> | <u>Suggestion Received*</u>   | <u>Subcommittee Recommendation</u> | <u>Full Committee Action</u> | <u>Court Action</u> |
|--------------------|---|------------------------------------|------------------------------|---------------------|
|                    | The Court proposed to restyle all numerical references as Arabic numbers only. For example, all references to “twenty-one days” or “twenty-one (21) days” would be restyled as “21 days.” | N/A                                | PROPOSED CHANGE ACCEPTED     |                     |

\* Unless otherwise indicated, the suggestion was made by the Court.



In accordance with the discussion during the District of Rhode Island break-out session at the First Circuit Judicial Conference, I request that LR Civ 55 either be eliminated as unnecessary (based on Fed.R.Civ.P. 55) or be changed so as not to require that the party who has not appeared be given notice of a motion for either entry of default or entry of default judgment by both regular mail, postage prepaid, and by certified or registered mail, return receipt requested (with a copy of the return receipt appended to the certification).

The rationale for the requested elimination or change is as follows. The party against whom a default or default judgment is being sought has already failed to answer or otherwise plead to the complaint and a copy of the proof of service has already been filed with the clerk of the court. If a party has not appeared, then I question the necessity of having to serve that party with a notice seeking a default or default judgment and requiring a return receipt to be appended to the certification. This added requirement seems to be inconsistent with Fed.R.Civ.P. 55, which states that if a party against whom judgment for a form of relief is sought has failed to plead or otherwise defend and the failure is shown by affidavit or otherwise, the clerk must enter the party's default. With respect to LR Civ 55, if the defaulted party does not claim the certified or registered mail, then a copy of the return receipt cannot be appended to the certification and it will be difficult to meet the requirements of the rule. Finally, even if a *default* is obtained using this procedure and the defaulted party still has not appeared, the procedure must be repeated yet again if a *default judgment* is sought. Consequently, under LR Civ 55, even if the party has not appeared, the party must be notified before a default can be obtained and once again before a default judgment can be obtained, each time by regular mail and certified or registered mail; and in each case the return receipt must be appended. In my experience, LR Civ 55 causes both confusion and unnecessary delay.

Should you have any questions, I would be happy to address them.

Best regards.

John

John A. Tarantino  
Adler Pollock & Sheehan P.C.  
One Citizens Plaza, 8th Floor  
Providence, RI 02903





David,

As I explained to you during our recent telephone conversation, I suggest that the Local Rules Committee consider adding a rule to deal with the filing of supplemental authority, and address situations where relevant authority becomes available that was not available at the time the parties submitted their memoranda or even after oral argument has taken place, but where the matter is still *sub judice*. The Rules of Appellate Procedure deal with this issue in Federal Rule of Appellate Procedure 28(j). I suggest that we have a similar rule in our district court so that the parties can bring to the attention of the court relevant authority that was not available at the time of briefing, oral argument or both, but to also make it clear that what is intended is that the court be provided with the authority as well as a short, non argumentative explanation of the relevance of the supplemental authority to a position stated in a party's memorandum or to a point made during oral argument, again similar to what is provided in Rule 28 (j).

Should you have any questions, please let me know.

Best Regards,

John

John A. Tarantino  
Adler Pollock & Sheehan P.C.  
One Citizens Plaza, 8th Floor  
Providence, RI 02903





February 28, 2011

**Via E-Mail**  
**Local Rules@rid.uscourts.gov**

Clerk's Office  
Attn: Local Rules  
United States District Court  
One Exchange Terrace  
Providence, RI 02903

***Re: LR CV 69 – Writs of Execution***

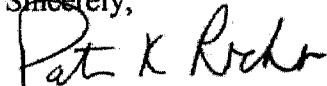
Dear Clerk of Court:

I am writing to suggest that LR CV 69 entitled "Writs of Execution" be amended to delete Section (b). First, the procedure in (b) is not required by Federal Rule of Civil Procedure 69. FRCP 69 states, in part, that "The procedure on execution – and in proceedings supplementary to and in aid of judgment or execution – must accord with the procedure of the state where the court is located, but a federal statute governs to the extent it applies." There is no similar procedure under the state rules of civil procedure requiring an affidavit described in Section (b). On the state side, once a judgment issues, upon request and payment of a fee, the Superior Court clerk issues the writ of execution for service on the judgment defendant.

Second, the requirement in Section (b) is superfluous. The amount due on the judgment is identified in the judgment entered by the Court as calculated by the prevailing party. The demand for payment and efforts to recover the judgment, in the first instance, are generally done by service of the writ of execution. The requirement for an affidavit is inconsistent with FRCP 69 and creates an unnecessary step in the collection process. Accordingly, I would suggest that Section (b) be deleted in its entirety.

If you have any questions, please contact me. Thank you for your consideration.

Sincerely,



PATRICIA K. ROCHA

PKR:dh

cc: David DiMarzio (via e-mail)  
Paulette Dube (via e-mail)

2/5/11

Clerks Office

RECEIVED

Attention Local Rules  
U.S. District Court  
One Exchange Terrace

FEB 08 2011

U.S. DISTRICT COURT  
DISTRICT OF R.I.

Providence, R.I. 02903

Make an amendment if a Judge does not default the defendant for not answering the complaint then part of the Settlement money should be taken from the Court's pocketbook or budget until a Settlement is reached and the Judge should refuse from making any Judgement and transfer the case to another Judge.

2) If a Judge disobeys the law or makes a minor mistake on the interpretation of the law. Like in one case with the Appeals Court a stay

was issued without an Order.  
Then make a local federal rule  
that if this happens then the  
case needs to be overturned and the  
stay thrown out and to dismiss the  
case from the Judge and to  
transfer the case to another Judge

Carol Pisani

[REDACTED]  
Johnston, R.I. 02919- [REDACTED]

Thank You very much.

2/12/11

Attention Local Rules  
U. S. District Court  
One Exchange Terrace  
Providence, R.I. 02903

RECEIVED

FEB 15 2011

U.S. DISTRICT COURT  
DISTRICT OF RHODE ISLAND

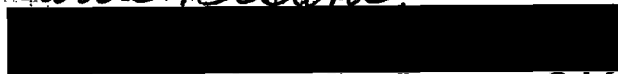
When a court serves papers - the  
Court should have a record of this for  
the Plaintiff. According to the U. S.  
Court of Appeals they told me - (the  
clerk) that they are not required  
to send the Plaintiff anything  
for proof after serving the defendant.

Carol Pisani  
42 Maribeth Drive  
Johnston, R.I. 02919-5230

Make a law to have all cases on the  
internet with all Courts and if

another company sells Court information  
of the Court then the U. S. Attorney  
or Attorney General can stop them  
from profiting. And, if they ~~do~~ <sup>did</sup>  
profit - half of the profits go to the  
Plaintiff of the case and defendant.

Carol Pisoni

  
Johnston, R.L. 02919

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

**PROPOSED AMENDMENTS TO LOCAL RULES**

General/Attorney Rules

| <b><u>Rule Number</u></b> | <b><u>Suggestion Received*</u></b>   | <b><u>Subcommittee Recommendation</u></b>   | <b><u>Full Committee Action</u></b> | <b><u>Court Action</u></b>  |
|---------------------------|--|---|-------------------------------------|-----------------------------|
| LR Gen 106                | <p><b>LR Gen 106 REFERRALS TO AND FROM OTHER DISTRICTS</b></p> <p>*****</p> <p>(c) <b>Trials and Other Proceedings.</b> Conferences and hearings may be held in either district. Jury trials shall be held in the district where the case originates <del>unless all parties agree otherwise.</del></p>  | The General Rules Subcommittee endorses the proposed change and recommends adoption by the Court. | PROPOSED CHANGE<br>ACCEPTED         | COURT<br>APPROVED<br>CHANGE |
| LR Gen 109                | <p><b>LR Gen 109 BANKRUPTCY</b></p> <p>*****</p> <p>(f) <b>Appeals to District Court</b></p> <p>*****</p> <p>(1) <b>Notice of Appeal.</b> When a notice of appeal is filed with the bankruptcy clerk, the bankruptcy clerk shall, forthwith, transmit a copy of the notice of appeal to the District Court clerk, together with a copy of the judgment, order or decree that is the subject of the appeal and the Appeal Cover Sheet. The District Court clerk, thereupon, shall treat the matter administratively as a newly filed case, but in accordance with <del>Interim Bankruptcy</del> Rule 8001(f)(2), the matter shall not be deemed “pending” in this Court until the record has been transmitted and docketed.</p> <p>(2) <b>Motion for Leave to Appeal.</b> When a motion for leave to appeal is filed with the bankruptcy clerk, the bankruptcy clerk shall, forthwith, transmit a copy of the motion to the District Court clerk, together with copies of the notice of appeal, the judgment, order or decree that is the subject of the proposed appeal, and any memorandum of counsel submitted in support of or in opposition to the motion. The District Court clerk, thereupon, shall treat the matter</p> | The General Rules Subcommittee endorses the proposed change and recommends adoption by the Court. | PROPOSED CHANGE<br>ACCEPTED         | COURT<br>APPROVED<br>CHANGE |

General/Attorney Rules

| <u>Rule Number</u> | <u>Suggestion Received*</u>   | <u>Subcommittee Recommendation</u> | <u>Full Committee Action</u> | <u>Court Action</u> |
|--------------------|---|------------------------------------|------------------------------|---------------------|
|                    | <p>administratively as a newly filed case, but in accordance with <del>Interim</del> <u>Bankruptcy</u> Rule 8001(f)(2), the matter shall not be deemed “pending” in this Court until leave to appeal has been granted.</p> <p>(3) <b>Requests for Certification.</b> Any request by a party for the certification of an appeal directly to the Court of Appeals filed in the District Court pursuant to 28 U.S.C. 158(d)(2) and <del>Interim</del> <u>Bankruptcy</u> Rule 8001(f) shall be in the form of a motion complying with LR Cv 7.</p> <p>*****</p> <p>(5) <b>Dismissal of Appeals by Bankruptcy Judge.</b> A bankruptcy judge may dismiss an appeal if:</p> <p>*****</p> <p>(B) the appellant has failed to file a designation of the record or a statement of the issues within the time specified in <u>Bankruptcy</u> Rule 8006 or any extension thereof; or</p> <p>*****</p> |                                    |                              |                     |

\* Unless otherwise indicated, the suggestion was made by the Court.



General/Attorney Rules

| <b><u>Rule Number</u></b> | <b><u>Suggestion Received*</u></b>  | <b><u>Subcommittee Recommendation</u></b>   | <b><u>Full Committee Action</u></b> | <b><u>Court Action</u></b>  |
|---------------------------|---|---|-------------------------------------|-----------------------------|
| LR Gen 209                | <p><b>LR Gen 209 BASIS FOR DISCIPLINARY ACTION</b></p> <p>*****</p> <p>(c) <b>Misconduct.</b> Misconduct for which an attorney may be disciplined pursuant to this Rule 209 may include:</p> <p><del>(a)</del>(1) Violation of the Standards of Professional Conduct referred to in LR Gen 208;</p> <p><del>(b)</del>(2) Intentional violation of these Local Rules or any order of this Court;</p> <p><del>(c)</del>(3) Failure to promptly provide the notifications required by LR Gen 203(b)(1)(B) and/or (C);</p> <p><del>(d)</del>(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; and/or</p> <p><del>(e)</del>(5) Conviction of a crime.</p> | The General Rules Subcommittee endorses the proposed change and recommends adoption by the Court. | PROPOSED CHANGE<br>ACCEPTED         | COURT<br>APPROVED<br>CHANGE |

General/Attorney Rules

| <b><u>Rule Number</u></b> | <b><u>Suggestion Received*</u></b>   | <b><u>Subcommittee Recommendation</u></b>   | <b><u>Full Committee Action</u></b> | <b><u>Court Action</u></b>  |
|---------------------------|--|---|-------------------------------------|-----------------------------|
| LR Gen 210                | <p><b>LR Gen 210 DISCIPLINARY PROCEEDINGS</b></p> <p>*****</p> <p><b>(c) Commencement of Formal Proceedings.</b></p> <p>*****</p> <p>(3) The attorney shall file a written response to the show cause order and the allegations of misconduct contained therein within fourteen (14) days <del>after service</del> <u>from the date of the order</u>. 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 subsection (d) of this Rule.</p> <p>*****</p> <p><b>(d) Hearing</b></p> <p><b>(1) Forum.</b></p> <p>*****</p> <p>(C) Within fourteen (14) days <del>after being served from the date of the order</del>, 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 fourteen-day period shall be deemed a waiver of any objection. Those portions of the magistrate judge's findings and recommendations to which objection is made shall be reviewed by the Court <i>de novo</i> based on the record compiled before the magistrate judge. The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge or it may receive further evidence or recommit the matter to the magistrate judge with instructions.</p> <p>*****</p> | The General Rules Subcommittee endorses the proposed change and recommends adoption by the Court. | PROPOSED CHANGE<br>ACCEPTED         | COURT<br>APPROVED<br>CHANGE |

General/Attorney Rules

| <u>Rule Number</u> | <u>Suggestion Received*</u>  | <u>Subcommittee Recommendation</u>   | <u>Full Committee Action</u>        | <u>Court Action</u>                  |
|--------------------|--|--|-------------------------------------|--------------------------------------|
| LR Gen 213         | <p><b>LR Gen 213 CRIMINAL CONVICTIONS</b></p> <p>(a) <b>Criminal Convictions</b></p> <p>(1) <b>Summary Suspension.</b> 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 <i>pro hac vice</i> from practicing before this Court upon receipt of:</p> <p>(A) An official record of <u>a finding of guilt or the return of a guilty verdict as to a serious crime, as hereinafter defined</u>, or the entry of a plea of guilty or <i>nolo contendere</i> to <del>a serious</del> <u>such crime, as hereinafter defined</u>, in any court of the United States, the District of Columbia, any state, territory, commonwealth or possession of the United States, or;</p> <p>(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.</p> <p>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.</p> <p>(2) <b>Disciplinary proceeding.</b> 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.</p> <p>An official record showing the entry of <u>the finding of guilt, the return of a guilty verdict, or a plea of guilty or nolo contendere</u>, or a certified</p> | <p>Due to time considerations, this suggested amendment was not referred to the General Rules Subcommittee, but was considered by the full LRRC at the June 1, 2011 meeting.</p> | <p>PROPOSED CHANGE<br/>ACCEPTED</p> | <p>COURT<br/>APPROVED<br/>CHANGE</p> |

\* Unless otherwise indicated, the suggestion was made by the Court.

General/Attorney Rules

| <b><u>Rule Number</u></b> | <b><u>Suggestion Received*</u></b>  | <b><u>Subcommittee Recommendation</u></b>   | <b><u>Full Committee Action</u></b> | <b><u>Court Action</u></b> |
|---------------------------|---|---|-------------------------------------|----------------------------|
|                           | <p>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.</p> <p>*****</p>   |   |                                     |                            |
| LR Gen 214                | <p><b>LR Gen 214 ACTION TAKEN BY OTHER COURTS OR DISCIPLINARY AGENCIES</b></p> <p>(a) <b>Show Cause Order.</b> 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 <i>pro hac vice</i> 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:</p> <p>(1) provide the attorney with a copy of the judgment or order; and</p> <p>(2) issue an order directing the attorney to show cause, within fourteen (14) days <del>after service</del> <u>from the date</u> of the order, why this Court should not impose the identical discipline and/or make a similar finding of incapacity.</p> <p>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.</p> <p>*****</p> | The General Rules Subcommittee endorses the proposed change and recommends adoption by the Court. | PROPOSED CHANGE ACCEPTED            | COURT APPROVED CHANGE      |

\* Unless otherwise indicated, the suggestion was made by the Court.

Civil Rules

| <b><u>Rule Number</u></b> | <b><u>Suggestion Received*</u></b>   | <b><u>Subcommittee Recommendation</u></b>   | <b><u>Full Committee Action</u></b> | <b><u>Court Action</u></b> |
|---------------------------|--|---|-------------------------------------|----------------------------|
| LR Cv 5                   | <p><b>LR Cv 5 FORM AND FILING OF DOCUMENTS</b></p> <p>*****</p> <p>(b) <b>Civil Cover Sheet.</b> <del>Counsel</del> <u>Any person</u> filing a complaint in a civil case or any other document that requires a file to be opened shall contemporaneously file a completed AO Form JS-44 Civil Cover Sheet describing the type of case and identifying any related case previously filed or pending in this Court. The Clerk may reclassify a case if the cover sheet does not accurately describe its type. Cover sheets shall be provided by the Clerk upon request.</p> <p>*****</p>   | The Civil Rules Subcommittee endorses the proposed change and recommends adoption by the Court. | PROPOSED CHANGE<br>ACCEPTED         | COURT APPROVED<br>CHANGE   |
| LR Cv 5.1                 | <p><b>LR Cv 5.1 SERVICE AND PROOF OF SERVICE</b></p> <p>*****</p> <p>(b) <b>Private Process Servers.</b></p> <p>(2) To be considered for appointment, an applicant shall file an <del>affidavit</del> <u>application</u> setting forth the applicant's age, citizenship, criminal record (if any), and relevant experience and qualifications for the service of process. <u>The application shall be on a form provided by the Clerk.</u> In order to be appointed, an applicant must demonstrate:</p> <p>(A) sufficient knowledge and/or other experience to perform the duties required by law; and</p> <p>(B) sufficiently good character to discharge the duties of a process server.</p> | The Civil Rules Subcommittee endorses the proposed change and recommends adoption by the Court. | PROPOSED CHANGE<br>ACCEPTED         | COURT APPROVED<br>CHANGE   |

\* Unless otherwise indicated, the suggestion was made by the Court.

Civil Rules

| <b><u>Rule Number</u></b> | <b><u>Suggestion Received*</u></b>   | <b><u>Subcommittee Recommendation</u></b>   | <b><u>Full Committee Action</u></b>   | <b><u>Court Action</u></b>   |
|---------------------------|--|---|---|------------------------------|
|                           | <p>*****</p> <p>(4) Appointments <u>will be made on an annual basis for the period of July1 through June 30</u> <del>may be renewed annually upon the filing of an affidavit stating that all information in the original affidavit and application is correct, together with a bond in the required amount.</del></p> <p>*****</p>  |   |   |                              |
| LR Cv 24                  | <p>On September 12, 2011, the Court issued an Administrative Order suspending LR Cv 24. The Court suspended LR Cv 24 due to a conflict between the Local Rule and Fed. R. Civ. P. 5.1(a) regarding the notice and service requirements relating to constitutional challenges to federal or state statutes.</p> <p>In addition to suspending the rule, the Court also suggested that the LRRC consider eliminating LR Cv 24 from the Court's Local Rules.</p> | N/A   | After conferring by email, the LRRC unanimously agreed that LR Cv 24 should be eliminated.  | <b>COURT APPROVED CHANGE</b> |
| LR Cv 26                  | In the 2009-2010 review cycle, the LRRC recommended a new section to LR Cv26. The section would have allowed counsel to serve requests for admissions "at any time prior to trial." The Judges tabled this new recommendation, and asked the LRRC to consider adding a definite time period to the suggested amendment before resubmitting it.   | <p>The Civil Rules Subcommittee proposed the following revision to the amendment that the Court tabled after the 2009-10 cycle:</p> <p><b><u>(d) Unless the Court orders otherwise, requests for admission may be served at any time prior to trial. The pendency of outstanding requests for admission shall not be a basis for continuance of the trial date.</u></b></p> | <p>After debate over the Civil Rules Subcommittee's proposal, the LRRC decided to approve the following revision:</p> <p><b><u>(d) Requests for admission may be served following the discovery closure date with leave of court, upon motion which includes the proposed requests.</u></b></p> | <b>COURT APPROVED CHANGE</b> |

Civil Rules

| <b><u>Rule Number</u></b> | <b><u>Suggestion Received*</u></b>   | <b><u>Subcommittee Recommendation</u></b>   | <b><u>Full Committee Action</u></b> | <b><u>Court Action</u></b>                                   |
|---------------------------|--|---|-------------------------------------|--|
| LR Cv 55                  | Attorney John Tarantino submitted a comment asking that the requirement in LR Cv 55 directing counsel to serve, with return receipt, motions for entry of default and motions for default judgment be removed from the rule. | <p><b>The Civil Rules Subcommittee considered Mr. Tarantino's request, and opted to revise the rule as follows:</b></p> <p><del>A motion for entry of default or entry of a default judgment made against a party not represented by counsel shall be accompanied by a certification that:</del></p> <p>(a) <del>Notice of the motion was given to the party against whom a default or default judgment is sought by both regular mail, postage prepaid, and by certified or registered mail, return receipt requested. A copy of the return receipt shall be appended to the certification; Default: The Clerk shall enter a default upon an application by the plaintiff that conforms to the requirements of Fed. R. Civ. P. 55(a)</del></p> <p>(b) <del>To the best of the movant's knowledge, the address set forth in such certification is the last known address of that party; and Default Judgment:</del></p> <p><u>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 plaintiff shall file with the Court a certification that:</u></p> <p><del>(e)(1) The party against whom a default or default judgment is sought is not in the military service of the United States as defined in the Soldiers' and Sailors' Civil Relief Act of 1940, as amended-; and</del></p> <p><u>(2) Notice of the motion was</u></p> | <b>PROPOSED CHANGE<br/>ACCEPTED</b> | <b>COURT DECLINED<br/>TO ACCEPT<br/>PROPOSED<br/>CHANGE.</b> |

Civil Rules

| <b><u>Rule Number</u></b> | <b><u>Suggestion Received*</u></b>  | <b><u>Subcommittee Recommendation</u></b>  | <b><u>Full Committee Action</u></b> | <b><u>Court Action</u></b>       |
|---------------------------|---|--|-------------------------------------|----------------------------------|
|                           |   | <u>served on 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 certification shall include the return receipt, or, if unavailable, a statement of the measures taken to attempt service and verify receipt by the defaulted party.</u> |                                     |                                  |
| LR Cv 67                  | <p><b>LR Cv 67 PARTIES' FUNDS DEPOSITED WITH CLERK OF COURT</b></p> <p>*****</p> <p>(c) <b>Deduction of Court Fees.</b> Any order obtained by a party that directs the Clerk to invest in an interest-bearing account or investment funds deposited in the Registry of the Court shall contain wording which directs the Clerk, <u>pursuant to 28 U.S.C. § 1914(b)</u>, to deduct a fee in accordance with the schedule set by the <u>Judicial Conference of the United States</u> from the income earned on the funds deposited or invested <del>a fee in the amount of ten percent (10%) of the income earned</del>, whenever such income becomes available for such deduction, and without further order of the Court. Such a provision shall be included in the order regardless of the nature of the case in which the deposit was made.</p> | The Civil Rules Subcommittee endorses the proposed change and recommends adoption by the Court.  | <b>PROPOSED CHANGE<br/>ACCEPTED</b> | <b>COURT APPROVED<br/>CHANGE</b> |

\* Unless otherwise indicated, the suggestion was made by the Court.



Civil Rules

| <b><u>Rule Number</u></b> | <b><u>Suggestion Received*</u></b>   | <b><u>Subcommittee Recommendation</u></b>   | <b><u>Full Committee Action</u></b> | <b><u>Court Action</u></b>   |
|---------------------------|--|---|-------------------------------------|--|
| LR Cv 69                  | Attorney Pat Rocha submitted a comment suggesting that section (b) of the rule be deleted because: (1) the procedure outlined in LR Cv 69(b) is not required under state law (as required by Fed. R. Civ. P. 69); and (2) the requirement of an affidavit creates an unnecessary and superfluous step in the collection process. | <p><b>The Civil Rules Subcommittee accepted the suggestion and modified the rule as follows:</b></p> <p><b>LR Cv 69 WRITS OF EXECUTION</b></p> <p>*****</p> <p><del>(b)</del> <b>Requests for Writ of Execution.</b> A request for a writ of execution shall be accompanied by an affidavit that states:</p> <p>(1) <del>the amount due on the judgment and an explanation of how that amount has been calculated;</del></p> <p>(2) <del>that a demand for payment has been made and refused; and</del></p> <p>(3) <del>what efforts have been made to recover the judgment.</del></p> <p><b>(e)(b) Return of Execution.</b></p> <p>*****</p> | <b>PROPOSED CHANGE ACCEPTED</b>     | <b>INITIALLY, COURT APPROVED CHANGE, BUT UPON RECEIPT OF A PUBLIC COMMENT, THE COURT REVOKED ITS APPROVAL OF THE LRRC'S RECOMMENDATION AND WILL REFER IT BACK TO THE LRRC FOR FURTHER CONSIDERATION.</b> |

Civil Rules

| <b><u>Rule Number</u></b> | <b><u>Suggestion Received*</u></b>  | <b><u>Subcommittee Recommendation</u></b>  | <b><u>Full Committee Action</u></b>    | <b><u>Court Action</u></b>          |
|---------------------------|---|--|--|-------------------------------------|
| LR Cv 72                  | <p><b>LR Cv 72 AUTHORITY OF MAGISTRATE JUDGES IN CIVIL CASES</b></p> <p>*****</p> <p>(c) <b>Appeals from Rulings on Nondispositive Matters.</b></p> <p>(1) <b>Time for Appeal; Failure to File.</b><br/>Any appeal from an order or other ruling by a magistrate judge in a nondispositive matter shall be filed and served within fourteen (14) days after such order or ruling is served on the appellant. <u>The appellant shall also order a transcript of any evidentiary hearing(s) before the magistrate judge within the same 14-day period.</u> Failure to file specific objections <u>and order the transcript</u> in a timely manner constitutes waiver of the right to review by the district judge and the right to appeal the Court's decision.</p> <p>(2) <b>Content of Appeal.</b> Any such appeal shall consist of a notice of appeal setting forth the basis for the appeal, <u>and</u> a memorandum of law which complies with LR Cv 7, <del>and a transcript of any evidentiary hearing(s) before the magistrate judge and/or any statements by the magistrate judge of the reasons for the order or ruling.</del></p> <p>*****</p> <p>(d) <b>Objections to Reports and Recommendations.</b></p> <p>(1) <b>Time for Objections; Failure to File.</b><br/>Any objection to a Report and Recommendation by a magistrate</p> | <p>The Civil Rules Subcommittee endorses the proposed change and recommends adoption by the Court.</p> | <p><b>PROPOSED CHANGE ACCEPTED</b></p> | <p><b>COURT APPROVED CHANGE</b></p> |

Civil Rules

| <b><u>Rule Number</u></b> | <b><u>Suggestion Received*</u></b>  | <b><u>Subcommittee Recommendation</u></b>   | <b><u>Full Committee Action</u></b>                                   | <b><u>Court Action</u></b> |
|---------------------------|---|---|---|----------------------------|
|                           | <p>judge shall be filed and served within fourteen (14) days after such Report and Recommendation is served on the objecting party. <u>The objecting party shall also order a transcript of any evidentiary hearing(s) before the magistrate judge within the same 14-day period.</u> Failure to file specific objections <u>and order the transcript</u> in a timely manner constitutes waiver of the right to review by the district judge and the right to appeal the Court's decision.</p> <p>(2) <b>Content of Objections.</b> An objection to a magistrate judge's Report and Recommendation shall be accompanied by a memorandum of law specifying the findings and/or recommendations to which objection is made; <u>and</u> the basis for the objection; <del>and a transcript of any evidentiary hearing(s) before the magistrate judge.</del> The memorandum shall comply with LR Cv 7.</p> <p>*****</p> |   |   |                            |
|                           | Attorney John Tarantino submitted a change suggesting that the LRRC consider an amendment allowing for the submission of supplemental authority similar to Fed. R. App. Proc. 28(j).  | <b>The Civil Rules Subcommittee considered the proposal, but declined to recommend a change.</b>    | <b>The Full Committee accepted the subcommittee's recommendation.</b> | N/A                        |
|                           | The LRRC also received four comments from Ms. Carol Pisani of Johnston, Rhode Island suggesting various changes to the Local Rules. Copies of the comments are attached to this document.   | <b>The Civil Rules Subcommittee considered the comments, but declined to recommend any changes.</b> | <b>The Full Committee accepted the subcommittee's recommendation.</b> | N/A                        |

Criminal Rules

| <b><u>Rule Number</u></b> | <b><u>Suggestion Received*</u></b>   | <b><u>Subcommittee Recommendation</u></b>  | <b><u>Full Committee Action</u></b> | <b><u>Court Action</u></b> |
|---------------------------|--|--|-------------------------------------|----------------------------|
| LR Cr 32(a)               | <p><b>LR Cr 32 SENTENCING AND PRESENTENCE REPORTS</b></p> <p><del>(a) — Sentences Outside of the Guideline Range.</del> Any request for a sentence outside of the applicable guideline range shall be made by a motion filed and served at least eleven (11) days prior to the date scheduled for sentencing and shall be accompanied by a memorandum setting forth the factual and legal grounds for the request.</p> <p><del>(b)</del>(a) <b>Sentencing Witnesses; Expert Report.</b></p> <p>*****</p> <p><del>(c)</del>(b) <b>Presentence Investigative Report.</b></p> <p>*****</p>  | The Criminal Rules Subcommittee endorses the proposed change and recommends adoption by the Court. | PROPOSED CHANGE ACCEPTED            | COURT APPROVED CHANGE      |
| LR Cr 57.1                | <p><b>LR Cr 57.1 APPLICATIONS FOR POST-CONVICTION RELIEF</b></p> <p>(a) <b>Form.</b> Any <i>pro se</i> 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.</p> <p><u>*In this context, “petition” refers to both petitions for relief under §2254 and motions to vacate, set aside, or correct a sentence under § 2255; and “petitioner” refers to both petitioners seeking relief under §2254, and movants seeking to vacate, set aside, or correct a sentence under §2255.</u></p> | The Criminal Rules Subcommittee endorses the proposed change and recommends adoption by the Court. | PROPOSED CHANGE ACCEPTED            | COURT APPROVED CHANGE      |

\* Unless otherwise indicated, the suggestion was made by the Court.

Criminal Rules

| <b><u>Rule Number</u></b> | <b><u>Suggestion Received*</u></b>   | <b><u>Subcommittee Recommendation</u></b>   | <b><u>Full Committee Action</u></b> | <b><u>Court Action</u></b>   |
|---------------------------|--|---|-------------------------------------|------------------------------|
| LR Cr 57.2                | <p><b>LR Cr 57.2 AUTHORITY OF MAGISTRATE JUDGES IN CRIMINAL CASES</b></p> <p>*****</p> <p><b>(c) Appeals from Rulings On Nondispositive Matters.</b></p> <p><b>(1) Time for Appeal.</b> Any appeal from an order or other ruling by a magistrate judge in a nondispositive matter shall be filed and served within fourteen (14) days after such order or ruling is served on the appellant. <u>The appellant shall also order a transcript of any evidentiary hearing(s) before the magistrate judge within the same 14-day period.</u></p> <p><b>(2) Content of Appeal.</b> Any such appeal shall consist of a notice of appeal setting forth the basis for the appeal; <u>and a memorandum of law which complies with LR Cr 47, and a transcript of any evidentiary hearing(s) before the magistrate judge and/or any statements by the magistrate judge of the reasons for the order or ruling.</u></p> <p>*****</p> <p><b>(d) Objections to Reports and Recommendations.</b></p> <p><b>(1) Time for Objections.</b> Any objection to a Report and Recommendation by a magistrate judge shall be filed and served within fourteen (14) days after such Report and Recommendation is served on the objecting party. <u>The objecting party shall also order a transcript of any evidentiary hearing(s) before the</u></p> | <p>The Criminal Rules Subcommittee endorses the proposed change and recommends adoption by the Court.</p> | <p>PROPOSED CHANGE ACCEPTED</p>     | <p>COURT APPROVED CHANGE</p> |

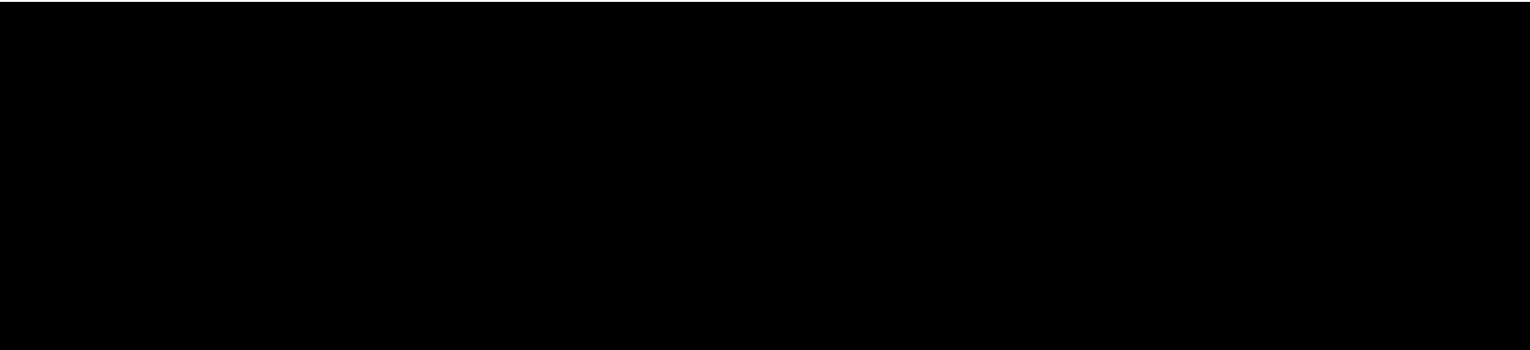
Criminal Rules

| <b><u>Rule Number</u></b> | <b><u>Suggestion Received*</u></b>  | <b><u>Subcommittee Recommendation</u></b> | <b><u>Full Committee Action</u></b> | <b><u>Court Action</u></b> |
|---------------------------|---|---|-------------------------------------|----------------------------|
|                           | <p><u>magistrate judge within the same 14-day period.</u></p> <p><b>(2) Content of Objections.</b> An objection to a magistrate judge's Report and Recommendation shall be accompanied by a memorandum of law specifying the findings and/or recommendations to which objection is made, <u>and</u> the basis for the objection, <del>and a transcript of any evidentiary hearing(s) before the magistrate judge.</del> The memorandum shall comply with LR Cr 47.</p> <p>*****</p> |   |                                     |                            |

Other Comments/Changes

| <b><u>Rule Number</u></b> | <b><u>Suggestion Received*</u></b>  | <b><u>Subcommittee Recommendation</u></b> | <b><u>Full Committee Action</u></b> | <b><u>Court Action</u></b> |
|---------------------------|---|---|-------------------------------------|----------------------------|
|                           | The Court proposed to restyle all numerical references as Arabic numbers only. For example, all references to “twenty-one days” or “twenty-one (21) days” would be restyled as “21 days.” | N/A                                       | PROPOSED CHANGE ACCEPTED            | COURT APPROVED CHANGE      |

\* Unless otherwise indicated, the suggestion was made by the Court.



In accordance with the discussion during the District of Rhode Island break-out session at the First Circuit Judicial Conference, I request that LR Civ 55 either be eliminated as unnecessary (based on Fed.R.Civ.P. 55) or be changed so as not to require that the party who has not appeared be given notice of a motion for either entry of default or entry of default judgment by both regular mail, postage prepaid, and by certified or registered mail, return receipt requested (with a copy of the return receipt appended to the certification).

The rationale for the requested elimination or change is as follows. The party against whom a default or default judgment is being sought has already failed to answer or otherwise plead to the complaint and a copy of the proof of service has already been filed with the clerk of the court. If a party has not appeared, then I question the necessity of having to serve that party with a notice seeking a default or default judgment and requiring a return receipt to be appended to the certification. This added requirement seems to be inconsistent with Fed.R.Civ.P. 55, which states that if a party against whom judgment for a form of relief is sought has failed to plead or otherwise defend and the failure is shown by affidavit or otherwise, the clerk must enter the party's default. With respect to LR Civ 55, if the defaulted party does not claim the certified or registered mail, then a copy of the return receipt cannot be appended to the certification and it will be difficult to meet the requirements of the rule. Finally, even if a *default* is obtained using this procedure and the defaulted party still has not appeared, the procedure must be repeated yet again if a *default judgment* is sought. Consequently, under LR Civ 55, even if the party has not appeared, the party must be notified before a default can be obtained and once again before a default judgment can be obtained, each time by regular mail and certified or registered mail; and in each case the return receipt must be appended. In my experience, LR Civ 55 causes both confusion and unnecessary delay.

Should you have any questions, I would be happy to address them.

Best regards.

John

John A. Tarantino  
Adler Pollock & Sheehan P.C.  
One Citizens Plaza, 8th Floor  
Providence, RI 02903







David,

As I explained to you during our recent telephone conversation, I suggest that the Local Rules Committee consider adding a rule to deal with the filing of supplemental authority, and address situations where relevant authority becomes available that was not available at the time the parties submitted their memoranda or even after oral argument has taken place, but where the matter is still *sub judice*. The Rules of Appellate Procedure deal with this issue in Federal Rule of Appellate Procedure 28(j). I suggest that we have a similar rule in our district court so that the parties can bring to the attention of the court relevant authority that was not available at the time of briefing, oral argument or both, but to also make it clear that what is intended is that the court be provided with the authority as well as a short, non argumentative explanation of the relevance of the supplemental authority to a position stated in a party's memorandum or to a point made during oral argument, again similar to what is provided in Rule 28 (j).

Should you have any questions, please let me know.

Best Regards,

John

John A. Tarantino  
Adler Pollock & Sheehan P.C.  
One Citizens Plaza, 8th Floor  
Providence, RI 02903



February 28, 2011

**Via E-Mail**  
**Local Rules@rid.uscourts.gov**

Clerk's Office  
Attn: Local Rules  
United States District Court  
One Exchange Terrace  
Providence, RI 02903

***Re: LR CV 69 – Writs of Execution***

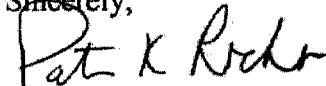
Dear Clerk of Court:

I am writing to suggest that LR CV 69 entitled "Writs of Execution" be amended to delete Section (b). First, the procedure in (b) is not required by Federal Rule of Civil Procedure 69. FRCP 69 states, in part, that "The procedure on execution – and in proceedings supplementary to and in aid of judgment or execution – must accord with the procedure of the state where the court is located, but a federal statute governs to the extent it applies." There is no similar procedure under the state rules of civil procedure requiring an affidavit described in Section (b). On the state side, once a judgment issues, upon request and payment of a fee, the Superior Court clerk issues the writ of execution for service on the judgment defendant.

Second, the requirement in Section (b) is superfluous. The amount due on the judgment is identified in the judgment entered by the Court as calculated by the prevailing party. The demand for payment and efforts to recover the judgment, in the first instance, are generally done by service of the writ of execution. The requirement for an affidavit is inconsistent with FRCP 69 and creates an unnecessary step in the collection process. Accordingly, I would suggest that Section (b) be deleted in its entirety.

If you have any questions, please contact me. Thank you for your consideration.

Sincerely,



PATRICIA K. ROCHA

PKR:dh

cc: David DiMarzio (via e-mail)  
Paulette Dube (via e-mail)

2/5/11

Clerks Office

RECEIVED

Attention Local Rules  
U.S. District Court  
One Exchange Terrace

FEB 08 2011

U.S. DISTRICT COURT  
DISTRICT OF R.I.

Providence, R.I. 02903

Make an amendment if a Judge does not default the defendant for not answering the complaint then part of the Settlement money should be taken from the Court's pocketbook or budget until a Settlement is reached and the Judge should refuse from making any Judgement and transfer the case to another Judge.

2) If a Judge disobeys the law or makes a minor mistake on the interpretation of the law. Like in one case with the Appeals Court a stay

was issued without an Order.  
Then make a local federal rule  
that if this happens then the  
case needs to be overturned and the  
stay thrown out and to dismiss the  
case from the Judge and to  
transfer the case to another Judge

Carol Pisani

[REDACTED]  
Johnston, R.I. 02919- [REDACTED]

Thank You very much.

2/12/11

Attention Local Rules  
U. S. District Court  
One Exchange Terrace  
Providence, R.I. 02903

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FEB 15 2011

U.S. DISTRICT COURT  
DISTRICT OF RHODE ISLAND

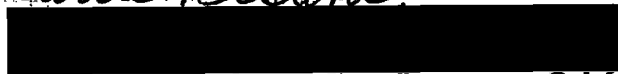
When a court serves papers - the  
Court should have a record of this for  
the Plaintiff. According to the U. S.  
Court of Appeals they told me - (the  
clerk) that they are not required  
to send the Plaintiff anything  
for proof after serving the defendant.

Carol Pisani  
42 Maribeth Drive  
Johnston, R.I. 02919-5230

Make a law to have all cases on the  
internet with all Courts and if

another company sells Court information  
of the Court then the U. S. Attorney  
or Attorney General can stop them  
from profiting. And, if they ~~do~~ <sup>did</sup>  
profit - half of the profits go to the  
Plaintiff of the case and defendant.

Carol Pisoni

  
Johnston, R.L. 02919



My coment relates to LR Cv 69 Writs of Execution.

First, I do not understand why subsection (b) was removed. I think it is a reasonable requirement.

Second, the rule as it now stands allows a writ of execution to be obtained 14 days after judgment is entered. This effectively shortens the appeal period to 14 days. If the appeal period is 30 days, then the time to apply for a writ should be no sooner than 30 days. At least the affidavit requirement was a shield against a premature writ, but now that that is proposed to be eliminated, there is no shield unless the appellant posts a bond within 14 days of the judgment. This does not seem reasonable. The rule could provide for emergency exceptions in the discretion of the court. But as a matter of routine, I would allow 30 days to pass before a writ may be issued.

Deming Sherman

**Deming E. Sherman**  
Partner  
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2800 Financial Plaza  
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