

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

IN RE: LOCAL RULES COMMITTEE

Misc. 06-102

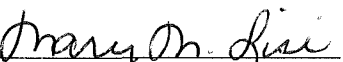
ORDER

Pursuant to L.R. Gen 113 and by agreement of the Judges of this Court, Neal J. McNamara, Robert D. Fine, Justin T. Shay, George J. West, and CharCretia V. DiBartolo are hereby appointed to the Local Rules Review Committee effective July 1, 2011. Mary McElroy is hereby reappointed to an additional term effective July 1, 2011. Judith Crowell and Matthew H. Parker are hereby appointed to serve the remainder of the terms of James E. O'Neill and Edward C. Roy, Jr., which expire on June 30, 2012, effective July 1, 2011. David A. Wollin and Stacey Nakasian are hereby appointed as Co-Chairs of the Committee effective July 1, 2011.

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>
Judith Crowell, Esq.	June 30, 2012
Marc DeSisto, Esq.	June 30, 2012
Christopher Little, Esq.	June 30, 2012
Brooks R. Magratten, Esq.	June 30, 2012
Matthew H. Parker, 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
CharCretia V. DiBartolo, Esq.	June 30, 2014
Robert D. Fine, Esq.	June 30, 2014
Mary McElroy, Esq.	June 30, 2014
Neal J. McNamara, Esq.	June 30, 2014
Justin T. Shay, Esq.	June 30, 2014
George J. West, Esq.	June 30, 2014
Paul Goodale, ex officio reporter	n/a

So Ordered:


Mary M. Lisi
Chief Judge
Date: June 16, 2011

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

**LOCAL RULES REVIEW COMMITTEE
MARCH 2, 2012**

The Local Rules Review Committee (“LRRC”) held a meeting on March 2, 2012 at 12:30 PM in the Jury Assembly Room of the United States Courthouse. David Wollin and Stacey Nakasian co-chaired the meeting. The following LRRC members were present: Russell Bengston, Judith Crowell, CharCretia DiBartolo, Marc DeSisto, Robert Fine, Mary McElroy, Neal McNamara, Matthew Parker, Steven Richard, Ray Ripple, Justin Shay, and George West. The following Court personnel were present: David DiMarzio, Paul Goodale, and Michael Simoncelli. Co-chair David Wollin called the meeting to order at 12:35.

Chief Judge Lisi started the meeting by thanking the members of the LRRC for participating in the Court’s annual local rules review process. Judge Lisi briefly explained the history of the LRRC, the timeline for the LRRC’s work, and highlighted some issues that the LRRC might address during this cycle. After her opening remarks, Judge Lisi withdrew.

Co-chair David Wollin thanked the Court staff for their assistance with the LRRC’s work, and then asked the LRRC members to confirm their subcommittee assignments on the list provided. There were no objections to the subcommittee assignment list, and it was accepted by the LRRC.

Mr. Wollin next introduced Michael Daly and Sam Blatchley, who came before the LRRC to discuss their proposal for a set of local admiralty rules. Mr. Daly explained that 38 districts currently have local admiralty rules, and that these local admiralty rules complement the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions located in the Federal Rules of Civil Procedure. He pointed out that the rules adopted by other districts are based on a set of model admiralty rules developed by the Maritime Law Association (MLA), and that rules developed for the District of Rhode Island would also be based on the MLA’s model rules.

Mr. Blatchley then discussed the value of local admiralty rules to the Court: they would fill gaps in the Federal Admiralty Rules, and help to streamline procedures in admiralty cases in the District. He also mentioned that the U.S. Marshals Service is supportive of the project to develop local admiralty rules, as they are frequently involved with the seizure of vessels in admiralty/maritime cases and would like additional procedural guidance from the Court in these matters. Mary McElroy commented that any proposal should try to be consistent with local admiralty rules in other First Circuit Courts or nearby Second Circuit courts. George West asked whether local admiralty rules would negatively affect the claims of individual parties, especially in personal injury (Jones Act/Death on the High Seas Act cases). David DiMarzio asked whether they would be drafting these proposed local rules in consultation with the U.S. Marshals Service. Steven Richard expressed concern that the rules do not cross from procedural guidance into substantive matters.

After their presentation to the LRRC, Mr. Daly and Mr. Blatchley withdrew, and Mr. Wollin asked members of the LRRC to comment on the proposal. George West reiterated his concern regarding personal injury cases and any proposed local admiralty rules, and Marc DeSisto asked if the LRRC could adequately vet the proposed local rules in such a specialized area. Stacey Nakasian commented that the LRRC should think about involving plaintiff's lawyers involved in personal injury-maritime actions in this process. The LRRC ultimately agreed to ask Mr. Daly, Mr. Blatchley, and James Murphy (who was not present at the meeting) to begin the process of drafting a set of proposed local admiralty rules, but to consider involving a member of the Bar who has dealt with maritime personal injury cases.

Mr. Wollin then asked Paul Goodale to briefly describe the amendments submitted by the Court:

1. LR Gen 109(f)(5): A proposed amendment to LR Gen 109(f)(5) would allow a bankruptcy judge to dismiss an appeal to the District Court when the appellant fails to pay the appeal filing fee required by Bankruptcy Rule 8001(a).
2. LR Gen 205(b) and (d): The proposed amendments to LR Gen 205(b) and (d)(1) would bring the local rule regarding filings by *pro se* litigants into conformity with Fed. R. Civ. P. 11(a), which requires filings to contain an email address, in addition to the mailing address and telephone number of the signer. David DiMarzio added that the proposed change would not affect LR Gen 302, which requires *pro se* litigants to file documents conventionally.
3. LR Cv 7/LR Cr 47: The proposed amendments to LR Cv 7(a) would change the form and content of motions to extend time and motions for a continuance. Mr. Goodale added that an identical amendment was also proposed to the companion criminal rule, LR Cr 47.
4. LR Cv 16: The proposed amendment to LR Cv 16(b) would require that Rule 16 statements contain: a description of the facts; the party's claims, counterclaims, or defenses; a proposed discovery plan; and identification of any atypical issues or concerns.
5. LR Cv 69: At the end of the last local rules review cycle, the Court chose not to adopt a proposed amendment to LR Cv 69 which would have removed section (b) after receiving a comment from Deming Sherman during the public comment period. In Mr. Sherman's comment, he also suggested that the provision in LR Cv 69(a) allowing a party to "execute on a judgment 14 days after judgment has been entered" should be changed to match the appeal period of 30 days. The Court referred this part of Mr. Sherman's comment to the LRRC as a suggestion received from the Bar.

Next, David DiMarzio explained two proposed amendments to allow law students to appear in civil and criminal matters under the direction of a supervising attorney. He further explained that the proposed student practice amendment was currently located in LR Gen 202 (Eligibility and Procedure for Admission), but that the LRRC may consider locating the amendment in LR Gen 206 (Appearances), as law students are only being allowed to appear, and not being

admitted to the Court's bar. He also added that the Clerk's Office may add additional language to this proposal as they examine it in light of administrative concerns.

In response to this proposal, Mary McElroy suggested that the General Rules subcommittee look at the proposed rule in light of the Rhode Island Supreme Court rule relating to law student practice. Judith Crowell and George West both expressed initial concerns regarding the participation of law student in criminal matters, and Steven Richard asked whether attorneys would be expected to recruit law students to supervise. Matthew Parker expressed support for the proposed amendment, as it would allow prospective attorneys to participate in cases under the supervision of an experienced attorney.

In regard to comments received from the Bar:

1. David Wollin noted that Jeffrey Techentin, Esq. has proposed that the Court adopt a rule requiring that any motion brought under the discovery rules, including Rule 36 requests for admissions, be subject to a meet and confer requirement.
2. Marc DeSisto noted that Girard Visconti, Esq. has suggested that the Court adopt a rule requiring *pro se* litigants to certify that an attorney has not drafted the documents that they have filed with the Court.
3. In response to Mr. Wollin's inquiry whether any LRRC members had suggestions for Local Rule amendments to be considered during this cycle, Stacey Nakasian requested that the Civil Rules Subcommittee consider an amendment to manage the discovery of electronically stored documents (ESD) similar to a rule recently adopted by the District of Delaware.

Mr. Wollin closed the meeting by outlining the LRRC's timeline for the next three months: the reports of the various subcommittees of the LRRC would be considered at the May 2, 2012, and the final LRRC meeting will be held on June 6, 2012. The LRRC's final report to the Court is due on June 30, 2012. Upon a suggestion from Stacey Nakasian, the LRRC agreed to hold an additional meeting on April 13 to consider the proposed local admiralty rules being developed by Mr. Murphy, Mr. Daly, and Mr. Blatchley. In the meantime, Mr. Wollin suggested that the subcommittees schedule meetings—in person, by phone, or by email—to consider the various proposals that fall under their subcommittee's purview.

Mr. Wollin adjourned the meeting at 1:55 PM.

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

**LOCAL RULES REVIEW COMMITTEE
APRIL 13, 2012**

The Local Rules Review Committee (“LRRC”) held a meeting on April 13, 2012 at 12:30 PM in the Jury Assembly Room of the United States Courthouse. David Wollin chaired the meeting. The following LRRC members were present: Russell Bengston, Judith Crowell, CharCretia DiBartolo, Marc DeSisto, Robert Fine, Ray Marcaccio, Mary McElroy, Neal McNamara, Steven Richard, Ray Ripple, Justin Shay, and Pat Sullivan. The following Court personnel were present: David DiMarzio, Frank Perry, Paul Goodale, and Michael Simoncelli. James Murphy, Michael Daly, Sam Blatchley, Professor Jonathan Gutoff, and David Remington of the United States Marshal Service also attended. Co-chair David Wollin called the meeting to order at 12:45.

Co-chair David Wollin started the meeting by discussing a proposed amendment to LR Gen 207 that had been submitted after the LRRC’s March 2 meeting. A member of the bar pointed out two minor technical flaws to LR Gen 207 regarding the form and service of excusals from Court appearances. Mr. Wollin asked if the Committee had any objections to accepting the proposed amendment prepared by the Court to remedy this problem. There were no objections, and the Committee recommended adoption of the proposed amendment.

Next, Mr. Wollin explained that the principal reason for the Committee’s meeting was to consider proposed local admiralty rules. He introduced the following individuals involved with the drafting of those proposed rules: James Murphy, Esq., Michael Daly, Esq., Sam Blatchley, Esq., Professor Jonathan Gutoff of the Roger Williams University Law School, and David Remington of the United States Marshal Service. Mr. Murphy added Merlyn O’Keefe, Esq. also assisted the group with their work, but was unable to attend the meeting.

Mr. Wollin asked the members of the group to give an overview of the proposed local admiralty rules. Mr. Murphy explained that the rules submitted to the LRRC are adapted from the Maritime Law Association (MLA) model admiralty rules, and that the goal in adopting local admiralty rules from these model rules is to achieve uniformity in admiralty/ maritime law practice across districts and to flush out gaps in the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions located in the Federal Rules of Civil Procedure. Mr. Murphy also added that Professor Gutoff and Mr. O’Keefe confirmed that the proposed rules would not affect the personal injury claims of injured seamen or fishermen as the proposed rules largely center on commercial concerns. (In the LRRC’s discussion during the March 2 meeting, several committee members had asked if adopting local admiralty rules would affect personal injury claims by seamen and fishermen.) Mr. Remington added that he met with Mr. Daly and

Mr. Blatchley, and that the Marshals Service approves of the proposed local admiralty rules as drafted.

Mr. Daly and Mr. Blatchley next outlined the proposed local admiralty rules, explaining each of the six proposed local admiralty rules section-by-section. They explained that the proposed rules would help to streamline the process for these types of claims. Mary McElroy asked if injured seamen with large claims would be affected by the sharing of fees provisions of the proposed rules, and Professor Gutoff said that individuals are usually exempt from such fees. Marc DeSisto asked if the rules were comprehensive, or if the LRRC could anticipate additional proposals. Mr. Blatchley and Mr. Murphy responded that the rules were intended to be comprehensive. Finally, Paul Goodale pointed out that the proposed rule E(11) regarding emergency motions may be in conflict with local practice (which David DiMarzio confirmed), and may have to be slightly modified before final approval. Mr. Murphy added that if LRRC had any additional questions, they could forward them to him by email.

Mr. Wollin thanked those involved in the creation of the proposed local admiralty rules, and reminded the LRRC that the next meeting would be on May 2. At that meeting, the LRRC would discuss the local admiralty rules, and the subcommittee reports from the various committees regarding the proposals made on March 2. Mr. Wollin adjourned the meeting at 1:25 PM.

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

**LOCAL RULES REVIEW COMMITTEE
MAY 2, 2012**

The Local Rules Review Committee (“LRRC”) held a meeting on May 2, 2012 at 12:30 PM in the Jury Assembly Room of the United States Courthouse. David Wollin and Stacey Nakasian co-chaired the meeting. The following LRRC members were present: Judith Crowell, CharCretia DiBartolo, Marc DeSisto, Robert Fine, Chris Little, Brooks Magratten, Ray Marcaccio, Mary McElroy, Matthew Parker, Steven Richard, Ray Ripple, Justin Shay, and Pat Sullivan. The following Court personnel were present: David DiMarzio, Frank Perry, Paul Goodale (LRRC Reporter), and Michael Simoncelli. Co-chair David Wollin called the meeting to order at 12:40.

Co-chair David Wollin started the meeting by announcing that Paul Goodale would be leaving the Court in June, and thanked him for his service as recorder to the Local Rules Review Committee. Next, Mr. Wollin explained that the purpose of the meeting is for the LRRC to consider reports of the General Rules, Civil Rules, Criminal Rules Subcommittee and the Court’s comments on the proposed local admiralty rules.

Mr. Wollin turned to Marc DeSisto, chair of the General Rules subcommittee, reported that the Subcommittee recommended approval of the proposed amendments to LR Gen 109(f)(5) (Bankruptcy), LR Gen 201(b)(6) and LR Gen 202(d) (Law Student Appearances), and LR Gen 205(b) and (d) (*Pro Se* Litigants). He added that the subcommittee also agreed with the Court’s suggestion to move the proposed amendment to LR Gen 202(d) to LR Gen 206 (Appearances and Withdrawals). The subcommittee decided to table the suggestion from a member of the bar regarding the use of ghostwriters by *pro se* litigants for further consideration during the next local rules review cycle. The full LRRC accepted the General Rules Subcommittee’s recommendations.

Next, Matthew Parker reported for the Civil Rules Subcommittee on behalf of subcommittee Chair Russ Bengston . That subcommittee recommended approval of the proposed amendment to LR Cv 7 (Motions, Objections, and Replies) to require motions for a continuance to state clearly whether the other party “assents,” “takes no position,” or “objects” to the motion, but with one minor change: the reference to “assents,” “takes no position,” or “objects” would appear under civil action number in the case caption. The subcommittee also altered the Court’s proposed change to LR Cv 16 (Initial Scheduling Conference) regarding the Rule 16 Conference statement. Instead of the Court’s proposed amendment, the subcommittee recommended retaining the current version of LR Cv 16 with additional language requiring parties to identify “atypical issues or concerns” in their Rule 16 statement.

The Civil Rules Subcommittee recommended acceptance of Deming Sherman's suggestion that the time period before issuance of a writ of execution be extended from 14 days to 30 days in LR Cv 69 (Writs of Execution). In response to a comment from an outside attorney, Jeffrey Techentin, the subcommittee recommended a new subsection to LR Cv 37 (Motions to Compel Discovery) requiring attorneys to include a certification that they attempted to meet and confer before filing a motion to compel. The intent was to have the meet and confer requirement apply to motion concerning requests for admissions. The subcommittee also elected to table a proposal from Stacey Nakasian to consider an amendment regarding the discovery of electronically stored documents. Ms. Nakasian proposed that an *ad hoc* committee be created so that a proposed amendment could be considered during the next local rules review cycle.

The full LRRC accepted the subcommittee's report in regard to LR Cv 7 and LR Cv 37, and the recommendation to LR Cv 16 was also accepted, with George West objecting. David Wollin objected to the subcommittee's proposed change to LR Cv 69 on the grounds that it seemed to run contrary to Fed. R. Civ. P. 62(a). George West also argued against that change since a motion to stay could be filed to forestall an execution if necessary. The full LRRC decided to hold off approval of the proposed amendment to LR Cv 69 until it could be determined whether the proposed change would violate Fed. R. Civ. P. 62(a). Paul Goodale agreed to contact the staff attorney for the Judicial Conference's Rules Subcommittee for guidance.

Mary McElroy, chair of the Criminal Rules Subcommittee, reported on the Committee's consideration of the sole proposed amendment assigned, an amendment that would match the Court's proposal to LR Cv 7. During the ensuing discussion of the proposed changes to LR Cv 7/LR Cr 47, members of the LRRC expressed reservations regarding the Court's proposal as to both provisions, particularly regarding the phrase "takes no position" in the original proposal. Members of the LRRC felt that the phrase was ambiguous, and asked the Clerk's Office to determine the Court's intent in proposing the amendments to LR Cv 7 and LR Cr 47. Pending further information from the Court, the LRRC decided to table the proposed amendments to both LR Cv 7 and LR Cr 47.

Last, David Wollin explained that the Court had forwarded a series of comments and revisions to the drafters of the proposed local admiralty rules, and Jim Murphy and his team approved of the Court's proposed changes. The full LRRC supported the Court's recommended changes to the proposed local admiralty rules.

David DiMarzio stated that the Clerk's Office would follow up on the LRRC's concerns regarding LR Cv 7, LR Cv 69, and LR Cr 47. Mr. Wollin added that the LRRC may hold a final

meeting on June 6 to consider the Court's additional information regarding those three proposed amendments.

The meeting adjourned at 1:30 PM.

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

**LOCAL RULES REVIEW COMMITTEE
JUNE 6, 2012**

The Local Rules Review Committee (“LRRC”) held a meeting on June 6, 2012 at 12:30 PM in the Jury Assembly Room of the United States Courthouse. David Wollin and Stacey Nakasian co-chaired the meeting. The following LRRC members were present: Judith Crowell, CharCretia DiBartolo, Marc DeSisto, Robert Fine, Brooks Magratten, Matthew Parker, Steven Richard, Ray Ripple, Justin Shay, and Pat Sullivan. The following Court personnel were present: David DiMarzio, Frank Perry, Paul Goodale (LRRC Reporter), and Michael Simoncelli. Co-chair David Wollin called the meeting to order at 12:40.

Co-chair David Wollin began the meeting by reviewing the email to LRRC members outlining the agenda for the final meeting of the year.

Mr. Wollin started the meeting by summarizing the remaining work in regard to the proposed local admiralty rules. He noted that following the May 2 meeting, the Clerk’s Office forwarded a redlined version of the revised proposed local admiralty rules to the members of the *ad hoc* committee that drafted the original proposal. He reported that the *ad hoc* committee approved of those changes, and also included one additional clause to LAR C(1)(f) in response to a question from the Clerk’s Office. The LRRC accepted the changes in the revised version of the proposed local admiralty rules, and will forward them to the Court for approval.

Next, Stacey Nakasian discussed the creation of an *ad hoc* committee to draft a local rule/protocol to manage the discovery of electronically stored information (ESI). She explained that the *ad hoc* committee would meet between the summer and the end of 2012 in order to present a draft rule/protocol at the first LRRC meeting in 2013. The *ad hoc* committee will consist of Jeffrey Techentin, Byron McMasters, Ranen Schechner, and Steven Richard. Mr. Richard will chair the *ad hoc* committee.

Mr. Wollin next recapped the discussion of LR Cv 7 and LR Cr 47 at the May 2 meeting. At that meeting, the LRRC tabled the proposed amendments to LR Cv 7 and LR Cr 47 pending further information on the Court’s intent in proposing the two amendments. Mr. Wollin explained that the Court proposed the rule changes to: (1) identify those motions to extend time/for a continuance that could be acted on immediately; and (2) ensure that parties conferred before such a motion was filed. In addition, Mr. Wollin noted that the Court explained that it was not wedded to the term “takes no position,” and would consider alternatives to that phrase.

Various members of the Committee reiterated their reservations about the proposal, especially the “takes no position” option in the proposed amendment. LRRC members thought that any change to the rule would need an option to deal with the situation where opposing counsel does not object to a motion for extension of time or continuance, but is unwilling to assent to that motion. Robert Fine offered an alternative to the original proposal, which would provide practitioners with four options: (1) assents, (2) will not oppose, (3) objects, and (4) unknown position. The LRRC elected to not adopt Mr. Fine’s proposal, but agreed that something similar to option (4) was necessary for cases where an opposing counsel is not authorized by his or her client to assent to the motion but can represent that his or her client will not oppose the request.

Brooks Magratten expressed the view that the local rules, generally, should be condensed to lower barriers to practice before the federal court, and that new rules should not be adopted unless there is a demonstrated need. He, and other LRRC members, argued that LR Cv 7 did not need to be amended at this time.

Mr. Wollin concluded that the LRRC did not have a consensus on an alternative to the Court-proposed amendment to LR Cv 7, and the Committee voted to reject both the original proposed amendment and Mr. Fine’s alternative, and leave LR Cv 7 unchanged. Ms. Nakasian asked Mr. Fine and Mr. Magratten to send her a summary of their respective positions on the amendment for inclusion in the LRRC’s final report to the Court. Mr. Wollin added that further action on the proposed change to LR Cr 47 (which mirrors the change to LR Cv 7) could not be taken due to an insufficient number of criminal rules subcommittee members being present at the meeting.

Last, Mr. Wollin recapped the discussion of the Civil Rules Subcommittee’s proposed change to LR Cv 69 at the May 2 meeting. At that meeting, the LRRC tabled the proposed amendment pending additional guidance from the Administrative Office of the U.S. Courts. Paul Goodale contacted the counsel for the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States to inquire whether a district court could extend the waiting period for the issuance of a writ of execution from 14 days to 30 days in light of Fed. R. Civ. P. 62(a). Counsel responded that Fed. R. Civ. P. 62(a) only prohibited a Court from shortening the period to less than 14 days, but a Court could extend the period beyond 14 days if it wishes.

David DiMarzio mentioned, as background, that (1) in 2006, as part of the newly revised Local Rules, the Court apparently set the time period in LR Cv 69(a) to track the time period in Fed. R. Civ. P. 62(a); and (2) Deming Sherman’s original email, which provided the impetus for the proposed change, was primarily an objection to the elimination of LR Cv 69(b) (requiring an affidavit in the request for a writ of execution) during the 2010-11 local rules review cycle—

which the Court chose not to eliminate. Justin Shay added that even if the LRRC did not make a change to LR Cv 69 as suggested by the Subcommittee, parties could still file a motion to stay an execution. The LRRC voted to reject the Civil Rules Subcommittee's proposed amendment to LR Cv 69(a).

Mr. Wollin closed the meeting by reminding LRRC members that a copy of the final report would be circulated by email for their approval during the last week of June.

The meeting adjourned at 1:30 PM.

June 29, 2012

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 (LRRC), on behalf of the LRRC, we hereby submit the enclosed Annual Report of the Local Rules Review Committee. Pursuant to LR Gen 113(b)(1), this report constitutes LRRC's Annual Report to the Court on the proposed amendments to the Local Rules. This Annual Report was adopted by vote of the LRRC via email following its June 6, 2012 meeting.

The LRRC began its work by asking for suggested changes to the Local Rules from the Bar and public during January and February 2012, and received two suggested changes from the bar (an additional suggested change was proposed during the public comment period on the 2010-2011 proposed amendments in October 2011, and another was received in late March). The LRRC discussed these suggested changes, along with the Court-proposed amendments and a set of proposed local admiralty rules, at its March 2, 2012 meeting. At that meeting, the LRRC referred the proposed amendments to the various subcommittees for review, and the co-chairs asked that the subcommittees confer during March and April and report to the chairs in advance of the May 2, 2012 meeting. In addition, the co-chairs proposed a separate meeting to consider the proposed local admiralty rules on April 13, 2012.

At the meetings on April 13, May 2, and an additional meeting on June 6, the LRRC 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 proposed local admiralty rules. The full LRRC endorsed adoption of seven rule changes and the proposed local admiralty rules. Some of the changes endorsed by the LRRC were non-controversial, technical amendments, but the LRRC did recommend substantive changes to LR Gen 201/202 (Law Student Practice) and LR Cv 37 (Motions to Compel), and the adoption of rules to govern admiralty proceedings.

In addition, the LRRC also considered, but ultimately tabled or rejected, additional proposed changes to the rules. The following amendments and proposals were tabled, and will be reconsidered during the next local rules review cycle: the amendment to LR Cr 47 (Motions, Objections, and Supporting Documents); the proposal that the Court adopt a rule requiring *pro se* filers to certify that their pleadings have not been ghostwritten by an attorney; and the proposal that the Court adopt a rule setting a default standard for discovery of electronically stored information (ESI). An *ad hoc* committee will discuss a possible ESI rule between now and the beginning of the next local rules review cycle in February 2013. The LRRC also rejected the proposed amendments to LR Cv 7 (Motions, Objections, and Replies) and LR Cv 69 (Writs of Execution).

All of the LRRC's actions on the proposed rule amendments, along with explanations in regard to the modification and/or rejection of certain proposed amendments, are set forth in the attached Annual Report table.

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

Respectfully submitted,



David Wollin



Stacey Nakasian

Enclosure

cc: David DiMarzio
Michael Simoncelli

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

PROPOSED AMENDMENTS TO LOCAL RULES

JUNE 29, 2012

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 101	<p>*The proposed amendments to LR Gen 101(f)(2) and (3) were originally part of proposed Local Admiralty Rule A(4)(e) and (f). Since those definitions were applicable to all of the Court's local rules, the Clerk's Office proposed that they be incorporated into LR Gen 101. (See, LAR A(4)(e) and (f).)</p> <p>LR Gen 101 SCOPE AND PURPOSE OF RULES</p> <p>*****</p> <p>(f) Definitions.</p> <p>(1) "Court" refers to the judge or judicial officer before whom a proceeding is pending, unless otherwise stated or unless the context in which the term is used plainly requires otherwise.</p> <p>(2) <u>"Clerk" means the Clerk of the Court and includes deputy clerks of court.</u></p> <p>(3) <u>"Marshal" means the United States Marshal and includes deputy marshals.</u></p> <p>(2)(4) "Conventionally Filed/Served" means documents presented to the Court or party in paper or other non-electronic format.</p> <p>(3)(5) "Document" means any written matter filed by or with the Court, whether filed conventionally or electronically, including but not limited to motions, objections, pleadings, applications, petitions, notices, declarations, stipulations, affidavits, exhibits, briefs, memoranda of law and orders.</p> <p>(4)(6) "ECF" means the Court's Electronic Case Filing System, which is an automated system that receives and stores documents in electronic form.</p> <p>(5)(7) "Electronic Filing" or "Electronically Filed" means the transmission of a document in Portable Document Format ("PDF") for filing using the ECF system facilities.</p> <p>(6)(8) "Filing User" means those attorneys who have</p>		PROPOSED CHANGE 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 101	<p>a court-issued login and password to file documents electronically in this judicial district.</p> <p>(7)(9) “Main Document” means motions, objections, replies, stipulations, waivers, notices and other pleadings, but does not include attachments or exhibits to such pleadings.</p> <p>(8)(10) “NEF” means Notice of Electronic Filing, which is the email notice automatically generated by ECF each time a document is electronically filed.</p> <p>(9)(11) “PDF” means Portable Document Format. This includes both “Electronically Converted PDF Documents,” which are created from a word processing system (MS Word, WordPerfect, etc.) using PDF creation software and are text-searchable, and “Scanned PDF Documents,” which are created from paper documents run through a scanner and can be made text-searchable.</p> <p>(10)(12) “Megabyte” (MB) is the amount of computer storage needed to store 1,048,576 characters, which is equivalent to approximately 260 pages of an “Electronically Converted PDF Document” or 20 pages of a “Scanned PDF Document”.</p> <p>(11)(13) “Page” from a PDF document for purposes of these rules must be the equivalent of a “page” from a conventionally filed (paper) document which was prepared to conform with the requirements of these Local Rules.</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 109	<p>LR Gen 109 BANKRUPTCY</p> <p>*****</p> <p>(f) Appeals to District Court.</p> <p>*****</p> <p>(5) Dismissal of Appeals by Bankruptcy Judge. A bankruptcy judge may dismiss an appeal if:</p> <p>*****</p> <p>(D) the appellant has failed to pay the prescribed appeal filing fee as required by Bankruptcy Rule 8001(a).</p>	The General Rules Subcommittee endorses the proposed change and recommends adoption by the Court.	PROPOSED CHANGE ACCEPTED	
LR Gen 201	<p>LR Gen 201 PRACTICE BEFORE THIS COURT</p> <p>*****</p> <p>(b) Exceptions to Requirement of Membership.</p> <p>*****</p> <p>(6) <u>Law Student Counsel. A Senior Law Student who is eligible to appear pursuant to LR Gen 202(d) may appear in this Court as a Law Student Counsel subject to the limitations in LR Gen 202(d).</u></p>	The General Rules Subcommittee endorses the proposed change and recommends adoption by the Court.	PROPOSED CHANGE ACCEPTED	
LR Gen 202	<p>LR Gen 202 ELIGIBILITY AND PROCEDURE FOR ADMISSION</p> <p>See LR Gen 206. The Clerk's Office suggested that the proposed amendment to LR Gen 202 be located in LR Gen 206 instead because it relates to appearances by law students, not to the admission of law students to the Court's bar. With the exception of the addition of the last line to LR Gen 206(f)(8), the proposed amendment as accepted by the LRRC is substantially the same as the original proposal.</p>	N/A	N/A	

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 205	<p>LR Gen 205 PRO SE LITIGANTS</p> <p>*****</p> <p>(b) Filing of Documents. Any document requiring a signature that is filed by a party appearing <i>pro se</i> shall bear the words “<i>pro se</i>” following that party’s signature and shall state the party’s address, telephone number, <u>e-mail address</u>, and fax number, if any.</p> <p>*****</p> <p>(d) Notification</p> <p>(1) Every <i>pro se</i> litigant shall inform the Clerk in writing of any change of name, address, telephone number, <u>e-mail address</u>, and/or fax number within 14 days of such change.</p> <p>*****</p>	The General Rules Subcommittee endorses the proposed change and recommends adoption by the Court.	PROPOSED CHANGE ACCEPTED	
LR Gen 206	<p>LR Gen 206 APPEARANCES AND WITHDRAWALS</p> <p>*****</p> <p>(f) <u>Appearances by Law Students.</u></p> <p>(1) <u>Authorization to Appear.</u> A Senior Law Student may appear before this Court in a civil or criminal proceeding, without compensation, as Law Student Counsel under the direction of a Supervising Attorney.</p> <p>(2) <u>Eligibility to Appear as Law Student Counsel.</u> In order to be eligible to appear as Law Student Counsel, a Senior Law Student must:</p> <p>(A) <u>be a student at an A.B.A. accredited law school;</u></p> <p>(B) <u>have successfully completed three semesters of law school study;</u></p> <p>(C) <u>be enrolled in, or have successfully</u></p>	The General 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.

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 206	<p><u>completed, a course for credit in evidence or trial practice; and</u></p> <p><u>(D) be enrolled in, or have successfully completed, a course for credit in criminal procedure (for a student appearing in a criminal proceeding).</u></p> <p><u>(E) establish to the satisfaction of this Court that she or he is of good moral character and otherwise qualified and fit to appear pursuant to this Rule.</u></p> <p><u>(3) Application.</u></p> <p><u>(A) An application to appear as Law Student Counsel shall be made by completing and filing a form provided by the Clerk. The form shall contain a certification that the Senior Law Student:</u></p> <p><u>i. has read and will abide by the Rules of Professional Conduct of the Supreme Court of the State of Rhode Island;</u></p> <p><u>ii. has read and understands these Local Rules; and</u></p> <p><u>iii. the Senior Law Student has met all of the requirements of LR Gen 206(f)(2).</u></p> <p><u>(B) The application shall also be accompanied by a written recommendation from the dean of the law school, or her/his designee, attesting to the law student's good moral character, legal ability, and training.</u></p> <p><u>(C) In each individual case in which a Senior Law Student wishes to appear, the supervising attorney shall file a "Motion to Appear as Law Student Counsel" that shall contain a document, signed by the client and approved by the supervising attorney, wherein the client acknowledges having been informed of the Law Student Counsel's status and authorizes the</u></p>			

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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 206	<p><u>named student to appear for and represent the client in the litigation or proceedings identified in the document. No such acknowledgement is required to be attached if the Law Student Counsel will be representing the government. The supervising attorney shall also attach a copy of the Law Student Counsel's application to appear as Law Student Counsel to this motion. The District Judge or Magistrate Judge to whom a case has been assigned shall have discretion to grant or deny any Motion to Appear as Law Student Counsel.</u></p> <p><u>(4) Supervising Attorney. In order to appear as a Law Student Counsel before this Court, the student shall be under the direct supervision of a member in good standing of the Bar of this Court who is a law school faculty member, licensed attorney in a legal services program or clinic conducted by a law school or non-profit organization, or an attorney employed with a governmental agency, including the United States Attorney's Office and the Federal Public Defender.</u></p> <p><u>The supervising attorney, in addition to all of the other responsibilities of supervising the Law Student Counsel, is required to attend all Court proceedings when the Law Student Counsel is practicing, cosign all filings with the Court, and submit all filings through the Court's CM/ECF system.</u></p> <p><u>(5) Revocation. A Law Student Counsel acting under this rule shall comply with the Rules of Professional Conduct of the Supreme Court of the State of Rhode Island and the Local Rules of this Court. Failure of an attorney supervising students to provide proper training or supervision may be grounds for disciplinary action or revocation or restriction of the attorney's authority to supervise students.</u></p> <p><u>(6) Attorney/Client Communications. The rules of law and of evidence relating to communications between attorney and client shall govern communications made or</u></p>			

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General/Attorney Rules

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LR Gen 206	<p>received by any law student acting under the provisions of this rule.</p> <p>(7) Compensation. The expression “without compensation” used in this rule shall not be construed to prohibit the receipt of a fixed compensation paid regularly by a governmental agency or legal assistance program or law school clinical instruction program acting as the employer of a law student. Furthermore, any fees awarded in a case involving a Law Student Counsel, shall be awarded to the supervising attorney or organization, including any fees resulting from any hours worked by the Law Student Counsel on the case, but under no circumstances are any of the fees to go to the Law Student Counsel.</p> <p>(8) Notification. Law Student Counsel shall promptly notify this Court in writing of any change in name, address, telephone number, fax number, and/or e-mail address from that shown on the application to appear as Law Student Counsel. Law Student Counsel shall also notify the Court in writing of any change regarding their eligibility to appear as Law Student Counsel.</p>			
LR Gen 207	<p>Michael Levin, Esq. pointed to a gap in the Court’s rule regarding requests for excusal from Court appearances.</p> <p style="text-align: center;">LR Gen 207 CONFLICT OF COURT APPEARANCES; EXCUSALS</p> <p style="text-align: center;">*****</p> <p>(b) Excuse from Court Appearances.</p> <p>(1) How requested. Counsel who wish to be excused from attendance in this Court at any time(s) shall submit a written request to be excused as far in advance as possible. The request shall be submitted to the Court’s electronic mailbox at excusals@rid.uscourts.gov and shall state:</p> <p>(A) the period of time for which the excuse is requested; and</p>	<p>The proposed change was submitted after the General Rules Subcommittee met, and was forwarded to the full committee for consideration.</p>	<p>PROPOSED CHANGE ACCEPTED</p>	

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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>(B) the reason for the request (e.g. family vacation), except that if the reason involves a matter that is confidential or private, the motion <u>request</u> shall so state; and</p> <p>(C) a list of any matters in which counsel is involved that have been scheduled or that counsel anticipates may be scheduled in this Court during the period for which the excuse is requested.</p> <p>(2) Service of Request. If any matters are scheduled during the period for which an excuse is requested, the request shall be served on all other counsel in those matters. If the request is for a period of more than 14 days <u>or more</u>, the request shall be served upon counsel in each case pending before this Court in which counsel making the request has entered an appearance. If the time requested is <u>for a period of</u> less than 14 days, said request shall be filed with the Court only.</p>			
Suggestion from the Bar	Girard Visconti, Esq and Marc DeSisto, Esq. proposed that the Court adopt a rule requiring pro se litigants to certify that an attorney has not drafted the documents that they have filed with the Court.	The General Rules Subcommittee recommended that the proposal be held for reconsideration during the next local rules review cycle.	FULL COMMITTEE AGREED TO RECONSIDER PROPOSAL DURING NEXT CYCLE.	

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 7	<p>LR Cv 7 MOTIONS, OBJECTIONS AND REPLIES</p> <p>(a) Form and Content. Every motion shall bear a title identifying the party filing it and stating the precise nature of the motion. In addition, every motion;</p> <p>(1) <u>All motions, except a motion to extend time or motion motions to compel discovery and motions to extend time or for a continuance,</u> shall contain a short and plain description of the requested relief and shall be accompanied by a separate memorandum of law setting forth the reasons why the relief requested should be granted and any applicable points and authorities supporting the motion. A motion to extend time or</p> <p>(2) <u>Motions</u> to compel discovery shall include within the motion a brief statement of reasons why the relief requested should be granted.</p> <p>(3) <u>In motions to extend time or for a continuance:</u></p> <p>(A) <u>the caption shall state whether opposing counsel(s) “assents,” “takes no position,” or “objects” to the motion; and</u></p> <p>(B) <u>the first paragraph shall indicate that (i) movant’s counsel has consulted with</u></p>	<p>The Civil Rules Subcommittee modified the proposed amendment submitted by the Court:</p> <p>(A) <u>Under the civil action number, in the caption of the case, it shall state whether opposing counsel(s) “assents,” “takes no position,” or “objects” to the motion; and</u></p>	<p>PROPOSED CHANGE REJECTED</p> <p>Note: The Committee understands that the primary purpose of the proposed change to LRCv7 is to expedite disposition of unopposed motions for extension of time. Although the proposed change was not approved, the Committee was divided and thought it would be helpful for the Court to have a summary of the viewpoint of those on each side.</p> <p>Some committee members are of the view that the local rules, overall, should be condensed and simplified wherever possible in the interest of lowering barriers to practice before the federal court. Accordingly, new rules should not be adopted unless there is a demonstrated need. While the proposed amendment to LR Cv7 makes sense on a number of levels, committee members questioned whether the proposed rule change is needed. Several committee members acknowledged the common practice of initiating a dialogue with opposing counsel before moving for an extension and, where an agreement is reached, designating the motion as a “joint” or “assented-to” motion or one to which no objection is expected. In these circumstances the Court normally acts without waiting for a response or the response time to lapse. The current practice appears to function well without a local rule. Additionally, there are instances where, despite best efforts, counsel are unable to reach an opponent before the motion for an extension of time must be filed.</p>	

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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 7	<p><u>opposing counsel(s) concerning the request, and</u> <u>(ii) opposing counsel(s) “assents,” “takes no position,” or “objects” to the motion; and</u></p> <p>(C) <u>the motion shall contain a brief statement of reasons why the requested relief should be granted.</u></p>		<p>The bar, in the view of a majority of committee members, understands that a motion that has not been designated a “joint” or “consented to” motion may be held until an objection is filed or the deadline for an objection has passed. Moreover there are occasions, when attempting to negotiate an extension, that an opponent’s response may not fit any of the categories proposed in the LR Cv 7 amendment or the modification to the amendment considered by the committee and discussed below.</p> <p>A minority of the committee would have approved the proposal if there were four, rather than three, descriptions of opposing counsel’s position; 1) assents 2) will not oppose 3) objects 4) unknown position. Many on the Committee, even those opposed overall to the proposal, felt that if a rule change were to be adopted, this additional description is needed. It would apply in cases where an opposing counsel is not authorized by his or her client to assent to the motion but can represent that his or her client will not oppose the request.</p>	

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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 16	<p>LR Cv 16 INITIAL SCHEDULING CONFERENCE</p> <p>*****</p> <p>(b) Statement of Claims. At least 7 days before the conference, counsel for each party asserting a claim (including a counterclaim and/or cross claim) shall file with the Court a brief (2-3 page) written statement captioned "Rule 16 Statement" containing: listing the elements, with a short description of the facts in support thereof, that must be proven in order to prevail on that claim or counterclaim.</p> <p><u>(1) a description of the facts;</u></p> <p><u>(2) a listing of the party's claims, counterclaims or defenses;</u></p> <p><u>(3) a proposed discovery plan as set forth in Fed. R. Civ. P. 26(f)(3); and</u></p> <p><u>(4) identification of any atypical issues or concerns that the party anticipates may arise.</u></p>	<p>The Civil Rules Subcommittee modified the proposed amendment submitted by the Court:</p> <p>*****</p> <p>(b) Statement of Claims. At least seven (7) days before the conference, counsel for each party asserting a claim (including a counterclaim and/or cross claim) shall file with the Court a brief (2-3 page) written statement listing the elements, with a short description of the facts in support thereof, that must be proven in order to prevail on that claim or counterclaim <u>and an identification of any atypical issues or concerns that the party anticipates may arise.</u></p> <p>Comment: The subcommittee believes that the current rule is working well in practice. During the Rule 16 conference each party is given the opportunity to explain its position. It often is difficult for a defendant or third party defendant to articulate the affirmative defenses that may be initially asserted in that they are often filed so as not to be subsequently deemed waived. Furthermore, initial discovery is often necessary to determine the knowledge of the moving party of such defenses as assumption of the risk. As to the discovery plan proposed in section (3), the subcommittee believes that it is adequately covered in LR Cv 26(b). Finally the subcommittee is concerned that since the Rule 16 statement is filed electronically and is therefore a public record, it could be used against a defendant in subsequent discovery.</p>	PROPOSED CHANGE ACCEPTED AS MODIFIED BY SUBCOMMITTEE	

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	<p>At the end of the previous local rules review cycle, the Court chose not to adopt a proposed amendment to LR Cv 69 recommending removal of section (b). (Section (b) requires that any request for a writ of execution be accompanied by an affidavit.) The Court had originally accepted the LRRC's recommendation to remove (b), but decided to retain the section after receiving a comment from Deming Sherman during the public comment period.</p> <p>In Mr. Sherman's comment, he also suggested that the provision in LR Cv 69(a) allowing a party to "execute on a judgment 14 days after judgment has been entered" should be changed to match the appeal period of 30 days. The Court referred Mr. Sherman's suggestion to the LRRC for consideration in light of Fed. R. Civ. P. 62(a) and Fed R. Civ. P. 69 as a suggestion received from the Bar.</p>	<p>LR Cv 69 Writs of Execution</p> <p>(a) Execution. Except where stayed by statute, rule or order of the Court, a party in whose favor judgment has been entered may execute on the judgment 14 days after the judgment has been entered <u>once the applicable appeal period has expired on the judgment that has been entered</u> on a form provided by the Clerk's Office.</p> <p>*****</p>	PROPOSED CHANGE REJECTED	
Suggestion from the Bar	<p>Jeffrey Techentin, Esq. proposed that the Court adopt a rule requiring that any motion brought under the discovery rules be subject to a meet and confer requirement.</p>	<p>LR Cv 37 Motions to Compel Discovery</p> <p>*****</p> <p>(c) Duty of Movant. <u>Any motion brought under Rules 26 through 37 must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.</u></p>	PROPOSED CHANGE ACCEPTED AS PROPOSED BY SUBCOMMITTEE	

Civil Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
Suggestion from the Bar	Stacey Nakasian, Esq. suggested that the Committee consider adopting a rule setting a Default Standard for Discovery, Including Discovery of Electronically Stored Information (ESI).	The Civil Rules Subcommittee recommended that the proposal be tabled pending further research and investigation.	The LRRC created an <i>ad hoc</i> committee to study and recommend an ESI proposal for consideration during the 2012-2013 LRRC cycle. The members of the <i>ad hoc</i> committee are: Jeffrey Techentin, Byron McMasters, Ranen Schechner, and Steven Richard. Mr. Richard will chair the <i>ad hoc</i> committee.	

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 47	<p>LR Cr 47 MOTIONS, OBJECTIONS AND SUPPORTING DOCUMENTS</p> <p>(a) Form and Content. Every motion shall bear a title identifying the party filing it and stating the precise nature of the motion. In addition, every motion;</p> <p>(1) All motions, except a motion to extend time or motion <u>motions to compel discovery and motions to extend time or for a continuance,</u> shall contain a short and plain description of the requested relief and shall be accompanied by a separate memorandum of law setting forth the reasons why the relief requested should be granted and any applicable points and authorities supporting the motion. A motion to extend time or</p> <p>(2) <u>Motions</u> to compel discovery shall include within the motion a brief statement of reasons why the relief requested should be granted.</p> <p>(3) <u>In motions to extend time or for a continuance:</u></p> <p>(A) <u>the caption shall state whether opposing counsel(s) “assents,” “takes no position,” or “objects” to the motion; and</u></p> <p>(B) <u>the first paragraph shall indicate that (i) movant’s counsel has consulted with opposing counsel(s) concerning the request, and</u></p>	The Subcommittee endorsed the proposed change and recommends adoption by the Court.	<p>PROPOSED CHANGED TABLED</p> <p>The proposed change to the companion civil rule—LR Cv 7—was rejected. (See note above.) Further action on the proposed change to LR Cr 47 was not taken due to an insufficient number of criminal rules subcommittee members being present at the LRRC’s final meeting.</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>(ii) opposing counsel(s) “assents,” “takes no position,” or “objects” to the motion; and</p> <p>(C) the motion shall contain a brief statement of reasons why the requested relief should be granted.</p> <p>*****</p>			

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Other Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
Suggestion from the Bar	The Court received an offer from James Murphy, Esq., Michael Daly, Esq., and Samuel Blatchely, Esq. to draft a set of local admiralty rules for the District of Rhode Island. The Court referred this proposal to the LRRC, and the LRRC created an <i>ad hoc</i> subcommittee composed of Mr. Murphy, Mr. Daly, Mr. Blatchley, Merlyn O'Keefe, Esq. and Professor Jonathan Gutoff of Roger Williams University Law School to draft the set of proposed rules to be considered by the LRRC.	N/A	THE CLERK'S OFFICE PROPOSED CHANGES TO THE <i>AD HOC</i> COMMITTEE'S ORIGINAL DRAFT WERE ACCEPTED.	
LAR A	<p>Local Admiralty Rule A-Authority and Scope</p> <p>LAR A(1) Authority. The local admiralty rules of the United States District Court for the District of Rhode Island (the Court) are promulgated by a majority of the judges as authorized by and subject to the limitations of Federal Rule of Civil Procedure 83.</p> <p>LAR A(2) Scope. The local admiralty rules apply only to civil actions that are governed by Rule A of the Supplemental Rules for Certain Admiralty and Maritime Claims. All other local rules are applicable in these cases, but to the extent that another local rule is inconsistent with the applicable local admiralty rule, the local admiralty rule governs.</p> <p>LAR A(3) Citation. The local admiralty rules may be cited by the letters "LAR" and the capital letter and numbers in parentheses that appear at the beginning of each section. The capital letter is intended to associate the local admiralty rule with the Supplemental Rule that bears the same capital letter.</p> <p>LAR A(4) Definitions. As used in the local admiralty rules, the following definitions shall apply:</p> <p>(a) the word "Rule" followed by a numeral,</p>		<p>Local Admiralty Rule A-Authority and Scope</p> <p>LAR A(1) Authority. The local admiralty rules of the United States District Court for the District of Rhode Island (the Court) are promulgated by a majority of the judges as authorized by and subject to the limitations of Federal Rule of Civil Procedure 83.</p> <p>LAR A(2) Scope. The local admiralty rules apply only to civil actions that are governed by Rule A of the Supplemental Rules for <u>Certain Admiralty and or Maritime Claims and Asset Forfeiture Actions</u>. All other local rules are applicable in these cases, but to the extent that another local rule is inconsistent with the applicable local admiralty rule, the local admiralty rule governs.</p> <p>LAR A(3) Citation. The local admiralty rules may be cited by the letters "LAR" and the capital letter and numbers in parentheses that appear at the beginning of each section. The capital letter is intended to associate the local admiralty rule with the Supplemental Rule that bears the same capital letter.</p> <p>LAR A(4) Definitions. As used in the local admiralty rules <u>In addition to the definitions in LR Gen 101(f)</u>, the following definitions shall</p>	

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Other Rules

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	<p>e.g., Rule 12, means a Federal Rule of Civil Procedure;</p> <p>(b) the word "Rule" followed by a capital letter, e.g., Rule C, means a Supplemental Rule for Certain Admiralty and Maritime Claims;</p> <p>(c) the word "Court" means the District Court for the District of Rhode Island ;</p> <p>(d) the term "judicial officer" means a United States District Judge or a United States Magistrate Judge;</p> <p>(e) the word "Clerk" means the Clerk of the Court and includes deputy clerks of court;</p> <p>(f) the word "Marshal" means the United States Marshal and includes deputy marshals;</p> <p>(g) the word "keeper" means any person or entity appointed by the Marshal to take physical custody of and maintain the vessel or other property under arrest or attachment;</p> <p>(h) the term "substitute custodian" means the individual who or entity that, upon motion and order of the Court, assumes the duties of the Marshal or keeper with respect to the vessel or other property that is arrested or attached.</p>		<p>apply:</p> <p>(a) the word "Rule" followed by a numeral, e.g., Rule 12, means a Federal Rule of Civil Procedure;</p> <p>(a)(b) the word "Supplemental Rule" followed by a capital letter, e.g., Supplemental Rule C, means a Supplemental Rule for Certain Admiralty and or Maritime Claims and Asset Forfeiture Actions;</p> <p>(c) the word "Court" means the District Court for the District of Rhode Island ;</p> <p>(d) the term "judicial officer" means a United States District Judge or a United States Magistrate Judge;</p> <p>(e) the word "Clerk" means the Clerk of the Court and includes deputy clerks of court;</p> <p>(f) the word "Marshal" means the United States Marshal and includes deputy marshals;</p> <p>(b)(g) the word "keeper" means any person or entity appointed by the Marshal to take physical custody of and maintain the vessel or other property under arrest or attachment;</p> <p>(c)(h) the term "substitute custodian" means the individual who or entity that, upon motion and order of the Court, assumes the duties of the Marshal or keeper with respect to the vessel or other property that is arrested or attached.</p> <p>*The definitions proposed in (e) and (f) in the original were moved to LR Gen 101. (See, LR Gen 101.)</p>	

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Other Rules

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LAR B	<p>Local Admiralty Rule B-Maritime Attachment and Garnishment</p> <p>LAR B(1) Affidavit That Defendant Is Not Found Within the District. The affidavit or declaration required by Supplemental Rule B(1) to accompany the complaint, and the affidavit or declaration required by Supplemental Rule B(2) (c), shall list the efforts made by and on behalf of the plaintiff to find and serve the defendant within the district.</p> <p>LAR B(2) Notice of Attachment. In an action where any property of a defendant is attached, the plaintiff shall make a diligent search to locate defendant and give prompt notice to the defendant of the attachment. Such notice shall be in writing, and may be given by telex, telegram, cable, fax, e-mail, or other verifiable electronic means.</p>			
LAR C	<p>Local Admiralty Rule C-Actions In Rem: Special Provisions</p> <p>LAR C(1) Publication of Notice of Action and Arrest. The notice required by Rule C(4) shall be published once in the Providence Journal and/or such other publication as the Court shall order, and plaintiffs attorney shall file with the Clerk a copy of the notice as it was published. The notice shall contain:</p> <ul style="list-style-type: none"> (a) The court, title, and number of the action; (b) The date of the arrest; (c) The identity of the property arrested; (d) The name, address, and telephone number of the attorney for plaintiff; (e) A statement that the claim of a person who is entitled to possession or who claims an interest pursuant to Rule C(6)(a) must be filed 		<p>Local Admiralty Rule C-Actions In Rem: Special Provisions</p> <p>LAR C(1) Publication of Notice of Action and Arrest. The notice required by <u>Supplemental</u> Rule C(4) shall be published once in the Providence Journal and/or such other publication as the Court shall order, and plaintiff's attorney shall file with the Clerk a copy of the notice as it was published. The notice shall contain:</p> <ul style="list-style-type: none"> (a) The court, title, and number of the action; (b) The date of the arrest; (c) The identity of the property arrested; (d) The name, address, and telephone number of the attorney for plaintiff; (e) A statement that the claim of a person who is entitled to possession or who claims an 	

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Other Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p>with the Clerk and served on the attorney for plaintiff within 10 days after publication;</p> <p>(f) A statement that an answer to the complaint must be filed and served within 30 days after publication, and that otherwise, default may be entered and condemnation ordered;</p> <p>(g) A statement that intervenor claims by persons or entities claiming maritime liens or other interests shall be filed within the time fixed by the Court; and</p> <p>(h) The name, address, and telephone number of the Marshal, keeper or substitute custodian.</p> <p>LAR C(2). Default in Actions In Rem</p> <p>(a) Notice Required. A party seeking a default judgment in an action in rem must satisfy the Court that notice of the action and arrest of the property has been given</p> <p>(1) by publication as required in LAR C(2),</p> <p>(2) by service upon the Marshal, keeper, substitute custodian, master, or other person having custody of the property, and</p> <p>(3) by mailing notice to every other person who has not appeared in the action and is known to have an interest in the property.</p> <p>(b) Persons with Recorded Interests</p> <p>(1) If the defendant property is a vessel documented under the laws of the United States, plaintiff must attempt to notify all persons named as the current owner, all those who have filed a preferred ship/fleet mortgage and all those who have filed a notice of claim of lien as recorded in the United States Coast Guard General Index or Abstract of Title (GG-1332) .</p>		<p>interest pursuant to <u>Supplemental Rule C(6)(a)</u> must be filed with the Clerk and served on the attorney for plaintiff within 40 <u>14</u> days after publication;</p> <p>(f) A statement that an answer to the complaint must be filed and served within 30 days after publication, <u>or, alternatively, within 21 days after filing a statement of interest</u>, and that otherwise, default may be entered and condemnation ordered;</p> <p>(g) A statement that intervenor claims by persons or entities claiming maritime liens or other interests shall be filed within the time fixed by the Court; and</p> <p>(h) The name, address, and telephone number of the Marshal, keeper or substitute custodian.</p> <p>LAR C(2). Default in Actions In Rem</p> <p>(a) Notice Required. A party seeking a default judgment in an action in rem must satisfy the Court that notice of the action and arrest of the property has been given</p> <p>(1) by publication as required in LAR C(2),</p> <p>(2) by service upon the Marshal, keeper, substitute custodian, master, or other person having custody of the property, and</p> <p>(3) by mailing notice to every other person who has not appeared in the action and is known to have an interest in the property.</p> <p>(b) Persons with Recorded Interests</p> <p>(1) If the defendant property is a vessel documented under the laws of the United States, plaintiff must attempt to notify all persons named as the current owner, all</p>	

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	<p>(2) If the defendant property is a vessel numbered as provided in the Federal Boat Safety Act, 46 U.S.C. § 12301(a), (i.e. state registered vessels), plaintiff must attempt to notify the persons named in the records of the issuing authority.</p> <p>(3) If the defendant property is of such character that there exists a governmental registry of property interests and/or security interests, the plaintiff must attempt to notify all persons named in the records of each such registry.</p> <p>LAR C(3) Entry of Default and Default Judgment. After the time for filing an answer has expired, the plaintiff may move for entry of default under Rule 55(a). The Court will enter default upon showing that:</p> <p>(a) Notice has been given as required by LAR C(3)(a), and</p> <p>(b) Notice has been attempted as required by LAR (3)(b) where appropriate, and</p> <p>(c) The time to answer by claimants of ownership to or possession of the property has expired, and</p> <p>(d) No answer has been filed or no one has appeared to defend on behalf of the property.</p> <p>The plaintiff may move for judgment under Rule 55(b) at any time after default has been entered.</p>		<p>those who have filed a preferred ship/fleet mortgage and all those who have filed a notice of claim of lien as recorded in the United States Coast Guard General Index or Abstract of Title (GG-1332).</p> <p>(2) If the defendant property is a vessel numbered as provided in the Federal Boat Safety Act, 46 U.S.C. § 12301(a), (i.e. state registered vessels), plaintiff must attempt to notify the persons named in the records of the issuing authority.</p> <p>(3) If the defendant property is of such character that there exists a governmental registry of property interests and/or security interests, the plaintiff must attempt to notify all persons named in the records of each such registry.</p> <p>LAR C(3) Entry of Default and Default Judgment. After the time for filing an answer has expired, the plaintiff may move for entry of default under Rule LR Cv 55(a). The Court will enter default upon showing that:</p> <p>(a) Notice has been given as required by LAR C(32)(a), and</p> <p>(b) Notice has been attempted as required by LAR C(32)(b) where appropriate, and</p> <p>(c) The time to answer by claimants of ownership to or possession of the property has expired, and</p> <p>(d) No answer has been filed or no one has appeared to defend on behalf of the property. The plaintiff may move for judgment under Rule LR Cv 55(b) at any time after default has been entered.</p>	

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LAR D	<p>Local Admiralty Rule D-Possessory, Petitory, and Partition Actions</p> <p>LARD Return Date. In a possessory action under Rule D, a judicial officer may order that the statement of right or interest and answer be filed on a date earlier than 20 days after arrest. The order may also set the date for expedited hearing of the action.</p>		<p>Local Admiralty Rule D-Possessory, Petitory, and Partition Actions</p> <p>LAR D Return Date. In a possessory action under <u>Supplemental</u> Rule D, a judicial officer may order that the statement of right or interest and answer be filed on a date earlier than 20¹ days after arrest. The order may also set the date for expedited hearing of the action.</p>	
LAR E	<p>Local Admiralty Rule E-Actions in Rem and Quasi In Rem: General Provisions</p> <p>LAR E(1) Itemized Demand/or Judgment. The demand for judgment in every complaint filed under Rule B or Rule C shall allege the dollar amount of the debt or damages for which the action was commenced. The demand for judgment shall also allege the nature of other items of damage. The amount of the special bond posted under Rule E(5)(a) may be based upon these allegations.</p> <p>LAR E(2) Salvage Action Complaints. In an action for a salvage reward, the complaint shall allege the dollar value of the vessel, cargo, freight, and other property salvaged, and the dollar amount of the reward claimed.</p> <p>LAR E(3) Verification of Pleadings. Every complaint in Rule B, C, and D actions shall be verified upon oath or solemn affirmation, or in the form provided by 28 U.S.C. § 1746, by a party or by an authorized officer of a corporate party. If no party or authorized corporate officer is present</p>		<p>Local Admiralty Rule E-Actions in Rem and Quasi In Rem: General Provisions</p> <p>LAR E(1) Itemized Demand/or Judgment. The demand for judgment in every complaint filed under <u>Supplemental</u> Rule B or <u>Supplemental</u> Rule C shall allege the dollar amount of the debt or damages for which the action was commenced. The demand for judgment shall also allege the nature of other items of damage. The amount of the special bond posted under <u>Supplemental</u> Rule E(5)(a) may be based upon these allegations.</p> <p>LAR E(2) Salvage Action Complaints. In an action for a salvage reward, the complaint shall allege the dollar value of the vessel, cargo, freight, and other property salvaged, and the dollar amount of the reward claimed.</p> <p>LAR E(3) Verification of Pleadings. Every complaint in <u>Supplemental</u> Rule B, C, and D actions shall be verified upon oath or solemn affirmation, or in the form provided by 28 U.S.C. § 1746, by a party or by an authorized</p>	

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	<p>within the district, verification of a complaint may be made by an agent, attorney in fact, or attorney of record, who shall state the sources of the knowledge, information and belief contained in the complaint; declare that the document verified is true to the best of that knowledge, information, and belief; state why verification is not made by the party or an authorized corporate officer; and state that the affiant is authorized so to verify. A verification not made by a party or authorized corporate officer will be deemed to have been made by the party as if verified personally. If the verification was not made by a party or authorized corporate officer, any interested party may move, with or without requesting a stay, for the personal oath of a party or an authorized corporate officer, which shall be procured by commission or as otherwise ordered.</p> <p>LAR E(4) Review by Judicial Officer. Unless otherwise required by the judicial officer, the review of complaints and papers called for by Rules B(1) and C(3) does not require the affiant party or attorney to be present. The applicant for review shall include a form of order to the Clerk which, upon signature by the judicial officer, will direct the arrest, attachment or garnishment sought by the applicant. In exigent circumstances, the certification of the plaintiff or his attorney under Rules B and C shall consist of an affidavit or a declaration pursuant to 28 U.S.C. § 1746 describing in detail the facts that establish the exigent circumstances.</p> <p>LAR E(5) Return of Service. The party who requests a warrant of arrest or process of attachment or garnishment shall provide instructions to the Marshal. A person specially appointed by the Court under Rules B or C who has served process of maritime attachment and</p>		<p>officer of a corporate party. If no party or authorized corporate officer is present within the district, verification of a complaint may be made by an agent, attorney in fact, or attorney of record, who shall state the sources of the knowledge, information and belief contained in the complaint; declare that the document verified is true to the best of that knowledge, information, and belief; state why verification is not made by the party or an authorized corporate officer; and state that the affiant is authorized so to verify. A verification not made by a party or authorized corporate officer will be deemed to have been made by the party as if verified personally. If the verification was not made by a party or authorized corporate officer, any interested party may move, with or without requesting a stay, for the personal oath of a party or an authorized corporate officer, which shall be procured by commission or as otherwise ordered.</p> <p>LAR E(4) Review by Judicial Officer. Unless otherwise required by the judicial officer, the review of complaints and papers called for by Supplemental Rules B (1) and C(3) does not require the affiant party or attorney to be present. The applicant for review shall include a form of order to the Clerk which, upon signature by the judicial officer, will direct the arrest, attachment or garnishment sought by the applicant. In exigent circumstances, the certification of the plaintiff or his attorney under Supplemental Rules B and C shall consist of an affidavit or a declaration pursuant to 28 U.S.C. § 1746 describing in detail the facts that establish the exigent circumstances.</p> <p>LAR E(5) Return of Service. The party who requests a warrant of arrest or process of</p>	

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	<p>garnishment or a warrant of arrest that seized property shall promptly file a verified return showing the name of the individual on whom the process or warrant was served, the identity of the person or entity on whom service was made, the documents served, the manner in which service was completed (e.g., personal delivery), and the address, date and time of service.</p> <p>LAR E(6) Appraisal. In the event the parties do not promptly and mutually agree on the amount of substitute security, an order for appraisal of property so that security may be given or altered will be entered upon motion. If the parties do not agree in writing upon an appraiser, a judicial officer will appoint the appraiser. The appraiser shall be sworn to the faithful and impartial discharge of the appraiser's duties before any federal or state officer authorized by law to administer oaths. The appraiser shall give 1 business day's notice of the time and place of making the appraisal to counsel of record. The appraiser shall promptly file the appraisal with the Clerk and serve it upon counsel of record. Unless otherwise ordered, the appraiser's fee shall be paid by the moving party, but it is a taxable cost of the action.</p> <p>LAR E(7) Security Deposit for Seizure of Vessels. The first party who seeks arrest or attachment of a vessel or property aboard a vessel shall deposit with the Marshal an amount deemed necessary and appropriate by the Marshal to cover the expenses of the Marshal including, but not limited to, dockage, keepers, maintenance, and insurance. The Marshal is not required to execute process until the deposit is made. The party shall advance additional sums from time to time, at the Marshal's request, to cover estimated expenses. A party who fails to advance such additional sums may not participate</p>		<p>attachment or garnishment shall provide instructions to the Marshal. A person specially appointed by the Court under Supplemental Rules B or C who has served process of maritime attachment and garnishment or a warrant of arrest that seized property shall promptly file a verified return showing the name of the individual on whom the process or warrant was served, the identity of the person or entity on whom service was made, the documents served, the manner in which service was completed (e.g., personal delivery), and the address, date and time of service.</p> <p>LAR E(6) Appraisal. In the event the parties do not promptly and mutually agree on the amount of substitute security, an order for appraisal of property so that security may be given or altered will be entered upon motion. If the parties do not agree in writing upon an appraiser, a judicial officer will appoint the appraiser. The appraiser shall be sworn to the faithful and impartial discharge of the appraiser's duties before any federal or state officer authorized by law to administer oaths. The appraiser shall give 1 business day's notice of the time and place of making the appraisal to counsel of record. The appraiser shall promptly file the appraisal with the Clerk and serve it upon counsel of record. Unless otherwise ordered, the appraiser's fee shall be paid by the moving party, but it is a taxable cost of the action.</p> <p>LAR E(7) Security Deposit for Seizure of Vessels. The first party who seeks arrest or attachment of a vessel or property aboard a vessel shall deposit with the Marshal an amount deemed necessary and appropriate by the Marshal to cover the expenses of the Marshal including, but not limited to, dockage, keepers,</p>	

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	<p>further in the proceedings except by order of the Court. The Marshal may, upon notice to all parties, petition the Court for an order to release the vessel if additional sums are not advanced within 3 business days after the request.</p> <p>Notwithstanding the provision of this LAR, seamen may institute and prosecute suits and appeals in their own names and for their own benefit for wages or salvage or the enforcement of laws enacted for their health or safety without repaying fees or costs or furnishing security therefore.</p> <p>LAR E(8) Intervenors' Claims</p> <p>(a) Presentation of Claim. When a vessel or other property has been arrested, attached, or garnished, and is in the hands of the Marshal or substitute custodian, anyone having a claim against the vessel or property is required to present the claim by filing an intervening complaint and obtain a warrant of arrest, and not by filing an original complaint, unless otherwise ordered by a judicial officer. No formal motion to intervene is required. The intervening party shall serve a copy of the intervening complaint and warrant of arrest upon all parties to the action and shall forthwith deliver a conformed copy of the complaint and warrant of arrest to the Marshal, who shall deliver the copies to the vessel or custodian of the property. Intervenors shall thereafter be subject to the rights and obligations of parties, and the vessel or property shall stand arrested, attached, or garnished by the intervenor. An intervenor shall not be required to advance a security</p>		<p>maintenance, and insurance. The Marshal is not required to execute process until the deposit is made. The party shall advance additional sums from time to time, at the Marshal's request, to cover estimated expenses. A party who fails to advance such additional sums may not participate further in the proceedings except by order of the Court. The Marshal may, upon notice to all parties, petition the Court for an order to release the vessel if additional sums are not advanced within 3 business days after the request.</p> <p>Notwithstanding the provision of this LAR, seamen may institute and prosecute suits and appeals in their own names and for their own benefit for wages or salvage or the enforcement of laws enacted for their health or safety without repaying fees or costs or furnishing security therefore.</p> <p>LAR E(8) Intervenors' Claims</p> <p>(a) Presentation of Claim. When a vessel or other property has been arrested, attached, or garnished, and is in the hands of the Marshal or substitute custodian, anyone having a claim against the vessel or property is required to present the claim by filing an intervening complaint and obtain a warrant of arrest, and not by filing an original complaint, unless otherwise ordered by a judicial officer. No formal motion to intervene is required. The intervening party shall serve a copy of the intervening complaint and warrant of arrest upon all parties to the action and shall forthwith deliver a conformed copy of the complaint and warrant of arrest to the Marshal, who shall deliver the copies to the vessel or custodian of the property.</p>	

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	<p>deposit to the Marshal for seizure of a vessel as required by LAR (E)(10).</p> <p>(b) Sharing Marshal's, Keepers and Substitute Custodian Fees and Expenses (Custodia Legis Expenses). An intervenor shall owe a debt to any party that has previously advanced funds to cover the expenses of the Marshal, Keepers and/or Substitute Custodian, enforceable on motion, consisting of the intervenor's share of such fees and expenses in the proportion that the intervenor's claim bears to the sum of all the claims. If a party plaintiff permits the vacation of an arrest, attachment, or garnishment, the remaining plaintiffs will share the responsibility to the Marshal, Keepers and/or Substitute Custodian for fees and expenses in proportion to the remaining claims and for the duration of the custody because of each claim.</p> <p>LAR E(9) Custody of Property</p> <p>(a) Safekeeping of Property. When a vessel or other property is brought into the Marshal's custody by arrest or attachment, the Marshal shall arrange for adequate safekeeping, which may include the placing of keepers on or near the vessel. A substitute custodian in place of the Marshal may be appointed by order of the Court. Notice of the application to appoint a substitute custodian must be given to all parties and the Marshal. The application must show the name of the proposed substitute custodian, the location of the vessel during the period of custody, and the proposed insurance coverage.</p> <p>(b) Insurance. The Marshal may procure insurance to protect the Marshal, keepers,</p>		<p>Intervenors shall thereafter be subject to the rights and obligations of parties, and the vessel or property shall stand arrested, attached, or garnished by the intervenor. An intervenor shall not be required to advance a security deposit to the Marshal for seizure of a vessel as required by LAR (E)(10).</p> <p>(b) Sharing Marshal's, Keepers and Substitute Custodian Fees and Expenses (Custodia Legis Expenses). An intervenor shall owe a debt to any party that has previously advanced funds to cover the expenses of the Marshal, Keepers and/or Substitute Custodian, enforceable on motion, consisting of the intervenor's share of such fees and expenses in the proportion that the intervenor's claim bears to the sum of all the claims. If a party plaintiff permits the vacation of an arrest, attachment, or garnishment, the remaining plaintiffs will share the responsibility to the Marshal, Keepers and/or Substitute Custodian for fees and expenses in proportion to the remaining claims and for the duration of the custody because of each claim.</p> <p>LAR E(9) Custody of Property</p> <p>(a) Safekeeping of Property. When a vessel or other property is brought into the Marshal's custody by arrest or attachment, the Marshal shall arrange for adequate safekeeping, which may include the placing of keepers on or near the vessel. A substitute custodian in place of the Marshal may be appointed by order of the Court. Notice of the application to appoint a substitute custodian must be given to all parties and the Marshal. The application</p>	

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	<p>and substitute custodians from liabilities assumed in arresting and holding the vessel, cargo, or other property, in performing protective services, and in maintaining the Court's custody. Any party who applies for arrest or attachment shall reimburse the Marshal for premiums paid for the insurance and shall be an added insured on the policy. The party who applies for removal of the vessel, cargo, or other property to another location, for designation of a substitute custodian, or for other relief that will require an additional premium, shall reimburse the Marshal therefor. The premiums charged for the liability insurance are taxable as administrative costs while the vessel, cargo, or other property is in custody of the Court.</p> <p>(c) Cargo Handling, Repairs, and Movement of the Vessel</p> <p>(1) Cargo Handling, Repairs, and Movement of the Vessel. Following arrest or attachment of a vessel, no cargo handling, repairs, or movement may be made without an order of Court. The applicant for an order shall give notice to the Marshal and to all parties of record.</p> <p>(2) If an applicant shows adequate insurance to indemnify the Marshal for liability, the Court may order the Marshal to permit cargo handling, repairs, or movement of the vessel, cargo, or other property. The costs and expenses of such activities shall be borne as ordered by the Court. Any party of record may move for an order to dispense with keepers or to remove or place the vessel, cargo, or other</p>		<p>must show the name of the proposed substitute custodian, the location of the vessel during the period of custody, and the proposed insurance coverage.</p> <p>(b) Insurance. The Marshal may procure insurance to protect the Marshal, keepers, and substitute custodians from liabilities assumed in arresting and holding the vessel, cargo, or other property, in performing protective services, and in maintaining the Court's custody. Any party who applies for arrest or attachment shall reimburse the Marshal for premiums paid for the insurance and shall be an added insured on the policy. The party who applies for removal of the vessel, cargo, or other property to another location, for designation of a substitute custodian, or for other relief that will require an additional premium, shall reimburse the Marshal therefor. The premiums charged for the liability insurance are taxable as administrative costs while the vessel, cargo, or other property is in custody of the Court.</p> <p>(c) Cargo Handling, Repairs, and Movement of the Vessel</p> <p>(1) Cargo Handling, Repairs, and Movement of the Vessel. Following arrest or attachment of a vessel, no cargo handling, repairs, or movement may be made without an order of Court. The applicant for an order shall give notice to the Marshal and to all parties of record.</p> <p>(2) If an applicant shows adequate insurance to indemnify the Marshal for</p>	

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	<p>property at a specified facility, to designate a substitute custodian, or for similar relief. Notice of the motion shall be given to the Marshal, keeper or substitute custodian, and to all parties of record. The judicial officer will require that adequate insurance on the property will be maintained by the successor to the Marshal, before issuing the order to change arrangements.</p> <p>(d) Claims by Suppliers for Payment of Charges. A person who has furnished supplies or services to a vessel, cargo, or other property in custody of the Court, who has not been paid, and who claims the right to payment as an expense of administration, shall submit an invoice to the Clerk in the form of a verified claim at any time before the vessel, cargo, or other property is released or sold. The supplier must serve copies of the claim on the Marshal, substitute custodian if one has been appointed, and all parties of record. The Court may consider the claims individually or schedule a single hearing for all claims.</p> <p>LAR E(10) Sale of Property</p> <p>(a) Notice. Unless otherwise ordered upon good cause shown or as provided by law, notice of sale of property in an action in rem shall be published in the Providence Journal and/or such other publication as the Court may order at least once a week for two (2) successive weeks with the date of sale being at least fifteen (15) days after the date the first notice of sale is published.</p> <p>(b) Payment of Bid. These provisions apply unless otherwise ordered in the order of sale:</p>		<p>liability, the Court may order the Marshal to permit cargo handling, repairs, or movement of the vessel, cargo, or other property. The costs and expenses of such activities shall be borne as ordered by the Court. Any party of record may move for an order to dispense with keepers or to remove or place the vessel, cargo, or other property at a specified facility, to designate a substitute custodian, or for similar relief. Notice of the motion shall be given to the Marshal, keeper or substitute custodian, and to all parties of record. The judicial officer will require that adequate insurance on the property will be maintained by the successor to the Marshal, before issuing the order to change arrangements.</p> <p>(d) Claims by Suppliers for Payment of Charges. A person who has furnished supplies or services to a vessel, cargo, or other property in custody of the Court, who has not been paid, and who claims the right to payment as an expense of administration, shall submit an invoice to the Clerk in the form of a verified claim at any time before the vessel, cargo, or other property is released or sold. The supplier must serve copies of the claim on the Marshal, substitute custodian if one has been appointed, and all parties of record. The Court may consider the claims individually or schedule a single hearing for all claims.</p> <p>LAR E(10) Sale of Property</p> <p>(a) Notice. Unless otherwise ordered upon good cause shown or as provided by law,</p>	

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	<p>(1) The person whose bid is accepted shall immediately pay the Marshal the full purchase price if the bid is \$1,000 or less.</p> <p>(2) If the bid exceeds \$1,000, the bidder shall immediately pay the Marshal a deposit of at least \$1,000 or 10% of the bid, whichever is greater, and shall pay the balance within 3 days.</p> <p>(3) If an objection to the sale is filed within the period in LAR E(13)(b)(2), the bidder is excused from paying the balance of the purchase price until 3 days after the sale is confirmed.</p> <p>(4) Payment shall be made in cash, by certified check, or by cashier's check.</p> <p>(c) Late Payment. If the successful bidder does not pay the balance of the purchase price within the time allowed, the bidder shall pay the Marshal, Keeper or Substitute Custodian the cost of keeping the property from the due date until the balance is paid, and the Marshal may refuse to release the property until this charge is paid.</p> <p>(d) Default. If the successful bidder does not pay the balance of the purchase price within the time allowed, the bidder shall be in default, and the judicial officer may accept the second highest bid or may arrange a new sale. The defaulting bidder's deposit shall be forfeited and applied to any additional costs incurred by the Marshal because of the default, and the balance shall be retained in the registry of the Court awaiting its order.</p> <p>(e) Report of Sale by Marshal. At the conclusion of the sale, the Marshal shall forthwith file a written report with the Court</p>		<p>notice of sale of property in an action in rem shall be published in the Providence Journal and/or such other publication as the Court may order at least once a week for two (2) successive weeks with the date of sale being at least fifteen (15) days after the date the first notice of sale is published.</p> <p>(b) Payment of Bid. These provisions apply unless otherwise ordered in the order of sale:</p> <p>(1) The person whose bid is accepted shall immediately pay the Marshal the full purchase price if the bid is \$1,000 or less.</p> <p>(2) If the bid exceeds \$1,000, the bidder shall immediately pay the Marshal a deposit of at least \$1,000 or 10% of the bid, whichever is greater, and shall pay the balance within 3 days .</p> <p>(3) If an objection to the sale is filed within the period in LAR E(13)(b)(2), the bidder is excused from paying the balance of the purchase price until 3 days after the sale is confirmed.</p> <p>(4) Payment shall be made in cash, by certified check, or by cashier's check.</p> <p>(c) Late Payment. If the successful bidder does not pay the balance of the purchase price within the time allowed, the bidder shall pay the Marshal, Keeper or Substitute Custodian the cost of keeping the property from the due date until the balance is paid, and the Marshal may refuse to release the property until this charge is paid.</p> <p>(d) Default. If the successful bidder does</p>	

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Other Rules

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	<p>setting forth the notice given; the fact of the sale; the date of the sale; the names, addresses, and bid amounts of the bidders; the price obtained; and any other pertinent information.</p> <p>(f) Time and Procedure for Objection to Sale. An interested person may object to the sale by filing a written objection with the Clerk within 3 court days following the sale, serving the objection on all parties of record, the successful bidder, and the Marshal, and depositing a sum with the Marshal that is sufficient to pay the expense of keeping the property for at least 7 calendar days. Payment to the Marshal shall be in cash, certified check, or cashier's check. The Court shall hold a hearing on the confirmation of the sale.</p> <p>(g) Confirmation of Sale. If no objection to the sale has been filed, the sale shall be confirmed by order of the Court no sooner than 3 days after the sale and no later than 5 days after the sale. The Marshal shall transfer title to the purchaser upon the order of the Court.</p> <p>(h) Disposition of Deposits</p> <p>(1) If the objection is sustained, sums deposited by the successful bidder will be returned to the bidder forthwith. The sum deposited by the objector will be applied to pay the fees and expenses incurred by the Marshal in keeping the property until it is resold, and any balance remaining shall be returned to the objector. The objector will be reimbursed for the expense of keeping the property from the proceeds of a subsequent sale.</p>		<p>not pay the balance of the purchase price within the time allowed, the bidder shall be in default, and the judicial officer may accept the second highest bid or may arrange a new sale. The defaulting bidder's deposit shall be forfeited and applied to any additional costs incurred by the Marshal because of the default, and the balance shall be retained in the registry of the Court awaiting its order.</p> <p>(e) Report of Sale by Marshal. At the conclusion of the sale, the Marshal shall forthwith file a written report with the Court setting forth the notice given; the fact of the sale; the date of the sale; the names, addresses, and bid amounts of the bidders; the price obtained; and any other pertinent information.</p> <p>(f) Time and Procedure for Objection to Sale. An interested person may object to the sale by filing a written objection with the Clerk within 3 court days following the sale, serving the objection on all parties of record, the successful bidder, and the Marshal, and depositing a sum with the Marshal that is sufficient to pay the expense of keeping the property for at least 7 calendar days. Payment to the Marshal shall be in cash, certified check, or cashier's check. The Court shall hold a hearing on the confirmation of the sale.</p> <p>(g) Confirmation of Sale. If no objection to the sale has been filed, the sale shall be confirmed by order of the Court no sooner than 3 days after the sale and no later than 5 days after the sale. The Marshal shall transfer title to the purchaser upon the order of the Court.</p>	

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

Other Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p>(2) If the objection is overruled, the sum deposited by the objector will be applied to pay the expense of keeping the property from the day the objection was filed until the day the sale is confirmed, and any balance remaining will be returned to the objector forthwith.</p> <p>LAR E(11). Presentation of Matters. If the judge to whom a case has been assigned is not readily available, any matter under the Local Admiralty Rules may be presented to any other judge in the district without reassigning the case.</p>		<p>(h) Disposition of Deposits</p> <p>(1) If the objection is sustained, sums deposited by the successful bidder will be returned to the bidder forthwith. The sum deposited by the objector will be applied to pay the fees and expenses incurred by the Marshal in keeping the property until it is resold, and any balance remaining shall be returned to the objector. The objector will be reimbursed for the expense of keeping the property from the proceeds of a subsequent sale.</p> <p>(2) If the objection is overruled, the sum deposited by the objector will be applied to pay the expense of keeping the property from the day the objection was filed until the day the sale is confirmed, and any balance remaining will be returned to the objector forthwith.</p> <p>LAR E(11). Presentation of <u>Emergency</u> Matters. <u>Emergency matters will be handled in accordance with LR Gen 105(c).</u> If the judge to whom a case has been assigned is not readily available, any matter under the Local Admiralty Rules may be presented to any other judge in the district without reassigning the case.</p>	

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

Other Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LAR F	<p>Local Admiralty Rule F-Limitation of Liability</p> <p>LAR F(1) Security for Costs. The amount of security for costs under Rule F(1) shall be \$1,000, and security for costs may be combined with security for value and interest unless otherwise ordered.</p> <p>LAR F(2) Order of Proof at Trial. In an action where vessel interests seek to limit their liability, the damage claimants shall offer their proof first, whether the right to limit arises as a claim or as a defense. Nothing in this LAR shall alter the burden of proof for any party.</p>		<p>Local Admiralty Rule F-Limitation of Liability</p> <p>LAR F(1) Security for Costs. The amount of security for costs under <u>Supplemental Rule F(1)</u> shall be \$1,000, and security for costs may be combined with security for value and interest unless otherwise ordered.</p> <p>LAR F(2) Order of Proof at Trial. In an action where vessel interests seek to limit their liability, the damage claimants shall offer their proof first, whether the right to limit arises as a claim or as a defense. Nothing in this LAR shall alter the burden of proof for any party.</p>	

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



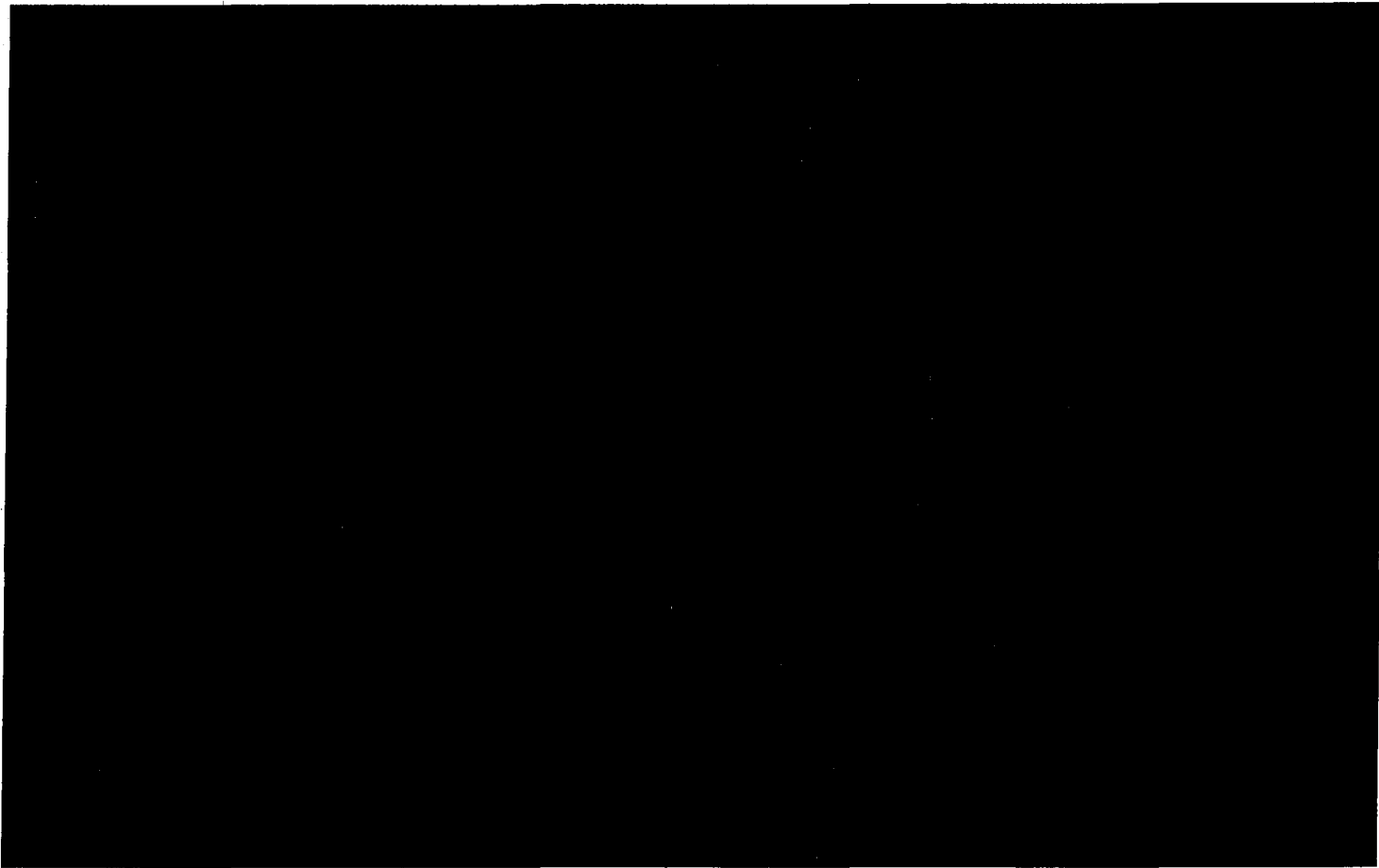
My coment relates to LR Cv 69 Writs of Execution.

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
Edwards Wildman Palmer LLP
2800 Financial Plaza
Providence, RI 02906



[REDACTED]

David,

As we discussed briefly, we recently had occasion to go before Magistrate Judge Martin on a motion to determine the sufficiency of certain responses to requests for admissions. As reflected in the attached motion papers, we took the position that the motion was a "discovery motion" that would be subject to the meet and confer requirements of Rule 37. Opposing counsel disagreed reasoning that the motion arises under Rule 36 and therefore is not within the scope of Rule 37(a). Ultimately, Magistrate Judge Martin agreed with our position as reflected in the attached order on that motion.

In order to avoid this ambiguity, I suggest that the court consider a local rule on this subject. Many jurisdictions have adopted a blanket local rule that states that any motion brought under the discovery rules (from 26 to 37) would be subject to a meet and confer requirement. This approach appears sound to me.

Thanks for your consideration,

Jeff

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February 8, 2012

Via Email

David Wollin, Esq.
Adler, Pollock & Sheehan P.C.
1 Citizens Plaza, 8th Floor
Providence, RI 02903

Re: Local Rules Subcommittee

Dear David:

Jerry Visconti has brought to my attention an interesting issue regarding Ghostwriting by attorneys for pro se litigants. I agree with him that the drafting of pleadings filed with the court without disclosing an attorney's involvement or identity is something that should be reviewed. An undisclosed advocate (the Ghostwriter) escapes compliance with the restrictions and checks of our profession. There is an argument that an undisclosed advocate violates the duty of candor to the court and fairness to opposing parties and counsel.

Jerry and I have discussed a local rule that would mandate that a pro se litigant must certify that there is no attorney drafting the documents that are being filed with the court.

Is this something worthy of discussion when the entire committee next meets? Or, is it best for me to vet this out with my subcommittee?

Very truly yours,

Marc DeSisto

Marc DeSisto
MD/kh

cc: Girard Visconti, Esq.

[REDACTED]

David,

There's a gap in LR Gen 207:

LR Gen 207 CONFLICT OF COURT APPEARANCES; EXCUSALS

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

Rules covers less than and more than 14 days, but not a period equal to 14 days.

I wouldn't be surprised if there are other similar gaps. Perhaps a text search might turn them up.

Michael

Please note our new firm name, Winograd Shine Land & Finkle, P.C., and my new email address, mlevin@wslf-law.com.

S. Michael Levin, Of Counsel
Winograd Shine Land & Finkle, P.C.
123 Dyer Street
Providence, RI 02903

[REDACTED]

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

PROPOSED AMENDMENTS TO LOCAL RULES

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 101	<p>*The proposed amendments to LR Gen 101(f)(2) and (3) were originally part of proposed Local Admiralty Rule A(4)(e) and (f). Since those definitions were applicable to all of the Court's local rules, the Clerk's Office proposed that they be incorporated into LR Gen 101. (See, LAR A(4)(e) and (f).)</p> <p>LR Gen 101 SCOPE AND PURPOSE OF RULES</p> <p>*****</p> <p>(f) Definitions.</p> <p>(1) "Court" refers to the judge or judicial officer before whom a proceeding is pending, unless otherwise stated or unless the context in which the term is used plainly requires otherwise.</p> <p>(2) <u>"Clerk" means the Clerk of the Court and includes deputy clerks of court.</u></p> <p>(3) <u>"Marshal" means the United States Marshal and includes deputy marshals.</u></p> <p>(2)(4) "Conventionally Filed/Served" means documents presented to the Court or party in paper or other non-electronic format.</p> <p>(3)(5) "Document" means any written matter filed by or with the Court, whether filed conventionally or electronically, including but not limited to motions, objections, pleadings, applications, petitions, notices, declarations, stipulations, affidavits, exhibits, briefs, memoranda of law and orders.</p> <p>(4)(6) "ECF" means the Court's Electronic Case Filing System, which is an automated system that receives and stores documents in electronic form.</p> <p>(5)(7) "Electronic Filing" or "Electronically Filed" means the transmission of a document in Portable Document Format ("PDF") for filing using the ECF system facilities.</p> <p>(6)(8) "Filing User" means those attorneys who have</p>		PROPOSED CHANGE ACCEPTED	COURT APPROVED 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 101	<p>a court-issued login and password to file documents electronically in this judicial district.</p> <p>(7)<u>(9)</u> “Main Document” means motions, objections, replies, stipulations, waivers, notices and other pleadings, but does not include attachments or exhibits to such pleadings.</p> <p>(8)<u>(10)</u> “NEF” means Notice of Electronic Filing, which is the email notice automatically generated by ECF each time a document is electronically filed.</p> <p>(9)<u>(11)</u> “PDF” means Portable Document Format. This includes both “Electronically Converted PDF Documents,” which are created from a word processing system (MS Word, WordPerfect, etc.) using PDF creation software and are text-searchable, and “Scanned PDF Documents,” which are created from paper documents run through a scanner and can be made text-searchable.</p> <p>(40)<u>(12)</u> “Megabyte” (MB) is the amount of computer storage needed to store 1,048,576 characters, which is equivalent to approximately 260 pages of an “Electronically Converted PDF Document” or 20 pages of a “Scanned PDF Document.”</p> <p>(44)<u>(13)</u> “Page” from a PDF document for purposes of these rules must be the equivalent of a “page” from a conventionally filed (paper) document which was prepared to conform with the requirements of these Local Rules.</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 109	<p>LR Gen 109 BANKRUPTCY</p> <p>*****</p> <p>(f) Appeals to District Court.</p> <p>*****</p> <p>(5) Dismissal of Appeals by Bankruptcy Judge. A bankruptcy judge may dismiss an appeal if:</p> <p>*****</p> <p>(D) _____ the appellant has failed to pay the prescribed appeal filing fee as required by Bankruptcy Rule 8001(a).</p>	The General Rules Subcommittee endorses the proposed change and recommends adoption by the Court.	PROPOSED CHANGE ACCEPTED	COURT APPROVED CHANGE
LR Gen 201	<p>LR Gen 201 PRACTICE BEFORE THIS COURT</p> <p>*****</p> <p>(b) Exceptions to Requirement of Membership.</p> <p>*****</p> <p>(6) _____ Law Student Counsel. A Senior Law Student who is eligible to appear pursuant to LR Gen 206(f) may appear in this Court as a Law Student Counsel subject to the limitations in LR Gen 206(f).</p>	The General Rules Subcommittee endorses the proposed change and recommends adoption by the Court.	PROPOSED CHANGE ACCEPTED	COURT APPROVED CHANGE
LR Gen 202	<p>LR Gen 202 ELIGIBILITY AND PROCEDURE FOR ADMISSION</p> <p>See LR Gen 206. The Clerk's Office suggested that the proposed amendment to LR Gen 202 be located in LR Gen 206 instead because it relates to appearances by law students, not to the admission of law students to the Court's bar. With the exception of the addition of the last line to LR Gen 206(f)(8), the proposed amendment as accepted by the LRRC is substantially the same as the original proposal.</p>	N/A	N/A	N/A

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 205	<p>LR Gen 205 PRO SE LITIGANTS</p> <p>*****</p> <p>(b) Filing of Documents. Any document requiring a signature that is filed by a party appearing <i>pro se</i> shall bear the words “<i>pro se</i>” following that party’s signature and shall state the party’s address, telephone number, <u>e-mail address</u>, and fax number, if any.</p> <p>*****</p> <p>(d) Notification</p> <p>(1) Every <i>pro se</i> litigant shall inform the Clerk in writing of any change of name, address, telephone number, <u>e-mail address</u>, and/or fax number within 14 days of such change.</p> <p>*****</p>	The General Rules Subcommittee endorses the proposed change and recommends adoption by the Court.	PROPOSED CHANGE ACCEPTED	COURT APPROVED CHANGE
LR Gen 206	<p>LR Gen 206 APPEARANCES AND WITHDRAWALS</p> <p>*****</p> <p>(f) <u>Appearances by Law Students.</u></p> <p>(1) <u>Authorization to Appear.</u> A Senior Law Student may appear before this Court in a civil or criminal proceeding, without compensation, as Law Student Counsel under the direction of a Supervising Attorney.</p> <p>(2) <u>Eligibility to Appear as Law Student Counsel.</u> In order to be eligible to appear as Law Student Counsel, a Senior Law Student must:</p> <p>(A) <u>be a student at an A.B.A. accredited law school;</u></p> <p>(B) <u>have successfully completed three semesters of law school study;</u></p> <p>(C) <u>be enrolled in, or have successfully</u></p>	The General Rules Subcommittee endorses the proposed change and recommends adoption by the Court.	PROPOSED CHANGE ACCEPTED	COURT APPROVED 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 206	<p><u>completed, a course for credit in evidence or trial practice;</u></p> <p><u>(D) be enrolled in, or have successfully completed, a course for credit in criminal procedure (for a student appearing in a criminal proceeding); and</u></p> <p><u>(E) establish to the satisfaction of this Court that she or he is of good moral character and otherwise qualified and fit to appear pursuant to this Rule.</u></p> <p><u>(3) Application.</u></p> <p><u>(A) An application to appear as Law Student Counsel shall be made by completing and filing a form provided by the Clerk. The form shall contain a certification that the Senior Law Student:</u></p> <p><u>i. has read and will abide by the Rules of Professional Conduct of the Supreme Court of the State of Rhode Island;</u></p> <p><u>ii. has read and understands these Local Rules; and</u></p> <p><u>iii. the Senior Law Student has met all of the requirements of LR Gen 206(f)(2).</u></p> <p><u>(B) The application shall also be accompanied by a written recommendation from the dean of the law school, or her/his designee, attesting to the law student's good moral character, legal ability, and training.</u></p> <p><u>(C) In each individual case in which a Senior Law Student wishes to appear, the supervising attorney shall file a "Motion to Appear as Law Student Counsel" that shall contain a document, signed by the client and approved by the supervising attorney, wherein the client acknowledges having been informed of the Law Student Counsel's status and authorizes the</u></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 206	<p><u>named student to appear for and represent the client in the litigation or proceedings identified in the document. No such acknowledgement is required to be attached if the Law Student Counsel will be representing the government. The supervising attorney shall also attach a copy of the Law Student Counsel's application to appear as Law Student Counsel to this motion. The District Judge or Magistrate Judge to whom a case has been assigned shall have discretion to grant or deny any Motion to Appear as Law Student Counsel.</u></p> <p><u>(4) Supervising Attorney. In order to appear as a Law Student Counsel before this Court, the student shall be under the direct supervision of a member in good standing of the Bar of this Court who is a law school faculty member, licensed attorney in a legal services program or clinic conducted by a law school or non-profit organization, or an attorney employed with a governmental agency, including the United States Attorney's Office and the Federal Public Defender.</u></p> <p><u>The supervising attorney, in addition to all of the other responsibilities of supervising the Law Student Counsel, is required to attend all Court proceedings when the Law Student Counsel is practicing, cosign all filings with the Court, and submit all filings through the Court's ECF system.</u></p> <p><u>(5) Revocation. A Law Student Counsel acting under this rule shall comply with the Rules of Professional Conduct of the Supreme Court of the State of Rhode Island and the Local Rules of this Court. Failure of an attorney supervising students to provide proper training or supervision may be grounds for disciplinary action or revocation or restriction of the attorney's authority to supervise students.</u></p> <p><u>(6) Attorney/Client Communications. The rules of law and of evidence relating to communications between attorney and client shall govern communications made or</u></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 206	<p><u>received by any law student acting under the provisions of this rule.</u></p> <p><u>(7) Compensation. The expression “without compensation” used in this rule shall not be construed to prohibit the receipt of a fixed compensation paid regularly by a governmental agency or legal assistance program or law school clinical instruction program acting as the employer of a law student. Furthermore, any fees awarded in a case involving a Law Student Counsel, shall be awarded to the supervising attorney or organization, including any fees resulting from any hours worked by the Law Student Counsel on the case, but under no circumstances are any of the fees to go to the Law Student Counsel.</u></p> <p><u>(8) Notification. Law Student Counsel shall promptly notify this Court in writing of any change in name, address, telephone number, fax number, and/or e-mail address from that shown on the application to appear as Law Student Counsel. Law Student Counsel shall also notify the Court in writing of any change regarding their eligibility to appear as Law Student Counsel.</u></p>			
LR Gen 207	<p>Michael Levin, Esq. pointed to a gap in the Court’s rule regarding requests for excusal from Court appearances.</p> <p>LR Gen 207 CONFLICT OF COURT APPEARANCES; EXCUSALS</p> <p>*****</p> <p>(b) Excuse from Court Appearances.</p> <p>(1) How requested. Counsel who wish to be excused from attendance in this Court at any time(s) shall submit a written request to be excused as far in advance as possible. The request shall be submitted to the Court’s electronic mailbox at excusals@rid.uscourts.gov and shall state:</p> <p>(A) the period of time for which the excuse is requested; and</p>	<p>The proposed change was submitted after the General Rules Subcommittee met, and was forwarded to the full committee for consideration.</p>	<p>PROPOSED CHANGE ACCEPTED</p>	<p>COURT APPROVED CHANGE</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>
	<p>(B) the reason for the request (e.g. family vacation), except that if the reason involves a matter that is confidential or private, the motion <u>request</u> shall so state; and</p> <p>(C) a list of any matters in which counsel is involved that have been scheduled or that counsel anticipates may be scheduled in this Court during the period for which the excuse is requested.</p> <p>(2) Service of Request. If any matters are scheduled during the period for which an excuse is requested, the request shall be served on all other counsel in those matters. If the request is for a period of more than 14 days <u>or more</u>, the request shall be served upon counsel in each case pending before this Court in which counsel making the request has entered an appearance. If the time requested is <u>for a period of</u> less than 14 days, said request shall be filed with the Court only.</p>			
Suggestion from the Bar	Girard Visconti, Esq and Marc DeSisto, Esq. proposed that the Court adopt a rule requiring pro se litigants to certify that an attorney has not drafted the documents that they have filed with the Court.	The General Rules Subcommittee recommended that the proposal be held for reconsideration during the next local rules review cycle.	FULL COMMITTEE AGREED TO RECONSIDER PROPOSAL DURING NEXT CYCLE.	N/A

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 5.1	<p>LR Cv 5.1 SERVICE AND PROOF OF SERVICE</p> <p>*****</p> <p>(b) — Private Process Servers.</p> <p>(1) — The Court, by order, may appoint qualified individuals to make service of civil process, and the Clerk shall maintain a list of those individuals who have been duly appointed as process servers pursuant to this subsection.</p> <p>(2) — To be considered for appointment, an applicant shall file an application setting forth the applicant's age, citizenship, criminal record (if any), and relevant experience and qualifications for the service of process. The application shall be on a form provided by the Clerk. 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> <p>(3) At the time of appointment, a process server shall post a bond with the Clerk in an amount fixed by the Court for the faithful performance of his or her duties.</p>			<p>The Court suspended (b) by order on March 22, 2012. The Court did not forward this proposal to the LRRC for review, and issued the change for public comment with the rest of the rules approved by the Court.</p>

Civil Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p>(4) Appointments will be made on an annual basis for the period of July 1 through June 30.</p> <p>(5) A process server shall serve at the pleasure of the Chief Judge, and his or her appointment may be terminated by the Chief Judge without a hearing.</p>			
LR Cv 7	<p>LR Cv 7 MOTIONS, OBJECTIONS AND REPLIES</p> <p>(a) Form and Content. Every motion shall bear a title identifying the party filing it and stating the precise nature of the motion. In addition, every motion:</p> <p>(1) All motions, except a motion to extend time or motion <u>motions to compel discovery and motions to extend time or for a continuance,</u> shall contain a short and plain description of the requested relief and shall be accompanied by a separate memorandum of law setting forth the reasons why the relief requested should be granted and any applicable points and authorities supporting the motion. A motion to extend time or</p> <p>(2) <u>Motions</u> to compel discovery shall include within the motion a brief statement of reasons why the relief requested should be granted.</p> <p>(3) <u>In motions to extend time or for a continuance:</u></p>	The Civil Rules Subcommittee modified the proposed amendment submitted by the Court:	<p>PROPOSED CHANGE REJECTED</p> <p><u>Note:</u> The Committee understands that the primary purpose of the proposed change to LRCv7 is to expedite disposition of unopposed motions for extension of time. Although the proposed change was not approved, the Committee was divided and thought it would be helpful for the Court to have a summary of the viewpoint of those on each side.</p> <p>Some committee members are of the view that the local rules, overall, should be condensed and simplified wherever possible in the interest of lowering barriers to practice before the federal court. Accordingly, new rules should not be adopted unless there is a demonstrated need. While the proposed amendment to LR Cv7 makes sense on a number of levels, committee members questioned whether the proposed rule change is needed. Several committee members acknowledged the common practice of initiating a dialogue with opposing counsel before moving for an extension and, where an agreement is reached, designating the motion as a “joint” or “assented-to” motion or one to</p>	N/A

* 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 7	<p>(A) <u>the caption shall state whether opposing counsel(s) “assents,” “takes no position,” or “objects” to the motion; and</u></p> <p>(B) <u>the first paragraph shall indicate that (i) movant’s counsel has consulted with opposing counsel(s) concerning the request, and (ii) opposing counsel(s) “assents,” “takes no position,” or “objects” to the motion; and</u></p> <p>(C) <u>the motion shall contain a brief statement of reasons why the requested relief should be granted.</u></p>	<p>(A) <u>Under the civil action number, in the caption of the case, it shall state whether opposing counsel(s) “assents,” “takes no position,” or “objects” to the motion; and</u></p>	<p>which no objection is expected. In these circumstances the Court normally acts without waiting for a response or the response time to lapse. The current practice appears to function well without a local rule. Additionally, there are instances where, despite best efforts, counsel are unable to reach an opponent before the motion for an extension of time must be filed.</p> <p>The bar, in the view of a majority of committee members, understands that a motion that has not been designated a “joint” or “consented to” motion may be held until an objection is filed or the deadline for an objection has passed. Moreover there are occasions, when attempting to negotiate an extension, that an opponent’s response may not fit any of the categories proposed in the LR Cv 7 amendment or the modification to the amendment considered by the committee and discussed below.</p> <p>A minority of the committee would have approved the proposal if there were four, rather than three, descriptions of opposing counsel’s position; 1) assents 2) will not oppose 3) objects 4) unknown position. Many on the Committee, even those opposed overall to the proposal, felt that if a rule change were to be adopted, this additional description is needed. It would apply in cases where an opposing counsel is not authorized by his or her client to assent to the motion but can represent that his or her client will not oppose the request.</p>	

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 16	<p>LR Cv 16 INITIAL SCHEDULING CONFERENCE</p> <p>*****</p> <p>(b) Statement of Claims. At least 7 days before the conference, counsel for each party asserting a claim (including a counterclaim and/or cross claim) shall file with the Court a brief (2-3 page) written statement captioned “<u>Rule 16 Statement</u>” containing: listing the elements, with a short description of the facts in support thereof, that must be proven in order to prevail on that claim or counterclaim.</p> <p><u>(1) a description of the facts;</u></p> <p><u>(2) a listing of the party’s claims, counterclaims or defenses;</u></p> <p><u>(3) a proposed discovery plan as set forth in Fed. R. Civ. P. 26(f)(3); and</u></p> <p><u>(4) identification of any atypical issues or concerns that the party anticipates may arise.</u></p>	<p>The Civil Rules Subcommittee modified the proposed amendment submitted by the Court:</p> <p>*****</p> <p>(b) Statement of Claims. At least seven (7) days before the conference, counsel for each party asserting a claim (including a counterclaim and/or cross claim) shall file with the Court a brief (2-3 page) written statement listing the elements, with a short description of the facts in support thereof, that must be proven in order to prevail on that claim or counterclaim <u>and an identification of any atypical issues or concerns that the party anticipates may arise.</u></p> <p>Comment: The subcommittee believes that the current rule is working well in practice. During the Rule 16 conference each party is given the opportunity to explain its position. It often is difficult for a defendant or third party defendant to articulate the affirmative defenses that may be initially asserted in that they are often filed so as not to be subsequently deemed waived. Furthermore, initial discovery is often necessary to determine the knowledge of the moving party of such defenses as assumption of the risk. As to the discovery plan proposed in section (3), the subcommittee believes that it is adequately covered in LR Cv 26(b). Finally the subcommittee is concerned that since the Rule 16 statement is filed electronically and is therefore a public record, it could be used against a defendant in subsequent discovery.</p>	<p>PROPOSED CHANGE ACCEPTED AS MODIFIED BY SUBCOMMITTEE</p>	<p>COURT REJECTED CHANGE AND WITHDREW SUGGESTION</p>

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	<p>At the end of the previous local rules review cycle, the Court chose not to adopt a proposed amendment to LR Cv 69 recommending removal of section (b). (Section (b) requires that any request for a writ of execution be accompanied by an affidavit.) The Court had originally accepted the LRRC's recommendation to remove (b), but decided to retain the section after receiving a comment from Deming Sherman during the public comment period.</p> <p>In Mr. Sherman's comment, he also suggested that the provision in LR Cv 69(a) allowing a party to "execute on a judgment 14 days after judgment has been entered" should be changed to match the appeal period of 30 days. The Court referred Mr. Sherman's suggestion to the LRRC for consideration in light of Fed. R. Civ. P. 62(a) and Fed R. Civ. P. 69 as a suggestion received from the Bar.</p>	<p>LR Cv 69 Writs of Execution</p> <p>(a) Execution. Except where stayed by statute, rule or order of the Court, a party in whose favor judgment has been entered may execute on the judgment 14 days after the judgment has been entered <u>once the applicable appeal period has expired on the judgment that has been entered</u> on a form provided by the Clerk's Office.</p> <p>*****</p>	<p>PROPOSED CHANGE REJECTED</p> <p><u>Note:</u> At the end of the 2010-2011 local rules review cycle, the Court chose not to adopt a proposed amendment to LR Cv 69 removing section (b). (Section (b) requires requests for a writ of execution to be accompanied by an affidavit.) The Court originally accepted the recommendation to remove (b), but decided to retain the section after receiving a comment from Deming Sherman during the public comment period. In Mr. Sherman's comment, he also suggested that the provision in LR Cv 69(a) allowing a party to "execute on a judgment 14 days after judgment has been entered" be changed to match the appeal period of 30 days. The Civil Rules Subcommittee took up Mr. Sherman's suggestion during the 2011-2012 local rules review cycle, and recommended that LR Cv 69(a) be changed so that a writ of execution could not be issued before the appeal period expired.</p> <p>During the discussion of the Civil Rules Subcommittee's proposal on May 2, 2012, LRRC members raised two primary objections to the proposed amendment: (1) that the amendment conflicted with Fed. R. Civ. P. 62(a), which seems to allow for execution on a judgment after 14 days; and (2) that the rule change was unnecessary because a party could prevent execution by filing a motion to stay. At that meeting, Paul Goodale agreed to contact the Judicial Conference's Committee on Rules of Practice and Procedure regarding the possible conflict between Fed. R. Civ. P. 62(a) and the</p>	N/A

Civil Rules

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			<p>proposed amendment to LR Cv 69(a).</p> <p>On June 6, Paul reported that counsel for Committee on Rules of Practice and Procedure responded that Fed. R. Civ. P. 62(a) only prohibited a Court from shortening the period to less than 14 days, but a Court could extend the period beyond 14 days if it wishes. In addition, it was also pointed out that when the Court created LR Cv 69 in 2006, it set the time period in LR Cv 69(a) to track the time period in Fed. R. Civ. P. 62(a); and that Mr. Sherman's original comment was primarily an objection to the elimination of LR Cv 69(b)—which the Court agreed with. In light of this information, and the fact that parties could always file a motion to stay an execution, the LRRC voted to reject the Civil Rules Subcommittee's proposed amendment to LR Cv 69(a).</p>	
Suggestion from the Bar	Jeffrey Techentin, Esq. proposed that the Court adopt a rule requiring that any motion brought under the discovery rules be subject to a meet and confer requirement.	<p>LR Cv 37 Motions to Compel Discovery</p> <p>*****</p> <p>(c) Duty of Movant. Any motion brought under Rules 26 through 37 must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.</p>	PROPOSED CHANGE ACCEPTED AS PROPOSED BY SUBCOMMITTEE	COURT REJECTED CHANGE
Suggestion from the Bar	Stacey Nakasian, Esq. suggested that the Committee consider adopting a rule setting a Default Standard for Discovery, Including Discovery of Electronically Stored Information	The Civil Rules Subcommittee recommended that the proposal be tabled pending further research and investigation.	The LRRC created an <i>ad hoc</i> committee to study and recommend an ESI proposal for consideration during the 2012-2013 LRRC cycle. The members of the <i>ad hoc</i>	N/A

Civil Rules

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	(ESI).		committee are: Jeffrey Techentin, Byron McMasters, Ranen Schechner, and Steven Richard. Mr. Richard will chair the <i>ad hoc</i> committee.	

Criminal Rules

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LR Cr 47	<p>LR Cr 47 MOTIONS, OBJECTIONS AND SUPPORTING DOCUMENTS</p> <p>(a) Form and Content. Every motion shall bear a title identifying the party filing it and stating the precise nature of the motion. In addition, every motion;</p> <p>(1) All motions, except a motion to extend time or motion motions to compel discovery and motions to extend time or for a continuance, shall contain a short and plain description of the requested relief and shall be accompanied by a separate memorandum of law setting forth the reasons why the relief requested should be granted and any applicable points and authorities supporting the motion. A motion to extend time or</p> <p>(2) <u>Motions</u> to compel discovery shall include within the motion a brief statement of reasons why the relief requested should be granted.</p> <p>(3) <u>In motions to extend time or for a continuance:</u></p> <p>(A) <u>the caption shall state whether opposing counsel(s) “assents,” “takes no position,” or “objects” to the motion; and</u></p> <p>(B) <u>the first paragraph shall indicate that (i) movant’s counsel has consulted with opposing counsel(s) concerning the request, and</u></p>	The Subcommittee endorsed the proposed change and recommends adoption by the Court.	<p>PROPOSED CHANGED TABLED</p> <p>The proposed change to the companion civil rule—LR Cv 7—was rejected. (See note above.) Further action on the proposed change to LR Cr 47 was not taken due to an insufficient number of criminal rules subcommittee members being present at the LRRC’s final meeting.</p>	N/A

Criminal Rules

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	<p>(ii) opposing counsel(s) “assents,” “takes no position,” or “objects” to the motion; and</p> <p>(C) the motion shall contain a brief statement of reasons why the requested relief should be granted.</p> <p>*****</p>			

Other Rules

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Suggestion from the Bar	The Court received an offer from James Murphy, Esq., Michael Daly, Esq., and Samuel Blatchely, Esq. to draft a set of local admiralty rules for the District of Rhode Island. The Court referred this proposal to the LRRC, and the LRRC created an <i>ad hoc</i> subcommittee composed of Mr. Murphy, Mr. Daly, Mr. Blatchley, Merlyn O'Keefe, Esq. and Professor Jonathan Gutoff of Roger Williams University Law School to draft the set of proposed rules to be considered by the LRRC.	N/A	THE CLERK'S OFFICE PROPOSED CHANGES TO THE <i>AD HOC</i> COMMITTEE'S ORIGINAL DRAFT WERE ACCEPTED.	
LAR A	<p>Local Admiralty Rule A-Authority and Scope</p> <p>LAR A(1) Authority. The local admiralty rules of the United States District Court for the District of Rhode Island (the Court) are promulgated by a majority of the judges as authorized by and subject to the limitations of Federal Rule of Civil Procedure 83.</p> <p>LAR A(2) Scope. The local admiralty rules apply only to civil actions that are governed by Rule A of the Supplemental Rules for Certain Admiralty and Maritime Claims. All other local rules are applicable in these cases, but to the extent that another local rule is inconsistent with the applicable local admiralty rule, the local admiralty rule governs.</p> <p>LAR A(3) Citation. The local admiralty rules may be cited by the letters "LAR" and the capital letter and numbers in parentheses that appear at the beginning of each section. The capital letter is intended to associate the local admiralty rule with the Supplemental Rule that bears the same capital letter.</p> <p>LAR A(4) Definitions. As used in the local admiralty rules, the following definitions shall apply:</p>		<p>Local Admiralty Rule A-Authority and Scope</p> <p>LAR A(1) Authority. The local admiralty rules of the United States District Court for the District of Rhode Island ("the Court") are promulgated by a majority of the judges as authorized by and subject to the limitations of <u>Federal Rule of Civil Procedure 83</u>.</p> <p>LAR A(2) Scope. The local admiralty rules apply only to civil actions that are governed by Rule A of the Supplemental Rules for <u>Certain Admiralty and or Maritime Claims and Asset Forfeiture Actions</u>. All other local rules are applicable in these cases, but to the extent that another local rule is inconsistent with the applicable local admiralty rule, the local admiralty rule governs.</p> <p>LAR A(3) Citation. The local admiralty rules may be cited by the letters "LAR" and the capital letter and numbers in parentheses that appear at the beginning of each section. The capital letter is intended to associate the local admiralty rule with the Supplemental Rule that bears the same capital letter.</p> <p>LAR A(4) Definitions. As used in the local admiralty rules <u>In addition to the definitions in</u></p>	COURT APPROVED CHANGE

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Other Rules

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	<p>(a) the word "Rule" followed by a numeral, e.g., Rule 12, means a Federal Rule of Civil Procedure;</p> <p>(b) the word "Rule" followed by a capital letter, e.g., Rule C, means a Supplemental Rule for Certain Admiralty and Maritime Claims;</p> <p>(c) the word "Court" means the District Court for the District of Rhode Island ;</p> <p>(d) the term "judicial officer" means a United States District Judge or a United States Magistrate Judge;</p> <p>(e) the word "Clerk" means the Clerk of the Court and includes deputy clerks of court;</p> <p>(f) the word "Marshal" means the United States Marshal and includes deputy marshals;</p> <p>(g) the word "Keeper" means any person or entity appointed by the Marshal to take physical custody of and maintain the vessel or other property under arrest or attachment;</p> <p>(h) the term "Substitute custodian" means the individual who or entity that, upon motion and order of the Court, assumes the duties of the Marshal or keeper with respect to the vessel or other property that is arrested or attached.</p>		<p><u>LR Gen 101(f)</u>, the following definitions shall apply:</p> <p>(a) the word "Rule" followed by a numeral, e.g., Rule 12, means a Federal Rule of Civil Procedure;</p> <p>(a)(b) the word "Supplemental Rule" followed by a capital letter, e.g., Supplemental Rule C, means a Supplemental Rule for Certain Admiralty and or Maritime Claims and Asset Forfeiture Actions;</p> <p>(c) the word "Court" means the District Court for the District of Rhode Island ;</p> <p>(d) the term "judicial officer" means a United States District Judge or a United States Magistrate Judge;</p> <p>(e) the word "Clerk" means the Clerk of the Court and includes deputy clerks of court;</p> <p>(f) the word "Marshal" means the United States Marshal and includes deputy marshals;</p> <p>(b)(g) the word "Keeper" means any person or entity appointed by the Marshal to take physical custody of and maintain the vessel or other property under arrest or attachment;</p> <p>(c)(h) the term "Substitute custodian" means the individual who or entity that, upon motion and order of the Court, assumes the duties of the Marshal or keeper with respect to the vessel or other property that is arrested or attached.</p> <p>*The definitions proposed in (e) and (f) in the original were moved to LR Gen 101. (<u>See</u>, LR Gen 101.)</p>	

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Other Rules

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LAR B	<p>Local Admiralty Rule B-Maritime Attachment and Garnishment</p> <p>LAR B(1) Affidavit That Defendant Is Not Found Within the District. The affidavit or declaration required by Supplemental Rule B(1) to accompany the complaint, and the affidavit or declaration required by Supplemental Rule B(2) (c), shall list the efforts made by and on behalf of the plaintiff to find and serve the defendant within the district.</p> <p>LAR B(2) Notice of Attachment. In an action where any property of a defendant is attached, the plaintiff shall make a diligent search to locate the defendant and give prompt notice to the defendant of the attachment. Such notice shall be in writing, and may be given by telex, telegram, cable, fax, e-mail, or other verifiable electronic means.</p>			COURT APPROVED CHANGED
LAR C	<p>Local Admiralty Rule C-Actions In Rem: Special Provisions</p> <p>LAR C(1) Publication of Notice of Action and Arrest. The notice required by Rule C(4) shall be published once in the Providence Journal and/or such other publication as the Court shall order, and plaintiffs attorney shall file with the Clerk a copy of the notice as it was published. The notice shall contain:</p> <ul style="list-style-type: none"> (a) The court, title, and number of the action; (b) The date of the arrest; (c) The identity of the property arrested; (d) The name, address, and telephone number of the attorney for plaintiff; (e) A statement that the claim of a person who is entitled to possession or who claims 		<p>Local Admiralty Rule C-Actions In Rem: Special Provisions</p> <p>LAR C(1) Publication of Notice of Action and Arrest. The notice required by <u>Supplemental</u> Rule C(4) shall be published once in the Providence Journal and/or such other publication as the Court shall order, and plaintiff's attorney shall file with the Clerk a copy of the notice as it was published. The notice shall contain:</p> <ul style="list-style-type: none"> (a) The court, title, and number of the action; (b) The date of the arrest; (c) The identity of the property arrested; (d) The name, address, and telephone number of the attorney for plaintiff; (e) A statement that the claim of a person who 	COURT APPROVED CHANGE

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	<p>an interest pursuant to Rule C(6)(a) must be filed with the Clerk and served on the attorney for plaintiff within 10 days after publication;</p> <p>(f) A statement that an answer to the complaint must be filed and served within 30 days after publication, and that otherwise, default may be entered and condemnation ordered;</p> <p>(g) A statement that intervenor claims by persons or entities claiming maritime liens or other interests shall be filed within the time fixed by the Court; and</p> <p>(h) The name, address, and telephone number of the Marshal, keeper or substitute custodian.</p> <p>LAR C(2). Default in Actions In Rem</p> <p>(a) Notice Required. A party seeking a default judgment in an action in rem must satisfy the Court that notice of the action and arrest of the property has been given</p> <p>(1) by publication as required in LAR C(2),</p> <p>(2) by service upon the Marshal, keeper, substitute custodian, master, or other person having custody of the property, and</p> <p>(3) by mailing notice to every other person who has not appeared in the action and is known to have an interest in the property.</p> <p>(b) Persons with Recorded Interests</p> <p>(1) If the defendant property is a vessel documented under the laws of the United</p>		<p>is entitled to possession or who claims an interest pursuant to <u>Supplemental</u> Rule C(6)(a) must be filed with the Clerk and served on the attorney for plaintiff within 40 <u>14</u> days after publication;</p> <p>(f) A statement that an answer to the complaint must be filed and served within 30 days after publication, <u>or, alternatively, within 21 days after filing a statement of interest</u>, and that otherwise, default may be entered and condemnation ordered;</p> <p>(g) A statement that intervenor claims by persons or entities claiming maritime liens or other interests shall be filed within the time fixed by the Court; and</p> <p>(h) The name, address, and telephone number of the Marshal, keeper, or substitute custodian.</p> <p>LAR C(2). Default in Actions In Rem</p> <p>(a) Notice Required. A party seeking a default judgment in an action in rem must satisfy the Court that notice of the action and arrest of the property has been given</p> <p>(1) by publication as required in LAR C(2),</p> <p>(2) by service upon the Marshal, keeper, substitute custodian, master, or other person having custody of the property, and</p> <p>(3) by mailing notice to every other person who has not appeared in the action and is known to have an interest in the property.</p> <p>(b) Persons with Recorded Interests</p> <p>(1) If the defendant property is a vessel documented under the laws of the United States, plaintiff must attempt to notify all</p>	

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	<p>States, plaintiff must attempt to notify all persons named as the current owner, all those who have filed a preferred ship/fleet mortgage and all those who have filed a notice of claim of lien as recorded in the United States Coast Guard General Index or Abstract of Title (GG-1332) .</p> <p>(2) If the defendant property is a vessel numbered as provided in the Federal Boat Safety Act, 46 U.S.C. § 12301(a), (i.e. state registered vessels), plaintiff must attempt to notify the persons named in the records of the issuing authority.</p> <p>(3) If the defendant property is of such character that there exists a governmental registry of property interests and/or security interests, the plaintiff must attempt to notify all persons named in the records of each such registry.</p> <p>LAR C(3) Entry of Default and Default Judgment. After the time for filing an answer has expired, the plaintiff may move for entry of default under Rule 55(a). The Court will enter default upon showing that:</p> <p>(a) Notice has been given as required by LAR C(3)(a), and</p> <p>(b) Notice has been attempted as required by LAR (3)(b) where appropriate, and</p> <p>(c) The time to answer by claimants of ownership to or possession of the property has expired, and</p> <p>(d) No answer has been filed or no one has appeared to defend on behalf of the property.</p> <p>The plaintiff may move for judgment under Rule 55(b) at any time after default has been entered.</p>		<p>persons named as the current owner, all those who have filed a preferred ship/fleet mortgage and all those who have filed a notice of claim of lien as recorded in the United States Coast Guard General Index or Abstract of Title (GG-1332).</p> <p>(2) If the defendant property is a vessel numbered as provided in the Federal Boat Safety Act, 46 U.S.C. § 12301(a), (i.e. state registered vessels), plaintiff must attempt to notify the persons named in the records of the issuing authority.</p> <p>(3) If the defendant property is of such character that there exists a governmental registry of property interests and/or security interests, the plaintiff must attempt to notify all persons named in the records of each such registry.</p> <p>LAR C(3) Entry of Default and Default Judgment. After the time for filing an answer has expired, the plaintiff may move for entry of default under Rule LR Cv 55(a). The Court will enter default upon showing that:</p> <p>(a) Notice has been given as required by LAR C(32)(a), and</p> <p>(b) Notice has been attempted as required by LAR C(32)(b) where appropriate, and</p> <p>(c) The time to answer by claimants of ownership to or possession of the property has expired, and</p> <p>(d) No answer has been filed or no one has appeared to defend on behalf of the property. The plaintiff may move for judgment under Rule LR Cv 55(b) at any time after default has been entered.</p>	

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LAR D	<p>Local Admiralty Rule D-Possessory, Petitory, and Partition Actions</p> <p>LARD Return Date. In a possessory action under Rule D, a judicial officer may order that the statement of right or interest and answer be filed on a date earlier than 20 days after arrest. The order may also set the date for expedited hearing of the action.</p>		<p>Local Admiralty Rule D-Possessory, Petitory, and Partition Actions</p> <p>LAR D Return Date. In a possessory action under <u>Supplemental</u> Rule D, a judicial officer may order that the statement of right or interest and answer be filed on a date earlier than 201 days after arrest. The order may also set the date for expedited hearing of the action.</p>	COURT APPROVED CHANGE
LAR E	<p>Local Admiralty Rule E-Actions in Rem and Quasi In Rem: General Provisions</p> <p>LAR E(1) Itemized Demand/or Judgment. The demand for judgment in every complaint filed under Rule B or Rule C shall allege the dollar amount of the debt or damages for which the action was commenced. The demand for judgment shall also allege the nature of other items of damage. The amount of the special bond posted under Rule E(5)(a) may be based upon these allegations.</p> <p>LAR E(2) Salvage Action Complaints. In an action for a salvage reward, the complaint shall allege the dollar value of the vessel, cargo, freight, and other property salvaged, and the dollar amount of the reward claimed.</p> <p>LAR E(3) Verification of Pleadings. Every complaint in Rule B, C, and D actions shall be verified upon oath or solemn affirmation, or in the form provided by 28 U.S.C. § 1746, by a party or by an authorized officer of a corporate party. If no party or authorized corporate officer</p>		<p>Local Admiralty Rule E-Actions in Rem and Quasi In Rem: General Provisions</p> <p>LAR E(1) Itemized Demand/or Judgment. The demand for judgment in every complaint filed under Supplemental Rule B or Supplemental Rule C shall allege the dollar amount of the debt or damages for which the action was commenced. The demand for judgment shall also allege the nature of other items of damage. The amount of the special bond posted under Supplemental Rule E(5)(a) may be based upon these allegations.</p> <p>LAR E(2) Salvage Action Complaints. In an action for a salvage reward, the complaint shall allege the dollar value of the vessel, cargo, freight, and other property salvaged, and the dollar amount of the reward claimed.</p> <p>LAR E(3) Verification of Pleadings. Every complaint in Supplemental Rule B, C, and D actions shall be verified upon oath or solemn affirmation, or in the form provided by 28 U.S.C. § 1746, by a party or by an authorized</p>	COURT APPROVED CHANGE WITH AMENDMENTS

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	<p>is present within the district, verification of a complaint may be made by an agent, attorney in fact, or attorney of record, who shall state the sources of the knowledge, information and belief contained in the complaint; declare that the document verified is true to the best of that knowledge, information, and belief; state why verification is not made by the party or an authorized corporate officer; and state that the affiant is authorized so to verify. A verification not made by a party or authorized corporate officer will be deemed to have been made by the party as if verified personally. If the verification was not made by a party or authorized corporate officer, any interested party may move, with or without requesting a stay, for the personal oath of a party or an authorized corporate officer, which shall be procured by commission or as otherwise ordered.</p> <p>LAR E(4) Review by Judicial Officer. Unless otherwise required by the judicial officer, the review of complaints and papers called for by Rules B(1) and C(3) does not require the affiant party or attorney to be present. The applicant for review shall include a form of order to the Clerk which, upon signature by the judicial officer, will direct the arrest, attachment or garnishment sought by the applicant. In exigent circumstances, the certification of the plaintiff or his attorney under Rules B and C shall consist of an affidavit or a declaration pursuant to 28 U.S.C. § 1746 describing in detail the facts that establish the exigent circumstances.</p> <p>LAR E(5) Return of Service. The party who requests a warrant of arrest or process of attachment or garnishment shall provide instructions to the Marshal. A person specially appointed by the Court under Rules B or C who</p>		<p>officer of a corporate party. If no party or authorized corporate officer is present within the district, verification of a complaint may be made by an agent, attorney in fact, or attorney of record, who shall state the sources of the knowledge, information and belief contained in the complaint; declare that the document verified is true to the best of that knowledge, information, and belief; state why verification is not made by the party or an authorized corporate officer; and state that the affiant is authorized so to verify. A verification not made by a party or authorized corporate officer will be deemed to have been made by the party as if verified personally. If the verification was not made by a party or authorized corporate officer, any interested party may move, with or without requesting a stay, for the personal oath of a party or an authorized corporate officer, which shall be procured by commission or as otherwise ordered.</p> <p>LAR E(4) Review by Judicial Officer. Unless otherwise required by the judicial officer, the review of complaints and papers called for by Supplemental Rules B (1) and C(3) does not require the affiant party or attorney to be present. The applicant for review shall include a form of order to the Clerk which, upon signature by the judicial officer, will direct the arrest, attachment or garnishment sought by the applicant. In exigent circumstances, the certification of the plaintiff or his attorney under Supplemental Rules B and C shall consist of an affidavit or a declaration pursuant to 28 U.S.C. § 1746 describing in detail the facts that establish the exigent circumstances.</p> <p>LAR E(5) Return of Service. The party who requests a warrant of arrest or process of</p>	

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Other Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p>has served process of maritime attachment and garnishment or a warrant of arrest that seized property shall promptly file a verified return showing the name of the individual on whom the process or warrant was served, the identity of the person or entity on whom service was made, the documents served, the manner in which service was completed (e.g., personal delivery), and the address, date and time of service.</p> <p>LAR E(6) Appraisal. In the event the parties do not promptly and mutually agree on the amount of substitute security, an order for appraisal of property so that security may be given or altered will be entered upon motion. If the parties do not agree in writing upon an appraiser, a judicial officer will appoint the appraiser. The appraiser shall be sworn to the faithful and impartial discharge of the appraiser's duties before any federal or state officer authorized by law to administer oaths. The appraiser shall give 1 business day's notice of the time and place of making the appraisal to counsel of record. The appraiser shall promptly file the appraisal with the Clerk and serve it upon counsel of record. Unless otherwise ordered, the appraiser's fee shall be paid by the moving party, but it is a taxable cost of the action.</p> <p>LAR E(7) Security Deposit for Seizure of Vessels. The first party who seeks arrest or attachment of a vessel or property aboard a vessel shall deposit with the Marshal an amount deemed necessary and appropriate by the Marshal to cover the expenses of the Marshal including, but not limited to, dockage, keepers, maintenance, and insurance. The Marshal is not required to execute process until the deposit is made. The party shall advance additional sums from time to time, at the Marshal's request, to</p>		<p>attachment or garnishment shall provide instructions to the Marshal. A person specially appointed by the Court under Supplemental Rules B or C who has served process of maritime attachment and garnishment or a warrant of arrest that seized property shall promptly file a verified return showing the name of the individual on whom the process or warrant was served, the identity of the person or entity on whom service was made, the documents served, the manner in which service was completed (e.g., personal delivery), and the address, date and time of service.</p> <p>LAR E(6) Appraisal. In the event the parties do not promptly and mutually agree on the amount of substitute security, an order for appraisal of property so that security may be given or altered will be entered upon motion. If the parties do not agree in writing upon an appraiser, a judicial officer will appoint the appraiser. The appraiser shall be sworn to the faithful and impartial discharge of the appraiser's duties before any federal or state officer authorized by law to administer oaths. The appraiser shall give 1 business day's notice of the time and place of making the appraisal to counsel of record. The appraiser shall promptly file the appraisal with the Clerk and serve it upon counsel of record. Unless otherwise ordered, the appraiser's fee shall be paid by the moving party, but it is a taxable cost of the action.</p> <p>LAR E(7) Security Deposit for Seizure of Vessels. The first party who seeks arrest or attachment of a vessel or property aboard a vessel shall deposit with the Marshal an amount deemed necessary and appropriate by the Marshal to cover the expenses of the Marshal including, but not limited to, dockage, keepers,</p>	

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	<p>cover estimated expenses. A party who fails to advance such additional sums may not participate further in the proceedings except by order of the Court. The Marshal may, upon notice to all parties, petition the Court for an order to release the vessel if additional sums are not advanced within 3 business days after the request.</p> <p>Notwithstanding the provision of this LAR, seamen may institute and prosecute suits and appeals in their own names and for their own benefit for wages or salvage or the enforcement of laws enacted for their health or safety without repaying fees or costs or furnishing security therefore.</p> <p>LAR E(8) Intervenor's Claims</p> <p>(a) Presentation of Claim. When a vessel or other property has been arrested, attached, or garnished, and is in the hands of the Marshal or substitute custodian, anyone having a claim against the vessel or property is required to present the claim by filing an intervening complaint and obtain a warrant of arrest, and not by filing an original complaint, unless otherwise ordered by a judicial officer. No formal motion to intervene is required. The intervening party shall serve a copy of the intervening complaint and warrant of arrest upon all parties to the action and shall forthwith deliver a conformed copy of the complaint and warrant of arrest to the Marshal, who shall deliver the copies to the vessel or custodian of the property. Intervenor's shall thereafter be subject to the rights and obligations of parties, and</p>		<p>maintenance, and insurance. The Marshal is not required to execute process until the deposit is made. The party shall advance additional sums from time to time, at the Marshal's request, to cover estimated expenses. A party who fails to advance such additional sums may not participate further in the proceedings except by order of the Court. The Marshal may, upon notice to all parties, petition the Court for an order to release the vessel if additional sums are not advanced within 3 business days after the request.</p> <p>Notwithstanding the provision of this LAR, seamen may institute and prosecute suits and appeals in their own names and for their own benefit for wages or salvage or the enforcement of laws enacted for their health or safety without repaying fees or costs or furnishing security therefore.</p> <p>LAR E(8) Intervenor's Claims</p> <p>(a) Presentation of Claim. When a vessel or other property has been arrested, attached, or garnished, and is in the hands of the Marshal or substitute custodian, anyone having a claim against the vessel or property is required to present the claim by filing an intervening complaint and obtain a warrant of arrest, and not by filing an original complaint, unless otherwise ordered by a judicial officer. No formal motion to intervene is required. The intervening party shall serve a copy of the intervening complaint and warrant of arrest upon all parties to the action and shall forthwith deliver a conformed copy of the complaint and warrant of arrest to the Marshal, who shall deliver the copies to the vessel or custodian of the property.</p>	<p>LAR E(7) Final Paragraph:</p> <p>Notwithstanding the provision of this LAR, seamen may institute and prosecute suits and appeals in their own names and for their own benefit for wages or salvage or the enforcement of laws enacted for their health or safety without <u>repaying</u> repaying fees or costs or furnishing security therefore.</p>

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	<p>the vessel or property shall stand arrested, attached, or garnished by the intervenor. An intervenor shall not be required to advance a security deposit to the Marshal for seizure of a vessel as required by LAR (E)(10).</p> <p>(b) Sharing Marshal's, Keeper's and Substitute Custodian Fees and Expenses (Custodia Legis Expenses). An intervenor shall owe a debt to any party that has previously advanced funds to cover the expenses of the Marshal, Keeper and/or Substitute Custodian, enforceable on motion, consisting of the intervenor's share of such fees and expenses in the proportion that the intervenor's claim bears to the sum of all the claims. If a party plaintiff permits the vacation of an arrest, attachment, or garnishment, the remaining plaintiffs will share the responsibility to the Marshal, Keeper and/or Substitute Custodian for fees and expenses in proportion to the remaining claims and for the duration of the custody because of each claim.</p> <p>LAR E(9) Custody of Property</p> <p>(a) Safekeeping of Property. When a vessel or other property is brought into the Marshal's custody by arrest or attachment, the Marshal shall arrange for adequate safekeeping, which may include the placing of keepers on or near the vessel. A substitute custodian in place of the Marshal may be appointed by order of the Court. Notice of the application to appoint a substitute custodian must be given to all parties and the Marshal. The application must show the name of the proposed substitute custodian, the location of the</p>		<p>Intervenors shall thereafter be subject to the rights and obligations of parties, and the vessel or property shall stand arrested, attached, or garnished by the intervenor. An intervenor shall not be required to advance a security deposit to the Marshal for seizure of a vessel as required by LAR (E)(10).</p> <p>(b) Sharing Marshal's, Keeper's and Substitute Custodian's Fees and Expenses (Custodia Legis Expenses). An intervenor shall owe a debt to any party that has previously advanced funds to cover the expenses of the Marshal, Keeper and/or Substitute Custodian, enforceable on motion, consisting of the intervenor's share of such fees and expenses in the proportion that the intervenor's claim bears to the sum of all the claims. If a party plaintiff permits the vacation of an arrest, attachment, or garnishment, the remaining plaintiffs will share the responsibility to the Marshal, Keeper and/or Substitute Custodian for fees and expenses in proportion to the remaining claims and for the duration of the custody because of each claim.</p> <p>LAR E(9) Custody of Property</p> <p>(a) Safekeeping of Property. When a vessel or other property is brought into the Marshal's custody by arrest or attachment, the Marshal shall arrange for adequate safekeeping, which may include the placing of keepers on or near the vessel. A substitute custodian in place of the Marshal may be appointed by order of the Court. Notice of the application to appoint a substitute custodian must be given to all parties and the Marshal. The application</p>	<p>LAR 8(b)—Last Sentence:</p> <p><u>If a party plaintiff permits the vacation seeks to vacate or to permit the vacating of an arrest, attachment, or garnishment, it may be vacated upon such terms and conditions as the Court may order, and if there are the remaining other plaintiffs remaining the Court may order them to will share their responsibility to the Marshal, Keeper and/or Substitute Custodian for fees and expenses in proportion to the remaining claims and for the duration of the custody because of each claim, and otherwise as the Court may determine.</u></p>

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	<p>vessel during the period of custody, and the proposed insurance coverage.</p> <p>(b) Insurance. The Marshal may procure insurance to protect the Marshal, keepers, and substitute custodians from liabilities assumed in arresting and holding the vessel, cargo, or other property, in performing protective services, and in maintaining the Court's custody. Any party who applies for arrest or attachment shall reimburse the Marshal for premiums paid for the insurance and shall be an added insured on the policy. The party who applies for removal of the vessel, cargo, or other property to another location, for designation of a substitute custodian, or for other relief that will require an additional premium, shall reimburse the Marshal therefor. The premiums charged for the liability insurance are taxable as administrative costs while the vessel, cargo, or other property is in custody of the Court.</p> <p>(c) Cargo Handling, Repairs, and Movement of the Vessel</p> <p>(1) Cargo Handling, Repairs, and Movement of the Vessel. Following arrest or attachment of a vessel, no cargo handling, repairs, or movement may be made without an order of Court. The applicant for an order shall give notice to the Marshal and to all parties of record.</p> <p>(2) If an applicant shows adequate insurance to indemnify the Marshal for liability, the Court may order the</p>		<p>must show the name of the proposed substitute custodian, the location of the vessel during the period of custody, and the proposed insurance coverage.</p> <p>(b) Insurance. The Marshal may procure insurance to protect the Marshal, keepers, and substitute custodians from liabilities assumed in arresting and holding the vessel, cargo, or other property, in performing protective services, and in maintaining the Court's custody. Any party who applies for arrest or attachment shall reimburse the Marshal for premiums paid for the insurance and shall be an added insured on the policy. The party who applies for removal of the vessel, cargo, or other property to another location, for designation of a substitute custodian, or for other relief that will require an additional premium, shall reimburse the Marshal therefor. The premiums charged for the liability insurance are taxable as administrative costs while the vessel, cargo, or other property is in custody of the Court.</p> <p>(c) Cargo Handling, Repairs, and Movement of the Vessel</p> <p>(1) Cargo Handling, Repairs, and Movement of the Vessel. Following arrest or attachment of a vessel, no cargo handling, repairs, or movement may be made without an order of Court. The applicant for an order shall give notice to the Marshal and to all parties of record.</p> <p>(2) If an applicant shows adequate insurance to indemnify the Marshal for</p>	

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	<p>Marshal to permit cargo handling, repairs, or movement of the vessel, cargo, or other property. The costs and expenses of such activities shall be borne as ordered by the Court. Any party of record may move for an order to dispense with keepers or to remove or place the vessel, cargo, or other property at a specified facility, to designate a substitute custodian, or for similar relief. Notice of the motion shall be given to the Marshal, keeper or substitute custodian, and to all parties of record. The judicial officer will require that adequate insurance on the property will be maintained by the successor to the Marshal, before issuing the order to change arrangements.</p> <p>(d) Claims by Suppliers for Payment of Charges. A person who has furnished supplies or services to a vessel, cargo, or other property in custody of the Court, who has not been paid, and who claims the right to payment as an expense of administration, shall submit an invoice to the Clerk in the form of a verified claim at any time before the vessel, cargo, or other property is released or sold. The supplier must serve copies of the claim on the Marshal, substitute custodian if one has been appointed, and all parties of record. The Court may consider the claims individually or schedule a single hearing for all claims.</p> <p>LAR E(10) Sale of Property</p> <p>(a) Notice. Unless otherwise ordered upon good cause shown or as provided by law, notice of sale of property in an action in</p>		<p>liability, the Court may order the Marshal to permit cargo handling, repairs, or movement of the vessel, cargo, or other property. The costs and expenses of such activities shall be borne as ordered by the Court. Any party of record may move for an order to dispense with keepers or to remove or place the vessel, cargo, or other property at a specified facility, to designate a substitute custodian, or for similar relief. Notice of the motion shall be given to the Marshal, keeper or substitute custodian, and to all parties of record. The judicial officer will require that adequate insurance on the property will be maintained by the successor to the Marshal, before issuing the order to change arrangements.</p> <p>(d) Claims by Suppliers for Payment of Charges. A person who has furnished supplies or services to a vessel, cargo, or other property in custody of the Court, who has not been paid, and who claims the right to payment as an expense of administration, shall submit an invoice to the Clerk in the form of a verified claim at any time before the vessel, cargo, or other property is released or sold. The supplier must serve copies of the claim on the Marshal, substitute custodian if one has been appointed, and all parties of record. The Court may consider the claims individually or schedule a single hearing for all claims.</p> <p>LAR E(10) Sale of Property</p> <p>(a) Notice. Unless otherwise ordered upon good cause shown or as provided by law,</p>	<p>LAR E(9)(c)(2)—Last Sentence:</p> <p>The judicial officer will <u>may</u> require that adequate insurance on the property will be maintained by the successor to the Marshal, before issuing the order to change arrangements.</p>

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	<p>rem shall be published in the Providence Journal and/or such other publication as the Court may order at least once a week for two (2) successive weeks with the date of sale being at least fifteen (15) days after the date the first notice of sale is published.</p> <p>(b) Payment of Bid. These provisions apply unless otherwise ordered in the order of sale:</p> <p>(1) The person whose bid is accepted shall immediately pay the Marshal the full purchase price if the bid is \$1,000 or less.</p> <p>(2) If the bid exceeds \$1,000, the bidder shall immediately pay the Marshal a deposit of at least \$1,000 or 10% of the bid, whichever is greater, and shall pay the balance within 3 days.</p> <p>(3) If an objection to the sale is filed within the period in LAR E(13)(b)(2), the bidder is excused from paying the balance of the purchase price until 3 days after the sale is confirmed.</p> <p>(4) Payment shall be made in cash, by certified check, or by cashier's check.</p> <p>(c) Late Payment. If the successful bidder does not pay the balance of the purchase price within the time allowed, the bidder shall pay the Marshal, Keeper or Substitute Custodian the cost of keeping the property from the due date until the balance is paid, and the Marshal may refuse to release the property until this charge is paid.</p> <p>(d) Default. If the successful bidder does not pay the balance of the purchase price within the time allowed, the bidder shall be</p>		<p>notice of sale of property in an action in rem shall be published in the <i>Providence Journal</i> and/or such other publication as the Court may order at least once a week for 2 successive weeks with the date of sale being at least fifteen (145) days after the date the first notice of sale is published.</p> <p>(b) Payment of Bid. These provisions apply unless otherwise ordered in the order of sale:</p> <p>(1) The person whose bid is accepted shall immediately pay the Marshal the full purchase price if the bid is \$1,000 or less.</p> <p>(2) If the bid exceeds \$1,000, the bidder shall immediately pay the Marshal a deposit of at least \$1,000 or 10% of the bid, whichever is greater, and shall pay the balance within 3 days .</p> <p>(3) If an objection to the sale is filed within the period in LAR E(130)(b)(2), the bidder is excused from paying the balance of the purchase price until 3 days after the sale is confirmed.</p> <p>(4) Payment shall be made in cash, by certified check, or by cashier's check.</p> <p>(c) Late Payment. If the successful bidder does not pay the balance of the purchase price within the time allowed, the bidder shall pay the Marshal, Keeper or Substitute Custodian the cost of keeping the property from the due date until the balance is paid, and the Marshal may refuse to release the property until this charge is paid.</p> <p>(d) Default. If the successful bidder does not pay the balance of the purchase price</p>	

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	<p>in default, and the judicial officer may accept the second highest bid or may arrange a new sale. The defaulting bidder's deposit shall be forfeited and applied to any additional costs incurred by the Marshal because of the default, and the balance shall be retained in the registry of the Court awaiting its order.</p> <p>(e) Report of Sale by Marshal. At the conclusion of the sale, the Marshal shall forthwith file a written report with the Court setting forth the notice given; the fact of the sale; the date of the sale; the names, addresses, and bid amounts of the bidders; the price obtained; and any other pertinent information.</p> <p>(f) Time and Procedure for Objection to Sale. An interested person may object to the sale by filing a written objection with the Clerk within 3 court days following the sale, serving the objection on all parties of record, the successful bidder, and the Marshal, and depositing a sum with the Marshal that is sufficient to pay the expense of keeping the property for at least 7 calendar days. Payment to the Marshal shall be in cash, certified check, or cashier's check. The Court shall hold a hearing on the confirmation of the sale.</p> <p>(g) Confirmation of Sale. If no objection to the sale has been filed, the sale shall be confirmed by order of the Court no sooner than 3 days after the sale and no later than 5 days after the sale. The Marshal shall transfer title to the purchaser upon the order of the Court.</p> <p>(h) Disposition of Deposits</p>		<p>within the time allowed, the bidder shall be in default, and the judicial officer may accept the second highest bid or may arrange a new sale. The defaulting bidder's deposit shall be forfeited and applied to any additional costs incurred by the Marshal because of the default, and the balance shall be retained in the registry of the Court awaiting its order.</p> <p>(e) Report of Sale by Marshal. At the conclusion of the sale, the Marshal shall forthwith file a written report with the Court setting forth the notice given; the fact of the sale; the date of the sale; the names, addresses, and bid amounts of the bidders; the price obtained; and any other pertinent information.</p> <p>(f) Time and Procedure for Objection to Sale. An interested person may object to the sale by filing a written objection with the Clerk within 3 court days following the sale, serving the objection on all parties of record, the successful bidder, and the Marshal, and depositing a sum with the Marshal that is sufficient to pay the expense of keeping the property for at least 7 calendar days. Payment to the Marshal shall be in cash, certified check, or cashier's check. The Court shall hold a hearing on the confirmation of the sale.</p> <p>(g) Confirmation of Sale. If no objection to the sale has been filed, the sale shall be confirmed by order of the Court no sooner than 3 days after the sale and no later than 5 days after the sale. The Marshal shall transfer title to the purchaser upon the order of the Court.</p>	<p>(g) Confirmation of Sale. If no objection to the sale has been filed, the sale shall be submitted confirmed by order of to the Court for confirmation. no sooner than 3 days after the</p>

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	<p>(1) If the objection is sustained, sums deposited by the successful bidder will be returned to the bidder forthwith. The sum deposited by the objector will be applied to pay the fees and expenses incurred by the Marshal in keeping the property until it is resold, and any balance remaining shall be returned to the objector. The objector will be reimbursed for the expense of keeping the property from the proceeds of a subsequent sale.</p> <p>(2) If the objection is overruled, the sum deposited by the objector will be applied to pay the expense of keeping the property from the day the objection was filed until the day the sale is confirmed, and any balance remaining will be returned to the objector forthwith.</p> <p>LAR E(11). Presentation of Matters. If the judge to whom a case has been assigned is not readily available, any matter under the Local Admiralty Rules may be presented to any other judge in the district without reassigning the case.</p>		<p>(h) Disposition of Deposits</p> <p>(1) If the objection is sustained, sums deposited by the successful bidder will be returned to the bidder forthwith. The sum deposited by the objector will be applied to pay the fees and expenses incurred by the Marshal in keeping the property until it is resold, and any balance remaining shall be returned to the objector. The objector will be reimbursed for the expense of keeping the property from the proceeds of a subsequent sale.</p> <p>(2) If the objection is overruled, the sum deposited by the objector will be applied to pay the expense of keeping the property from the day the objection was filed until the day the sale is confirmed, and any balance remaining will be returned to the objector forthwith.</p> <p>LAR E(11). Presentation of <u>Emergency</u> Matters. <u>Emergency matters will be handled in accordance with LR Gen 105(c).</u> If the judge to whom a case has been assigned is not readily available, any matter under the Local Admiralty Rules may be presented to any other judge in the district without reassigning the case.</p>	<p>sale and no later than 5 days after the sale. The Marshal shall transfer title to the purchaser upon the order of the Court.</p>

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Other Rules

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LAR F	<p>Local Admiralty Rule F-Limitation of Liability</p> <p>LAR F(1) Security for Costs. The amount of security for costs under Rule F(1) shall be \$1,000, and security for costs may be combined with security for value and interest unless otherwise ordered.</p> <p>LAR F(2) Order of Proof at Trial. In an action where vessel interests seek to limit their liability, the damage claimants shall offer their proof first, whether the right to limit arises as a claim or as a defense. Nothing in this LAR shall alter the burden of proof for any party.</p>		<p>Local Admiralty Rule F-Limitation of Liability</p> <p>LAR F(1) Security for Costs. The amount of security for costs under <u>Supplemental</u> Rule F(1) shall be \$1,000, and security for costs may be combined with security for value and interest unless otherwise ordered.</p> <p>LAR F(2) Order of Proof at Trial. In an action where vessel interests seek to limit their liability, the damage claimants shall offer their proof first, whether the right to limit arises as a claim or as a defense. Nothing in this LAR shall alter the burden of proof for any party.</p>	

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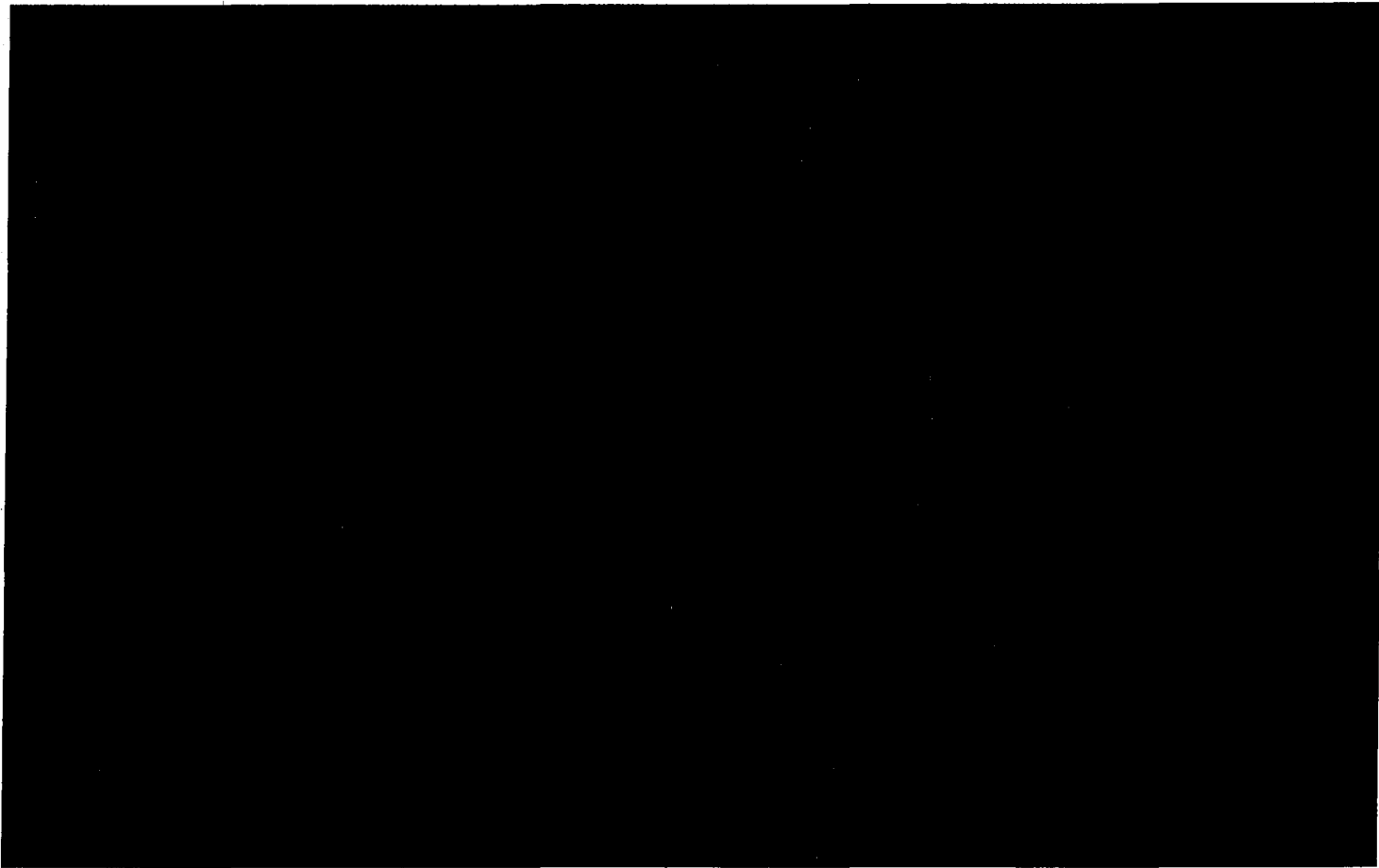
My coment relates to LR Cv 69 Writs of Execution.

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
Edwards Wildman Palmer LLP
2800 Financial Plaza
Providence, RI 02906



[REDACTED]

David,

As we discussed briefly, we recently had occasion to go before Magistrate Judge Martin on a motion to determine the sufficiency of certain responses to requests for admissions. As reflected in the attached motion papers, we took the position that the motion was a "discovery motion" that would be subject to the meet and confer requirements of Rule 37. Opposing counsel disagreed reasoning that the motion arises under Rule 36 and therefore is not within the scope of Rule 37(a). Ultimately, Magistrate Judge Martin agreed with our position as reflected in the attached order on that motion.

In order to avoid this ambiguity, I suggest that the court consider a local rule on this subject. Many jurisdictions have adopted a blanket local rule that states that any motion brought under the discovery rules (from 26 to 37) would be subject to a meet and confer requirement. This approach appears sound to me.

Thanks for your consideration,

Jeff

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ATTORNEYS AT LAW
MARC DESISTO, ESQ.

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February 8, 2012

Via Email

David Wollin, Esq.
Adler, Pollock & Sheehan P.C.
1 Citizens Plaza, 8th Floor
Providence, RI 02903

Re: Local Rules Subcommittee

Dear David:

Jerry Visconti has brought to my attention an interesting issue regarding Ghostwriting by attorneys for pro se litigants. I agree with him that the drafting of pleadings filed with the court without disclosing an attorney's involvement or identity is something that should be reviewed. An undisclosed advocate (the Ghostwriter) escapes compliance with the restrictions and checks of our profession. There is an argument that an undisclosed advocate violates the duty of candor to the court and fairness to opposing parties and counsel.

Jerry and I have discussed a local rule that would mandate that a pro se litigant must certify that there is no attorney drafting the documents that are being filed with the court.

Is this something worthy of discussion when the entire committee next meets? Or, is it best for me to vet this out with my subcommittee?

Very truly yours,

Marc DeSisto

Marc DeSisto
MD/kh

cc: Girard Visconti, Esq.

[REDACTED]

David,

There's a gap in LR Gen 207:

LR Gen 207 CONFLICT OF COURT APPEARANCES; EXCUSALS

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

Rules covers less than and more than 14 days, but not a period equal to 14 days.

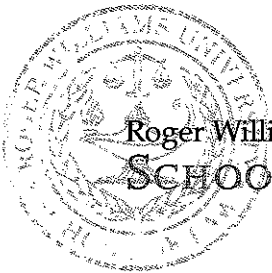
I wouldn't be surprised if there are other similar gaps. Perhaps a text search might turn them up.

Michael

Please note our new firm name, Winograd Shine Land & Finkle, P.C., and my new email address, mlevin@wslf-law.com.

S. Michael Levin, Of Counsel
Winograd Shine Land & Finkle, P.C.
123 Dyer Street
Providence, RI 02903

[REDACTED]



Roger Williams University
SCHOOL OF LAW

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December 21, 2012

Mr. David A. DiMarzio
Clerk of Court
United States District Court
District of Rhode Island
Via Email To: Local_Rules@rid.uscourts.gov

Re: Proposed Amendment to Local Rules General Rule 206

Dear Mr. DiMarzio:

I am writing on behalf of Roger Williams University School of Law to offer our most enthusiastic support for the proposed amendments to General Rule 206 of the Local Rules for the District of Rhode Island. We are very excited about the prospect of our law students having the opportunity to appear in the Federal Court, and we are entirely confident that the members of the Court will be pleased with their experiences in presiding over law student appearances.

The School of Law has operated clinical programs in the Rhode Island state courts since 1995, providing law students with the opportunity to represent real clients in real cases and to litigate those cases in court. Our clinic students have appeared at all levels in the Rhode Island state court system. They have argued cases before the Supreme Court of Rhode Island. They have tried cases both with and without a jury in the Superior Court. They have appeared on literally hundreds of cases in the District Court, the Family Court, the Traffic Tribunal, and any number of municipal courts. More recently, with the opening of our Immigration Clinic, they have also appeared in the Immigration Court in Boston.

The School of Law has also been operating an externship program since 1995. Many of our law students have had the opportunity to appear in courts throughout Rhode Island and Massachusetts as part of their externship experiences, working with agencies and organizations such as the Rhode Island Office of the Public Defender, the Rhode Island Office of the Attorney General, Rhode Island Legal Services, and the Massachusetts Committee for Public Counsel Services.

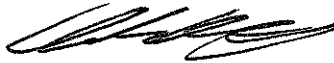
Many students describe the ability to appear in court as a transformative part of their legal education. At the School of Law, we view that experience as an integral part of a well-rounded legal education. Watching is not the same as doing, and only through a student practice rule such as the one proposed here can a student have the full educational experience connected with being responsible for a case or a client.

Our experience over the years has taught us that students, when properly supervised, do an exceptional job when they appear in court. They bring an energy and enthusiasm to the task and a level of preparation that most practicing attorney do not meet. The judges before whom our students have appeared have invariably sung the praises of our students. And I am confident that if you asked those judges for their views on student practice, they would virtually unanimously support the enterprise. In part, this is because of a recognition that we all share the obligation of training our next generation of lawyers. But primarily I think this is because the judges respect and appreciate the level of practice that a student can bring into the courtroom.

We very much look forward to the day when the first Roger Williams University School of Law student can stand before a judge or a magistrate in the United States District Court for the District of Rhode Island. We appreciate the Court's consideration of this amendment to allow that moment to happen.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrew Horwitz', with a stylized, cursive flourish at the end.

Andrew Horwitz
Associate Dean for Academic Affairs