UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

IN RE: LOCAL RULES COMMITTEE **Misc. 06-102**

GENERAL ORDER
APPOINTMENT OF THE LOCAL RULES REVIEW COMMITTEE

Pursuant to L.R. Gen 113 and by agreement of the Judges of this Court, C. Russell Bengtson, Terrence P. Donnelly, Raymond A. Marcaccio, Stacey P. Nakasian, Steven M. Richard, and Raymond M. Ripple are hereby reappointed to the Local Rules Review Committee (LRRC) effective July 1, 2013. Steven Richard and CharCretia V. DiBartolo are hereby appointed as co-chairs of the LRRC effective July 1, 2013.

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.

Name	**Term Expires**
CharCretia V. DiBartolo, Esq.	June 30, 2014
Robert D. Fine, Esq.	June 30, 2014
Olin Thompson, 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
Judith Crowell, Esq.	June 30, 2015
Michael Daly, Esq.	June 30, 2015
Donald Migliori, Esq.	June 30, 2015
Amy Parker, Esq.	June 30, 2015
Matthew H. Parker, Esq.	June 30, 2015
Matthew Oliverio, Esq.	June 30, 2015
Stanley Pupecki, Esq.	June 30, 2015
C. Russell Bengtson, Esq.	June 30, 2016
Terrence P. Donnelly, AUSA	June 30, 2016
Raymond A. Marcaccio, Esq.	June 30, 2016
Stacey P. Nakasian, Esq.	June 30, 2016
Steven M. Richard, Esq.	June 30, 2016
Raymond M. Ripple, Esq.	June 30, 2016
Michael Simoncelli, *ex officio* reporter	n/a

IT IS SO ORDERED.

By the Court:

Date: July 23, 2013

/s/ Mary M. Lisi, Chief Judge

January 31, 2014

Re: Request for Suggested Changes to the Local Rules of the United States District Court for the District of Rhode Island

Dear Federal Practitioners:

We write to you as the co-chairs of the Local Rules Review Committee created pursuant to LR Gen 113(b)(1) of the United States District Court Rules for the District of Rhode Island. The Committee is tasked with consulting with members of the Bar and the public, following which we must review the Local Rules and recommend proposed amendments to the Court. The Committee is required to report to the Court annually. This year, our report is due on or before June 30, 2014.

The purpose of this letter is to request suggestions regarding the Local Rules. Specifically, we would like to hear about your experiences with the Local Rules, whether new rules should be added, and whether any existing rules should be amended or deleted.

We ask that all suggestions be provided in writing to the Clerk of Court in the format described below by February 28, 2014.

To facilitate this process, your suggestions may be submitted electronically via email to Local_Rules@rid.uscourts.gov, or in writing to the Clerk's Office, Attn: Local Rules, United States District Court, One Exchange Terrace, Providence, RI 02903.

To assist the Committee in reviewing your suggestions, we ask you to be as specific as possible and provide information as follows:

- If you are proposing that the Court amend a rule, your suggestion should identify the rule, provide the text of the proposed amendment, and state the reason for the proposed change.

- If you are proposing a new rule, set forth the text of the new rule, describe where you believe the new rule should be inserted, and set forth the reason for the new rule.

- If you are proposing that the Court eliminate a rule, describe with specificity the text you propose to eliminate and state the reason.

A list of the members of the Local Rules Review Committee and their terms has been posted on the Court's website and is also available for inspection at the Clerk's Office. The Committee looks forward to hearing from bar members and other interested parties.

Best Regards,

Steven Richard, Esq.
CharCretia DiBartolo, Esq.
Co-Chairs, Local Rules Review Committee

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

LOCAL RULES REVIEW COMMITTEE
MARCH 19, 2014

The Local Rules Review Committee ("LRRC") met on March 19, 2014, at 4:00 PM in the Jury Assembly Room of the United States Courthouse. Steven Richard and CharCretia DiBartolo co-chaired the meeting. The following LRRC members were present: C. Russell Bengston, Judith Crowell, Michael Daly, Terrence Donnelly, Amy Parker, Matthew Parker, Stanley Pupecki, Ray Ripple, Justin Shay, and George West. The following Court personnel were present: David DiMarzio, Frank Perry, and Michael Simoncelli (LRRC Reporter). Co-chair Steven Richard called the meeting to order at 4:05 PM.

Mr. Richard started the meeting by introducing Chief Judge Smith. Judge Smith thanked the members of the LRRC for their service to the Court and the bar. He also mentioned that in addition to the Court-proposed rule amendments that would be introduced today, the Judges may forward two additional amendments to the LRRC at some point in April. After his opening remarks, Judge Smith excused himself from the meeting to let the LRRC begin its discussion of the Court-proposed amendments, holdovers from the previous session, and suggestions for rule changes received from the bar.

Mr. Richard thanked Chief Judge Smith for his opening remarks. Mr. Richard next outlined the structure of the LRRC: he explained that the bulk of the LRRC's work is performed by its subcommittees, and that since all of the current LRRC members were returning members, he did not see a need to reshuffle the subcommittee assignments unless a member requested a change. He added that the three subcommittee chairs for the 2013-2014 cycle would be: George West (Criminal Rules), Justin Shay (General Rules), and C. Russell Bengston (Civil Rules).

He then asked Michael Simoncelli, the LRRC Reporter, to explain the proposed amendments and suggestions that the LRRC would consider during this cycle. Mr. Simoncelli briefly explained the Court-proposed amendments:

LR Gen 102: The proposed change to LR Gen 102 would remove duplicative language from the local rule that already appears in the Federal Rules on privacy protections. In addition, Mr. Simoncelli explained that one of the additional Court amendments that Chief Judge Smith referenced earlier—on the Court's procedure on sealed documents—would also affect this rule, and that a follow-up amendment may be forwarded during the cycle.

LR Gen 201(b)(5): The proposed amendment would remove the provision that permits attorneys in transferred cases to appear without being admitted *pro hac vice*.

LR Gen 202(b)(2) and (b)(4): The proposed amendment incorporates the changes to the payment of the attorney admissions fee in the Court's General Order dated 12/6/2013.

LR Gen 204: The proposed amendments to LR Gen 204 would incorporate the changes to the *pro hac vice* admission procedure in the Court's General Order dated 12/20/13.

LR Gen 205: The proposed amendment would remove language from the rule that conflicts with Fed. R. Civ. P. 5(b)(E), and would add language to distinguish between mailing and email addresses throughout the rule.

LR Gen 303: Three proposed changes to LR Gen 303 would remove language related to privacy concerns already address by LR Gen 102(a); would allow the Court to receive the administrative record in social security cases electronically; and allow for the electronic filing of complaints and notice of removal. On the electronic filing of complaints, David DiMarzio added that the Court would begin allowing electronic filing of civil complaints on a voluntary basis during the next month, and the requirement would become mandatory by the time the proposed amendment becomes effective in late 2014/early 2015. Mr. Simoncelli also mentioned that if the Court elects to forward an amendment to the sealed document procedure, it would also require an additional amendment to LR Gen 303.

LR Cv 72/LR Cr 57.2: The proposed amendments to LR Cv 72(c)(3), LR Cv 72(d)(3), LR Cr 57.2(c)(3), and LR Cr 57.2(d)(3) would reduce the time period for a reply brief in response to a magistrate judge's ruling on a non-dispositive matter/report and recommendation from 14 days to 7 days after service.

LR Cr 17: The proposed amendment to LR Cr 17(a)(1)(C) and (D) would require parties subpoenaing documents to retrieve the produced material from the Court after 7 days. David DiMarzio explained that under the current rule, subpoenas are made returnable to the Court, and the Clerk's Office provides parties access to the produced documents. However, without an order of the Court, these documents are not part of the case file and the Clerk's Office is forced to maintain the produced documents indefinitely.

Mr. Simoncelli also explained that there were three holdovers from the previous session:

Ghostwriting: The Civil Rules Subcommittee tabled the suggestion that the Court adopt a rule requiring *pro se* litigants to certify that an attorney has not drafted the documents that they filed with the Court. The Civil Rules Subcommittee tabled the suggestion until the Rhode Island Supreme Court addressed the issue. Steve Richard asked if anyone knew if the Rhode Island Supreme Court had rendered a decision on these issues. Mr. Simoncelli explained that he would look into the status of the ghostwriting cases at the Rhode Island Supreme Court.

ESI Discovery: The LRRC created an ad hoc committee to study and recommend an ESI proposal for consideration during the 2012-2013 LRRC cycle. The subcommittee reported to the

LRRC during the 2012-13 cycle, and Mr. Richard added that the ad hoc committee would give an additional report when the rest of the subcommittee reports were submitted in May. He added further that the membership on the ad hoc subcommittee is not closed, and if other LRRC members are interested in participating in the process, they should contact him.

LR Gen 109 (Bankruptcy): The LRRC tabled some of the Court's proposed amendments to LR Gen 109 during the previous cycle, specifically sections (e) and (f) relating to appeals to the district court of bankruptcy court rulings. When the LRRC tabled these amendments, they asked that the Bankruptcy Court's Attorney Advisory Committee review the proposed amendments before making a final determination. The Bankruptcy Court's Attorney Advisory Committee reviewed the tabled amendments in January 2014, and unanimously agreed that the proposed changes are clearer than the current rules with respect to appellate procedures.

Mr. Simoncelli next reviewed the suggestions received from the bar during the suggestion that ended on February 28, 2014:

ACLU: The ACLU submitted suggestions regarding the following amendments: LR Gen 102, LR Gen 107, LR Gen 111, LR Gen 113, LR Gen 204, LR Gen 210, LR Gen 215, LR Cv 39.4, LR Cv 54.1, LR Cv 56, and a general comment requesting that the Court adopt a "Uniform Numbering System" for the Local Rules.

Elliot Taubman: Attorney Elliot Taubman submitted suggestions that the Court adopt rules relating to: the filing of complaints and payment of fees electronically; the way that CM/ECF operates when data entry errors are made; the line spacing of documents filed with the Court; and the use of electronic devices by members of the bar in the Courthouse.

John McCann: Attorney John McCann suggested that the Court create a new local rule that tracks Fed. R. Civ. P. 12. In Mr. McCann's proposal, he suggests that the newly adopted rule contain additional language in (a)(4) that is not in the current Fed. R. Civ. P. 12.

Melissa Larsen: Attorney Melissa Larsen suggested that the Court consider adopting a local criminal rule modelled on Massachusetts Rule 116.10, which requires any party producing more than 1,000 pages of discovery in a criminal case to provide a table of contents that describes the type and origin of the document and the location of the document within the larger set.

Mr. Richard next asked David DiMarzio to explain the schedule for the LRRC's work in 2014. Mr. DiMarzio explained that the LRRC's final report was due by June 30, 2014, but could be extended if there were extenuating circumstances. He mentioned that historically the LRRC has held two or three meetings after the initial kickoff meeting in March. Mr. DiMarzio explained that the subcommittees first meet in April to discuss the proposed amendments and suggestions referred to them in April, and submit reports with recommendations for the whole LRRC to discuss in May and June. Mr. Richard added that while the subcommittees would make most of the recommendations on the various proposals, he said that there were two

"global" issues that the LRRC should consider as a whole: (1) the proposal regarding sealed documents, since the Court's policy in this area affects civil and criminal practitioners equally; and (2) the ACLU's suggestion that the Court consider a new numbering system for the rules that would remove the "General Rules" completely, and place those rules elsewhere in the Local Rules.

Mr. Richard closed the meeting by thanking the members of the Court staff for their assistance to the LRRC.

The meeting adjourned at 4:40 PM.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

LOCAL RULES REVIEW COMMITTEE
MAY 14, 2014

The Local Rules Review Committee ("LRRC") met on May 14, 2014, at 4:00 PM in the Jury Assembly Room of the United States Courthouse. Steven Richard and CharCretia DiBartolo co-chaired the meeting. The following LRRC members were present: C. Russell Bengston, Michael Daly, Terrence Donnelly, Robert Fine, Neal McNamara, Stacey Nakasian, Matthew Parker, Ray Ripple, Justin Shay, and George West. The following Court personnel were present: David DiMarzio, Frank Perry, and Michael Simoncelli (LRRC Reporter). Co-chair Steven Richard called the meeting to order at 4:05 PM.

Mr. Richard started the meeting by recapping the timeline for the LRRC's work between today's meeting and the June 30th report deadline. He stated that after today's meeting, the LRRC would need one additional meeting to complete its work, and provide enough time to complete the final report to the District Judges.

Mr. Richard then turned to Justin Shay to give the report of the General Rules Subcommittee ("GRS"). Mr. Shay reported that the GRS recommended approval of the following proposed amendments: LR Gen 102, LR Gen 109, LR Gen 202(b)(2) and (b)(4), LR Gen 204(d) and (g), and LR Gen 205. Mr. Shay provided additional information about the GRS's recommendations on the following proposed amendments:

- LR Gen 201(b)(5): The GRS recommended that the proposal to remove the provision that allows attorneys in transferred cases to appear without being admitted *pro hac vice* be discussed by the entire LRRC. Mr. Shay mentioned that GRS was concerned that the proposed change may result in an interruption in legal representation and problems with notice to clients.
- LR Gen 302(d): The GRS approved the Court's change to LR Gen 302(d), which would allow non-prisoner pro se filers to file electronically, with a small modification to the first sentence of the proposed amendment.
- LR Gen 303: There were five proposed changes to LR Gen 303: (1) to (a) to allow for the electronic filing of complaints and notice of removal; (2) to (d)(1)(B) to permit the Court to receive the administrative record in social security cases electronically; (3) to (d)(2)(B) to allow authorized pro se filers to file documents electronically; (4) to (d)(2)(I), which was language moved from the original (a) of the rule; and (5) to remove language related to privacy concerns already address by LR Gen 102(a). Mr. Shay explained that that the GRS approved the changes to (a), (d)(2)(B), and (d)(4), but wanted to the full LRRC to discuss the language in the proposed (d)(2)(I): The requirement that documents seeking emergency relief be filed conventionally and not electronically.

David DiMarzio added that the Clerk's Office does not see a need for these documents to be filed conventionally, but that a proposal to allow them to be filed electronically had not been vetted with the District Judges.

Mr. Shay concluded by mentioning that the GRS reviewed the proposals submitted by the ACLU in regard to the General Rules, and chose not to recommend any of those proposals.

Mr. Richard next asked Russ Bengtson to provide the LRRC with the Civil Rules Subcommittee's (CVRS) report.

Mr. Bengtson reported that the CVRS endorsed the Court's change to LR Cv 72. He also noted that the "ghostwriting" suggestion tabled during the previous cycle—that the LRRC create a rule requiring *pro se* litigants to certify that filings were not authored by attorney—was tabled again. Mr. Bengtson explained that there were currently three cases on appeal to the Rhode Island Supreme Court that deal with this issue, and the CVRS believed that the LRRC should hold off on this suggestion until the Court decided those cases in late 2014.

In addition, the CVRS recommended that the LRRC not adopt any of those proposals submitted by the ACLU that related to the Civil Rules.

Lastly, he discussed a proposal generated by the CVRS. Last year, the LRRC rejected a proposal that the Court adopt District of Massachusetts LR 26.5 (Uniform Definitions in Discovery Requests), and the CVRS proposed that the LRRC reconsider it. Bob Fine explained that the revised proposal preserved most of the original proposal, but softened some of the language in light of the objections made during the previous cycle. Mr. Richard suggested that since the proposal generated significant discussion and disagreement during the previous cycle, it should be held for discussion at the final LRRC meeting.

Mr. Richard next asked George West, chair of the Criminal Rules Subcommittee (CRRS), to provide his subcommittee's report. Mr. West reported that the CRRS had no objection to the Court's proposals to LR Cr 57.2 and LR Cr 17. Further, he added that the proposal submitted by Melissa Larsen, Esq.—that the Court adopt a rule similar to District of Massachusetts LR 116.10, which requires a table of contents whenever a party produces more than a 1,000 pages of discovery—was rejected.

Mr. Richard asked Matt Parker to provide the report on ESI ad hoc subcommittee. Mr. Parker recapped the subcommittee's recent meeting, and emphasized that the subcommittee would have to wait until the pending changes to the Federal Rules of Civil Procedure became final before making a substantive proposal to the LRRC. In addition, he added that the subcommittee felt that a standard order—as opposed to a local rule—may be the more appropriate format for a set of rules dealing with ESI discovery. Mr. Richard added that he felt that the ultimate form an ESI discovery order/rules/protocol would take may be outside of the

jurisdiction of the LRRC, and he suggested that the issue be discussed at the next Federal Bench-Bar Committee meeting.

Mr. Richard noted that the CVRS did not deal with two additional proposals: one from Elliot Taubman that the Court modify LR Cv 5(a)(3) requiring documents to be double-spaced, and another from John McCann that the Court adopt a local rule modeled on Fed. R. Civ. P. 12. Mr. Bengtson said that the CVRS would reject Mr. Taubman's proposal, and report back on Mr. McCann's proposal at the next meeting.

Lastly, Mr. Richard reported that the LRRC would not endorse the ACLU's request that the Court renumber its Local Rules using a "Uniform Numbering System."

Mr. Richard concluded the meeting by announcing that the next meeting of the LRRC would be held on Wednesday, June 11, at 3:30 in the Jury Assembly Room.

The meeting adjourned at 4:50 PM.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

LOCAL RULES REVIEW COMMITTEE
JUNE 11, 2014

The Local Rules Review Committee ("LRRC") met on June 11, 2014, at 3:30 PM in the Jury Assembly Room of the United States Courthouse. Steven Richard and CharCretia DiBartolo co-chaired the meeting. The following LRRC members were present: C. Russell Bengston, Judith Crowell, Michael Daly, Terrence Donnelly, Matthew Oliveiro, Matthew Parker, Stanley Pupecki, Ray Ripple, and Justin Shay. The following Court personnel were present: David DiMarzio, Frank Perry, and Michael Simoncelli (LRRC Reporter). Co-chair Steven Richard called the meeting to order at 3:35 PM.

Mr. Richard started the meeting by outlining the timeline for submission of the LRRC's final report to the District Judges. He explained that after today's meeting, Michael Simoncelli, the LRRC reporter, would complete a draft of the report for review by the co-chairs. The co-chairs would then circulate the report to the LRRC members for approval before submitting it to the District Judges by the June 30th deadline.

Mr. Richard then turned to David DiMarzio, Clerk of Court, to give an update on the LRRC reappointment process. Mr. DiMarzio explained that all six members whose terms were set to expire on June 30 had agreed to serve a second term on the LRRC, and that Matt Oliveiro agreed to succeed Mr. Richard as a co-chair of the LRRC. Mr. DiMarzio added that the draft reappointment order would also change the expiration date of all terms from June 30 to November 30. He explained that the LRRC's report would still be due by June 30th each year, but that this change would allow LRRC members to be available to answer any follow-up questions that the District Judges may have after reviewing the LRRC's report.

Mr. Richard next explained the process for approving, rejecting, or tabling any suggested amendments at the final meeting. He noted that the LRRC would approve the subcommittee reports made at the May 14th meeting by unanimous consent unless a LRRC member had a specific objection to the subcommittee's approval or rejection of a particular amendment. In addition, the LRRC would discuss and vote on any items held for consideration by the full LRRC at the May 14th meeting.

Justin Shay, chair of the General Rules Subcommittee (GRS), explained that one of the items that the GRS agreed should be discussed by the full LRRC was the suggestion that LR Gen 201(b)(5) be removed. Mr. Shay noted that LR Gen 201(b)(5) allowed attorneys in transferred cases to appear in that case without being admitted *pro hac vice*. Instead of removing that section of the rule as the Court suggested, Mr. Shay offered an amendment that would allow an

attorney in a transferred case to appear and practice for 14 days after the transfer. After 14 days, the transferred attorney would be required to petition the Court for admission *pro hac vice* in line with LR Gen 204. Mr. Shay felt that this amendment would alleviate the LRRC's concerns about continuity of representation in transferred cases, but would still fulfill the Court's desire that attorneys in these cases obtain local counsel. Further, Mr. Shay asked if the Clerk's Office could provide notice to the transferred counsel of their obligations under this rule through CM/ECF, and Mr. DiMarzio said that they could. Matt Oliveiro moved that the proposed change be accepted, and Matt Parker seconded the motion. The full LRRC accepted the proposed change.

Mr. Shay next turned to the provision of LR Gen 303 that requires emergency relief documents to be filed conventionally, and asked the full LRRC if this provision should be removed so that such documents could be filed electronically. Mr. Richard added that under LR Cv 9, parties filing emergency relief documents are required to contact the Court upon filing, so the Court would be aware that such documents had been filed. Michael Daly moved that the amendment be removed, and Stanley Pupecki seconded the motion. The full LRRC voted to strike the provision that emergency relief documents be filed conventionally.

Mr. Oliveiro recommended that the remaining recommendations made by the GRS at the May 14th meeting be adopted, and Mr. Parker seconded the motion. The full LRRC adopted the recommendations contained in the GRS's report.

Mr. Richard next mentioned that there were no items for further discussion in regard to the criminal rules. Judith Crowell moved that the LRRC adopt the Criminal Rules Subcommittee's report, and Terrance Donnelly seconded the motion. The full LRRC adopted the recommendation in the subcommittee's report.

Co-chair CharCretia DiBartolo next recapped the items for discussion offered by the Civil Rules Subcommittee at the May 14th meeting. Mr. Richard mentioned that the subcommittee did not consider a suggestion by Attorney John McCann that the Court adopt a local rule to track Fed. R. Civ. P. 12, with a provision that the filing of a partial motion to dismiss would suspend the time to answer on those claims in line with First Circuit case law. Mr. Richard thought that a new local rule along those lines was not necessary. Mr. Parker moved that the suggested amendment be rejected, and Mr. Pupecki seconded the motion. The full LRRC agreed with the recommendation to reject the suggested change.

Ms. DiBartolo next moved to the proposal for a new local rule to establish uniform definitions in discovery requests. She noted that the Civil Rules Subcommittee proposed a similar amendment during the previous session—which tracked a District of Massachusetts local rule—and that the full LRRC rejected it. Ms. DiBartolo mentioned that the proposal before the LRRC was similar to the previously rejected amendment, but was revised to contain language—inserted by Robert Fine of the Civil Rules Subcommittee—to clarify that the uniform definitions

would be optional under the rule. Mr. Pupecki renewed his objection from the previous session, restating that he felt that the amendment was unnecessary and burdensome. Ms. DiBartolo questioned whether the amendment was useful, since it appeared to be advisory in nature and ultimately optional. Mr. Richard added that the rule, as constructed, was permissive, and was not consistent with the overall intent of the Court's local rules. Mr. Parker responded that he felt that the rule had the potential to provide uniformity and consistency to federal court practice, and Mr. Daly added that he too saw a need for the rule. Russell Bengtson moved that the LRRC reject the rule, and Mr. Pupecki seconded the motion. A majority of the LRRC recommended that the proposal be rejected.

Mr. Richard also commented on the work of the ESI *ad hoc* subcommittee. He noted that in light of the discussion at the May 14th meeting and at the most recent Federal Bench-Bar Committee meeting, the LRRC was not an appropriate arena for discussion of ESI discovery issues. He moved that the ESI discovery proposal be tabled indefinitely, and the full LRRC moved to table the suggestion.

Mr. Richard thanked the LRRC for its work this year, and mentioned that the co-chairs would be circulating a draft of the final report shortly.

The meeting adjourned at 4:30 PM.

June 30, 2014

The Honorable William E. Smith
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 Smith:

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 the 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 11, 2014 meeting.

The LRRC began its work by asking for suggested changes to the Local Rules from the Bar and public during February 2014, and received four suggested changes from the bar. (Two of these suggestions, from the ACLU and attorney Elliot Taubman, contained multiple proposals.) The LRRC discussed these suggested changes, along with the Court-proposed amendments and any holdovers from the previous local rules review cycle, at its March 19, 2014 meeting. At that meeting, the LRRC referred the proposals 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 14, 2014 meeting.

At the meeting on May 14, the LRRC reviewed the work of the General Rules, Civil Rules, and Criminal Rules Subcommittees, and scheduled a final meeting for June 11, 2014. The full LRRC ultimately endorsed adoption of eleven rule changes. Most of the changes endorsed by the LRRC were non-controversial, technical amendments, but the LRRC did recommend substantive changes to LR Gen 109 (Bankruptcy Appeals), LR Gen 302 (Pro Se Litigants), and LR Gen 303 (Electronic Filing of Complaints).

In addition, the LRRC also considered, but ultimately tabled or rejected, a number of other proposed changes. The LRRC tabled the proposal that the Court adopt a rule requiring *pro se* filers to certify that their pleadings have not been "ghostwritten" by an attorney. The LRRC also rejected a number of proposals: those submitted by the ACLU; the proposal submitted by

Mr. Taubman; a proposal that the Court adopt a modified version of Fed. R. Civ. P. 12; a proposal for a rule setting uniform definitions in discovery requests in civil cases; and a proposal requiring a table of contents to voluminous discovery in criminal cases. (All of the suggestions received during the public comment period are attached to the enclosed report.)

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,

Steven Richard
CharCretia DiBartolo
Co-Chairs, LRRC

Enclosure
cc: David DiMarzio
Frank Perry
Michael Simoncelli

United States District Court
for the District of Rhode Island

PROPOSED AMENDMENTS TO LOCAL RULES

June 30, 2014

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Gen 102	**LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION** **(a) Privacy Protections.** ~~**(1) In General.** In compliance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and the policy of the Judicial Conference of the United States, and in order to address the privacy concerns created by Internet access to court documents, parties or non-parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents filed with the Court:~~ ~~(a) MINORS' NAMES: Use of the minors' initials only;~~ ~~(b) SOCIAL SECURITY NUMBERS: Use of the last four numbers only;~~ ~~(c) DATES OF BIRTH: Use of the year of birth only;~~ ~~(d) FINANCIAL ACCOUNT NUMBERS: Identify the type of account and the financial institution, but use only the last four numbers of the account number; and~~ ~~(e) HOME ADDRESSES: Use the city and state only (in criminal cases only).~~ ~~**(2) Responsibility for Removing Personal Information.**~~ It is the responsibility of any party or non-party filing a document, not the Clerk's Office, to review each document to determine if pleadings are in compliance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and the Judicial Conference Policy on Privacy and Public Access to the Electronic Case Files ~~must be modified and are in the proper form~~. If the Court finds a document that contains	**The General Rules Subcommittee recommended adoption of the proposed change.**	**PROPOSED CHANGE ACCEPTED.**	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	personal identifiers referenced in Fed. R. Civ. P. 5.2 and Fed. R. Crim. P. 49.1, the Clerk's Office will limit non-parties' remote electronic access to the document containing the personal identifiers. ~~**(3) Corrective Action.** In cases where the above personal information does appear on documents filed with the Court, the party or non-party responsible for the filing shall file a Motion to Redact, along with a redacted version of the document containing personal information in compliance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1 and Judicial Conference policy. Upon receipt of the Motion to Redact, the Clerk shall grant the motion by text order, restrict the document containing the above personal information from the docket, and replace it with the redacted version.~~ ***** **(c) Filing of Sealed Documents in Civil Cases.** Upon receipt of a motion to seal in a civil case, the clerk shall docket the motion but not the documents which are the subject of the motion and shall immediately transmit the motion and documents to the chambers of the judge to whom the case has been assigned. If the Court grants the motion to seal and unless otherwise ordered by the Court, the sealed ~~envelope~~ documents shall be retained by the clerk in a secure location until further order of the Court. If the Court denies the motion to seal, the motion shall be docketed and filed in accordance with these Local Rules, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court. *****			

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Gen 109	The LRRC tabled some of the Court's proposed amendments to LR Gen 109 during the previous cycle, specifically sections (e) and (f) relating to appeals to the district court of bankruptcy court rulings. The LRRC then asked the Bankruptcy Court's Attorney Advisory Committee to review these amendments before making a final determination. The Bankruptcy Court's Attorney Advisory Committee reviewed the tabled amendments in January 2014, and unanimously agreed that the proposed changes are an improvement and are clearer than the current rules with respect to appellate procedures. **LR Gen 109 BANKRUPTCY** ******** **(e) Appeals to Bankruptcy Appellate Panel.** In accordance with 28 U.S.C. §158(b)(6), ~~when all parties consent,~~ appeals from any judgment, order or decree of a bankruptcy judge which are referred to in 28 U.S.C. § 158(a) ~~may~~ will be heard and determined by the Bankruptcy Appellate Panel for the First Circuit unless a party elects to have the appeal heard by the District Court in accordance with Bankruptcy Rule 8001(e)(1). **(f) Appeals to District Court.** Except as otherwise provided in this subsection (f) or elsewhere in these rules, or unless otherwise ordered by the District Court, appeals or motions for leave to appeal to the District Court from any judgment, order or decree of a bankruptcy judge shall be governed by the applicable provisions of Rules 8001 - 8020 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules") **(1) ~~Notice of Appeal~~ Record on Appeal.** ~~When a notice of appeal is filed with the bankruptcy clerk, the bankruptcy clerk shall, forthwith,~~	**The General Rules Subcommittee recommended adoption of the proposed change.**	**PROPOSED CHANGE ACCEPTED.**	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	~~transmit a copy of the notice of appeal to the District Court clerk, together with a copy of the judgment, order or decree that is the subject of the appeal, and the Appeal Cover Sheet. The District Court clerk, thereupon, shall treat the matter administratively as a newly filed case, but in accordance with Bankruptcy Rule 8001(f)(2), the matter shall not be deemed "pending" in this Court until the record has been transmitted and docketed.~~ Upon the completion of the record on appeal in accordance with Bankruptcy Rule 8007(b), the bankruptcy clerk shall transmit a copy of the following to the District Court clerk: (A) Notice of appeal; (B) Judgment, order or decree that is the subject of the appeal; (C) Docket sheet; (D) Appeal cover sheet; (E) Election form requesting the appeal be heard by the district court; (F) Designation(s) of the contents of the record on appeal; (G) Statement(s) of issues on appeal; and (H) Any written decision(s) and a transcript of any oral decision(s) by the bankruptcy judge stating the reasons for the judgment, order or decree The District Court clerk, thereupon, shall treat the matter as a newly filed case and docket the			

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Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	appeal in accordance with Bankruptcy Rule 8007(b). ***** **(5) Dismissal of Appeals by Bankruptcy Judge.** A bankruptcy judge may dismiss an appeal if: (A) the notice of appeal is not filed within the time specified in Bankruptcy Rule 8002; (B) the appellant has failed to file a designation of the record or a statement of the issues within the time specified in Bankruptcy Rule 8006 or any extension thereof; or ~~(C) the appellant has failed to comply with paragraph (6)(C) of this subsection.~~ ~~(D)~~(C) the appellant has failed to pay the prescribed appeal filing fee as required by Bankruptcy Rule 8001(a). **~~(6) Record on Appeal.~~** ~~In addition to any other applicable requirements, the Bankruptcy Court clerk shall ensure that the record electronically transmitted to the District Court clerk includes:~~ ~~(A) the judgment, order or decree of the bankruptcy judge that is the subject of the appeal;~~ ~~(B) any written decision(s) and a transcript of any oral decision(s) by the bankruptcy judge stating the reasons for the judgment(s), order(s) and/or decree(s) referred to in subparagraph (A);~~			

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Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	~~(C) the record on appeal;~~ ~~(D) a statement of the issues on appeal; and,~~ ~~(E) a copy of the docket sheet.~~ ~~(7)~~**(6) Form of and Schedule for Filing Briefs**. Unless otherwise ordered by the District Court or provided in these rules, the form and schedule for filing appellate briefs and memoranda shall be governed by Bankruptcy Rule 8009 and 8010, except that: (A) all briefs~~,~~ and memoranda ~~and appendices thereto~~ shall conform to the applicable requirements of LR Cv 7; and (B) with respect to documents that are conventionally filed, two copies of any brief or memorandum shall be provided to the district judge to whom the appeal or motion for leave to appeal is assigned. Such motion and any related objection(s) and replies shall be governed by the applicable provisions of LR Cv 7. *****			

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Gen 201	**LR Gen 201 PRACTICE BEFORE THIS COURT** ********* **(b) Exceptions to Requirement of Membership.** Notwithstanding the provisions of subsection (a), the following individuals may appear and/or practice before this Court: ~~**(5) Attorneys in Transferred Cases.** An attorney who is a member in good standing of the bar of another federal district court, and who represents a party in a case transferred to the District of Rhode Island from another district, may appear and practice in this Court in that case.~~ ~~**(6)**~~**(5) 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).	**The General Rules Subcommittee recommended that this proposal be discussed by the full LRRC.**	**The LRRC accepted the following revision to LR Gen 201(b)(5) instead of removing the subsection. The language added to the current (b)(5) is indicated by double underline:** **(5) Attorneys in Transferred Cases.** An attorney who is a member in good standing of the bar of another federal district court, and who represents a party in a case transferred to the District of Rhode Island from another district, may appear and practice in this Court in ~~that case~~ the transferred case provided that within fourteen (14) days of such transfer, the attorney files a motion for admission *pro hac vice* and otherwise satisfies the requirements of LR Gen 204 and that the motion of the attorney for admission *pro hac vice* be granted by the Court.	
LR Gen 202	**LR Gen 202 ELIGIBILITY AND PROCEDURE FOR ADMISSION** ********* **(b) Procedure for Admission.** ***** **(2) ~~Application~~ Admission F~~f~~ee.** An individual ~~application~~ applying for admission also shall ~~be accompanied by a check payable to the "Bar Fund" in payment of~~ pay the ~~application~~ admission fee fixed by the Court. ~~The application fee shall not be refundable.~~ ***** **(4) Admission Ceremony**. Admission to the Bar of this Court is effected by the granting of a	**The General Rules Subcommittee recommended adoption of the proposed change.**	**PROPOSED CHANGE ACCEPTED.**	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	motion made by the Chairman of the Board of Bar Admissions or his designee at an admission ceremony presided over by the Court. In the case of an individual admitted pursuant to LR Gen 202(a)(2)(B), admission is effected upon approval by the Chief Judge of the application for admission. In order to be admitted, an applicant shall make the following oath or affirmation: I do solemnly [swear] [affirm] that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic, and that I will bear true faith and allegiance to the same; that I take the obligation freely, without any mental reservation or purpose of evasion; and that I will demean myself as an attorney, proctor, and solicitor of this court, uprightly and according to the law. [So help me God.] Upon making the prescribed oath or affirmation, ~~and upon payment of the admission fee established by the Judicial Conference of the United States,~~ the applicant shall be a member of the Bar of this Court. ~~The admission fee shall be paid by check payable to the "Clerk, U.S. District Court."~~ *****			

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Gen 204	**LR Gen 204 *PRO HAC VICE* COUNSEL** ***** **(d) ~~Application~~ Procedure for Admission**. An attorney seeking ~~An application for~~ *pro hac vice* admission shall ~~be made by~~ complet~~inge~~ and fil~~inge~~ a ~~form~~ motion provided by the Clerk, and ~~together with a check for the application~~ pay the admission fee fixed by the Court~~.~~ ~~which shall be payable to the "Bar Fund."~~ The ~~application~~ admission fee will not be refunded if the ~~application~~ motion for admission *pro hac vice* is denied. A motion for admission *pro hac vice* ~~admission~~ shall be signed both by the applicant and by local counsel affiliated with the applicant. ***** **(g) Notification**. ~~(1)~~ *Pro hac vice* counsel shall promptly notify the Court of any change in counsel's name, address, telephone number, fax number, e-mail address and/or law firm name from that shown on counsel's application for *pro hac vice* admission. ~~(2) Any notice sent to *pro hac vice* counsel shall be deemed delivered if sent to the most recent address or fax number or e-mail address provided in counsel's application for *pro hac vice* admission or in any subsequent change of address provided by such counsel.~~	**The General Rules Subcommittee recommended adoption of the proposed change.**	**PROPOSED CHANGE ACCEPTED.**	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Gen 205	**LR Gen 205 *PRO SE* LITIGANTS** ***** **(b) Filing of Documents**. Any document requiring a signature that is filed by a party appearing *pro se* shall bear the words "*pro se*" following that party's signature and shall state the party's mailing address, telephone number, e-mail address, and fax number, if any. **(c) Service on Party Acting *Pro Se*.** The Court may order any party who is appearing without an attorney to designate a~~n~~ mailing address at which service upon that party can be made. Service may be made on such *pro se* party by mailing papers to that party at the designated mailing address. **(d) Notification** (1) Every *pro se* litigant shall inform the Clerk in writing of any change of name, mailing address, telephone number, e-mail address, and/or fax number within 14 days of such change. (2) Any notice sent to and any paper served on a *pro se* litigant shall be deemed delivered if sent to the most recent mailing address ~~or fax number or e-mail address~~ provided by the litigant pursuant to subsection (b) or (c) of this Rule.	**The General Rules Subcommittee recommended adoption of the proposed change.**	**PROPOSED CHANGE ACCEPTED.**	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Gen 302	**LR Gen 302 EXEMPTIONS; EXCEPTIONS; PRO SE LITIGANTS** ***** **(d) *Pro Se* Litigants.** ~~All *pro se* litigants shall conventionally file and serve all documents in accordance with the provisions of the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure and the Local Rules of this Court.~~ A non-incarcerated *pro se* litigant in a pending case may apply to the Court for permission to file documents electronically using ECF on a form prescribed by the Clerk's Office. If the court grants a *pro se* litigant permission to file documents electronically, that permission is limited to the case specified, and the Court may withdraw that permission at any time during the pendency of a case. In the absence of a court order authorizing electronic filing, all *pro se* litigants shall conventionally file and serve all documents in accordance with the provisions of the Federal Rules of Civil Procedure and Criminal Procedures and the Local Rules of this Court, and all electronically filed documents must be conventionally served on the *pro se* litigant.	**The General Rules Subcommittee recommended adoption with the following modification to the first sentence of paragraph 1 of the proposed (d). (Changes indicated by ~~double strikethrough~~ and double underline.** A non-incarcerated *pro se* litigant in a pending case may apply to the Court for permission to file and receive documents electronically ~~using ECF~~ on a form prescribed by the Clerk's Office.	**PROPOSED CHANGE ACCEPTED AS MODIFIED BY THE GENERAL RULES SUBCOMMITTEE.**	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Gen 303	**LR Gen 303 SPECIAL FILING REQUIREMENTS AND EXCEPTIONS** **(a) Civil ~~and Miscellaneous~~ Case Opening Documents**. **(1) Complaints and Notices of Removal.** Absent an exemption under LR Gen 302, complaints or notices of removal, together with the civil cover sheet and a summons for each defendant to be served, shall be filed electronically, and the required filing fee shall be paid at the time of filing. The Clerk's Office will issue a summons for each defendant to be served to the filer. **(2) Other Civil Case Initiating Documents.** Civil case initiating documents not mentioned in (a)(1), or to be filed under seal, shall be filed conventionally, together with the civil cover sheet, a summons for each defendant to be served, and the required filing fee. The Clerk's Office will issue a summons for each defendant to be served to the filer. ~~(1) Civil case opening documents, such as a complaint, petition and notice of removal, together with a summons and civil cover sheet, shall be filed conventionally. Also, documents seeking emergency relief under LR Cv 9, such as a request for a temporary restraining order, shall be filed conventionally. The case will be assigned and opened electronically by the Clerk's Office, and the documents submitted will be incorporated into the electronic case file.~~	**The General Rules Subcommittee recommended adoption of the proposed changes to LR Gen 303(a); (d)(1)(B); (d)(2)(B); and (d)(4), and recommended the full LRRC discuss whether (d)(2)(I) should be removed. Specifically, whether documents for emergency relief could be filed electronically.**	**PROPOSED CHANGES TO LR GEN 303(a), (d)(1)(B); (d)(2)(B), and (d)(4) ACCEPTED.** **IN ADDITION, THE LRRC PROPOSED TO REMOVE (d)(2)(I) IN THE ORIGINAL PROPOSAL, AND ALLOW DOCUMENTS FOR EMERGENCY RELIEF TO BE FILED ELECTRONICALLY.**	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	~~(2) The Clerk's Office will return the signed and sealed summonses to counsel for the plaintiff for service of process. A party may not electronically serve a civil complaint, but shall effect service in accordance with Fed. R. Civ. P. 4.~~ ~~(3)~~**(b) Miscellaneous Case Opening Documents.** Miscellaneous case opening documents shall be filed conventionally along with the prescribed filing fee. **~~(b)~~(c) Limit on Size of Documents.** No documents shall be filed that are larger than 2.5 megabytes. In cases where a single document is larger than 2.5 MB, the filer shall break the document into files smaller than 2.5 MB before filing. **~~(c)~~(d) Other Documents** (1) The following documents must be conventionally filed and will not appear in the electronic case file: (A) Motions to file documents under seal and documents filed under seal in criminal cases as set forth in LR Gen 102(d); (B) ~~Administrative r~~Records ~~in social security cases, IDEA cases and in other~~ of administrative review proceedings other than social security cases; (C) The state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings; (D) The state court record in Notice of Removal actions;			

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Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	(E) *Ex parte* motions and applications; and (F) Consent to Proceed Before a Magistrate Judge. (2)The following documents must be conventionally filed, but will be scanned into the electronic case file by the Clerk's Office: (A)Motions to file documents under seal in civil cases as set forth in LR Gen 102(c); (B)All pleadings and documents filed by prisoner *pro se* litigants and non-prisoner *pro se* litigants not granted permission to file documents electronically; (C)The charging document in a criminal case, such as the complaint, indictment and information; (D)Affidavits for search and arrest warrants and related papers; (E) Fed.R.Crim.P. 20 and Fed.R.Crim.P. 5 papers received from another court; (F) Any pleading or document in a criminal case containing the signature of a defendant, such as a waiver of indictment or plea agreement; (G)Petitions for violations of supervised release; and (H)Appearance Bonds. (I) Documents seeking emergency relief under LR Cv 9. (Note: The requirement that documents seeking emergency relief be filed conventionally appears in the current			

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Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	(a)(1). It has been moved to this section, but will still be filed conventionally.) (3) The following documents must be filed in a Scanned PDF format using ECF and may not be filed in an Electronically Converted PDF format: (A) Rule 4 executed service of process documents; and (B) Affidavits in support of motions or objections with original signatures. ~~(4) No document should be placed in the public case file that does not comply with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and LR Gen 102 and the Judicial Conference Policy on Privacy & Public Access to Electronic Case Files.~~			
Suggestion from the Bar	The American Civil Liberties Union submitted suggestions regarding the following amendments: LR Gen 102, LR Gen 107, LR Gen 111, LR Gen 113, LR Gen 204, LR Gen 210, LR Gen 215, LR Cv 39.4, LR Cv 54.1, LR Cv 56, and a general comment requesting that the Court adopt a "Uniform Numbering System" for the Local Rules.	**The General Rules Subcommittee did not recommend adoption of any of the proposals submitted by the ACLU that relate to the General Rules.**	**PROPOSED CHANGES REJECTED.** **IN ADDITION, THE LRRC REJECTED THE SUGGESTION THAT A "UNIFORM NUMBERING SYSTEM" BE ADOPTED FOR THE LOCAL RULES.**	
Suggestion from the Bar	Attorney Elliot Taubman submitted suggestions that the Court adopt rules relating to: the filing of complaints and payment of fees electronically; the way that CM/ECF operates when data entry errors are made; the line spacing of documents filed with the Court; and the use of electronic devices by members of the bar in the Courthouse.	**The General Rules Subcommittee did not recommend adoption of any of the proposals submitted by Mr. Taubman that relate to the General Rules. Further, it noted that the amendment to LR Gen 303 allows for the filing of complaints electronically, and under LR Gen 112(b), attorneys can bring electronic devices into**	**PROPOSED CHANGES REJECTED.**	

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Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
		the Courthouse. **The suggestion regarding line spacing falls under the Civil Rules (LR Cv 5). See discussion below in Civil Rules section.**		

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Cv 72	**LR Cv 72 AUTHORITY OF MAGISTRATE JUDGES IN CIVIL CASES** ***** **(c) Objections to Rulings on Nondispositive Matters.** ***** **(3) Responses and Replies**. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and file a reply to the response within ~~14~~ 7 days thereafter. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in response to an objection to a magistrate judge's order or ruling. Any response and/or reply shall comply with LR Cv 7. ***** **(d) Objections to Reports and Recommendations.** **(3) Responses and Replies**. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and file a reply to the response within ~~14~~ 7 days thereafter. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in opposition to an objection to a magistrate judge's Report and Recommendation. Any response and/or reply shall comply with LR Cv 7.	**The Civil Rules Subcommittee recommended adoption of the proposed change.**	**PROPOSED CHANGE ACCEPTED.**	

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

Civil Rules

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
Suggestion from the Bar	During the 2011-12 local rules review cycle, 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 LRRC created an *ad hoc* committee to study and recommend an ESI proposal for consideration during the 2012-2013 LRRC cycle. The members of the ad hoc committee are: Jeffrey Techentin, Byron McMasters, Ranen Schechner, and Steven Richard. Mr. Richard will chair the ad hoc committee. The subcommittee reported to the LRRC during the 2012-13 cycle, and would make an additional report during the 2013-2014 session.	**Co-chair Stephen Richard indicated that the ESI discovery issue should be discussed at the next Federal Bench-Bar Committee meeting.**	**The LRRC determined that the issue of ESI discovery is outside the purview of the LRRC, and agreed to table the suggestion.**	
Suggestion from the Bar	During the 2011-2012 local rules review cycle, 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 LRRC chose to table the proposal for reconsideration during the 2012-2013 local rules review cycle due to an appeal to the Rhode Island Supreme Court on this issue, and reconsider it during the 2013-14 local rules review cycle.	**The Civil Rules Subcommittee tabled the suggestion pending decision on three "ghostwriting" cases at the Rhode Island Supreme Court. Decisions are expected in late 2014.**	**The LRRC tabled the suggestion for reconsideration during the 2014-2015 local rules review cycle.**	
Suggestion from the Bar	The American Civil Liberties Union submitted suggestions regarding the following amendments: LR Gen 102, LR Gen 107, LR Gen 111, LR Gen 113, LR Gen 204, LR Gen 210, LR Gen 215, LR Cv 39.4, LR Cv 54.1, LR Cv 56, and a general comment requesting that the Court adopt a "Uniform Numbering System" for the Local Rules.	**The Civil Rules Subcommittee did not recommend adoption of any of the proposals submitted by the ACLU that relate to the Civil Rules.**	**PROPOSED CHANGES REJECTED.** **IN ADDITION, THE LRRC REJECTED THE SUGGESTION THAT A "UNIFORM NUMBERING SYSTEM" BE ADOPTED FOR THE LOCAL RULES.**	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
Suggestion from the Bar	Attorney Elliot Taubman submitted suggestions that the Court adopt rules relating to: the filing of complaints and payment of fees electronically; the way that CM/ECF operates when data entry errors are made; the line spacing of documents filed with the Court; and the use of electronic devices by members of the bar in the Courthouse.	**The Civil Rules Subcommittee did not recommended adoption of the proposed change by Mr. Taubman with respect to the line spacing of documents. (See, LR Cv 5(a)(3)).**	**PROPOSED CHANGE REJECTED.**	
Suggestion from the Bar	Attorney John McCann suggested that the Court create a new local rule that tracks Fed. R. Civ. P. 12. In Mr. McCann's proposal, he suggests that the newly adopted rule contain additional language in (a)(4) that is not in the current Fed. R. Civ. P. 12.	**The Civil Rules Subcommittee did not recommend adoption of the proposed change.**	**PROPOSED CHANGE REJECTED.**	
Suggestion from the Bar	During the 2012-13 review cycle, the Civil Rules Subcommittee proposed a new local rule—modelled on District of Massachusetts LR 26.5—to set uniform definitions in discovery requests. The full LRRC ultimately rejected the proposed amendment at its final meeting. **LR Cv 26.1 Uniform Definitions In Discovery Requests** (a) Incorporation by Reference and Limitations. The full text of the definitions set forth in paragraph (c) is deemed incorporated by reference into all discovery requests, but shall not preclude (1) the definition of other terms specific to the particular litigation; (2) the use of abbreviations; or (3) a narrower definition of a term defined in paragraph (c).	**The Civil Rules Subcommittee revisited the rejected uniform definitions amendment in the 2013-14 cycle, and offered a revision of the 2012-13 proposed amendment for the full LRRC's reconsideration. Removed language from the 2012-13 proposal is indicated by ~~strikethrough~~ and the added language is indicated by underline.** **LR Cv 26.1 Uniform Definitions In Discovery Requests** (a) Incorporation by Reference and Limitations. The full text of the definitions set forth in paragraph (c) ~~is deemed~~ may be incorporated by reference into all discovery requests, but this shall not preclude. (1) the definition of other terms specific to the particular litigation; (2) the use of abbreviations (3) a narrower definition of a term defined in	**PROPOSED CHANGE REJECTED.**	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
		paragraph (c) or (4) the use of a definition of any term other than as defined by this Local Rule.		
	(b) Effect on Scope of Discovery. This rule is not intended to broaden or narrow the scope of discovery permitted by the Federal Rules of Civil Procedure.	(b) Effect on Scope of Discovery. This rule is not intended to broaden or narrow the scope of discovery permitted by the Federal Rules of Civil Procedure or create any presumption in the event of a motion under Rule 26 or 37.		
	(c) Definitions. The following definitions apply to all discovery requests: (1) Communication. The term "communication" means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise). (2) Document. The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Fed. R. Civ. P. 34(a). A draft or non-identical copy is a separate document within the meaning of this term. (3) Identify (With Respect to Persons). When referring to a person, "to identify" means to give, to the extent known, the person's full name, present or last known address, and, when referring to a natural person, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person. (4) Identify (With Respect to Documents). When referring to documents, "to identify"	(c) Definitions. The following definitions apply to all discovery requests if incorporated by reference in discovery requests : (1) Communication. The term "communication" means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise). (2) Document. The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Fed. R. Civ. P. 34(a). A draft or non-identical copy is a separate document within the meaning of this term. (3) Identify (With Respect to Persons). When referring to a person, "to identify" means to give, to the extent known, the person's full name, present or last known address, and, when referring to a natural person, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person. (4) Identify (With Respect to Documents). When referring to documents, "to identify"		

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Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	means to give, to the extent known, the (a) type of document; (b) general subject matter; (c) date of the document; and (d) author(s), addressee(s), and recipient(s). (5) Parties. The terms "plaintiff" and "defendant" as well as a party's full or abbreviated name or a pronoun referring to a party mean the party and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries, or affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation. (6) Person. The term "person" is defined as any natural person or any business, legal, or governmental entity or association. (7) Concerning. The term "concerning" means referring to, describing, evidencing, or constituting. (8) State the Basis. When an interrogatory calls upon a party to "state the basis" of or for a particular claim, assertion, allegation, or contention, the party shall (a) identify each and every document (and, where pertinent, the section, article, or subparagraph thereof), which forms any part of the source of the party's information regarding the alleged facts or legal conclusions referred to by the interrogatory; (b) identify each and every communication which forms any part of	means to give, to the extent known, the (a) type of document; (b) general subject matter; (c) date of the document; and (d) author(s), addressee(s), and recipient(s). (5) Parties. The terms "plaintiff" and "defendant" as well as a party's full or abbreviated name or a pronoun referring to a party mean the party and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries, or affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation. (6) Person. The term "person" is defined as any natural person or any business, legal, or governmental entity or association. (7) Concerning. The term "concerning" means referring to, describing, evidencing, or constituting. (8) State the Basis. When an interrogatory calls upon a party to "state the basis" of or for a particular claim, assertion, allegation, or contention, the party shall (a) identify each and every document (and, where pertinent, the section, article, or subparagraph thereof), which forms any part of the source of the party's information regarding the alleged facts or legal conclusions referred to by the interrogatory; (b) identify each and every communication which forms any part of the source of the party's information		

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Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	the source of the party's information regarding the alleged facts or legal conclusions referred to by the interrogatory; (c) state separately the acts or omissions to act on the part of any person (identifying the acts or omissions to act by stating their nature, time, and place and identifying the persons involved) which form any part of the party's information regarding the alleged facts or legal conclusions referred to in the interrogatory; and (d) state separately any other fact which forms the basis of the party's information regarding the alleged facts or conclusions referred to in the interrogatory.	regarding the alleged facts or legal conclusions referred to by the interrogatory; (c) state separately the acts or omissions to act on the part of any person (identifying the acts or omissions to act by stating their nature, time, and place and identifying the persons involved) which form any part of the party's information regarding the alleged facts or legal conclusions referred to in the interrogatory; and (d) state separately any other fact which forms the basis of the party's information regarding the alleged facts or conclusions referred to in the interrogatory.		

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Cr 17	**LR Cr 17 SUBPOENAS** **(a) Subpoena *Duces Tecum*** **(1) Subpoenas for the Production Before Trial.** ***** ~~(C) All other parties shall be entitled to inspect any item produced unless otherwise ordered by the Court.~~ ~~(D)~~(C) Any such subpoena, whether issued *ex parte* or upon notice, shall be returnable to the Court. All other parties shall be entitled to inspect any item(s) produced unless otherwise ordered by the Court for 7 days after production. During the 7-day period, the documents are held in temporary custody by the Clerk, and shall not be placed in the public case file. After the 7-day period expires, the party requesting the production of the documents, objects, or other materials shall retrieve the produced items from the Court. *****	**The Criminal Rules Subcommittee recommended adoption of the proposed change.**	**PROPOSED CHANGE ACCEPTED.**	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Cr 57.2	**LR Cr 57.2 AUTHORITY OF MAGISTRATE JUDGES IN CRIMINAL CASES** ***** **(c) Objections to Rulings on Nondispositive Matters.** ***** **(3) Responses and Replies**. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and file a reply to the response within ~~14~~ 7 days thereafter. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in response to an objection to a magistrate judge's order or ruling. Any response and/or reply shall comply with LR Cr 47. ***** **(d) Objections to Reports and Recommendations.** ***** **(3) Responses and Replies**. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and file a reply to the response within ~~14~~ 7 days thereafter. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in opposition to an objection to a magistrate judge's Report and Recommendation. Any response and/or reply shall comply with LR Cr 47. *****	**The Criminal Rules Subcommittee recommended adoption of the proposed change.**	**PROPOSED CHANGE ACCEPTED.**	

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

Criminal Rules

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
Suggestion from the Bar	Attorney Melissa Larsen suggested that the Court consider adopting a local criminal rule modelled on Massachusetts Rule 116.10, which requires any party producing more than 1,000 pages of discovery in a criminal case to provide a table of contents that describes the type and origin of the document and the location of the document within the larger set.	**The Criminal Rules Subcommittee did not recommend adoption of the proposed change submitted by Ms. Larsen.**	**PROPOSED CHANGE REJECTED.**	

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

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COMMENTS ON LOCAL RULES OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND

February 2014

The ACLU of Rhode Island appreciates the opportunity to submit recommendations for revisions to the U.S. District Court's current Local Rules. Our suggestions – some of which are minor and clarifying in nature, and some of which are more substantive – appear below.

Where applicable, we have copied the text of the rule at issue, and indicated our proposed revisions through underlining for new language and ~~strikethrough~~ for proposed deletion of language, followed by a brief commentary explaining our recommendation.

1. LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION

Amend LR Gen 102 as follows:

(b) Sealed Documents Generally.

(1) Documents filed with the Court may not be sealed unless ordered by the Court. If a party or non-party filing a document has a good faith basis for believing that a document should be sealed, the document shall be accompanied by a motion to seal, which explains why the document should be sealed and any legal authority for such sealing. The motion should specify the desired duration of the sealing order.

(2) Unless the Court otherwise permits, if a party or non-party has good reason to believe that a document that such party or non-party proposes to file contains material that another party or non-party would maintain is confidential, the document shall not be filed until such other party or non-party has been notified and afforded an opportunity to file a motion to seal.

(3) If only a portion of a document contains confidential information, the party or non-party requesting sealing shall file both an unredacted version of the document and a redacted version that excises the confidential information. Counsel should consider alternatives that will minimize the information subject to any sealing order.

(4) The motion to seal shall not be filed electronically, but shall be filed by hand or by mail, together with the documents or materials which are the subject of the motion.

(5) The Court shall rule on the motion to seal within five (5) days.

(c) Filing of Sealed Documents in Civil Cases. Upon receipt of a motion to seal in a civil case, the clerk shall docket the motion and memorandum but not the unredacted documents which are the subject of the motion and shall immediately transmit the motion and documents to the chambers of the judge to whom the case has been assigned. If the Court grants the motion to seal and unless otherwise ordered by the Court, the sealed envelope shall be retained by the clerk in a secure location until further order of the Court. If the Court denies the motion to seal, the motion shall be docketed and filed in accordance with these Local Rules, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.

(d) Filing of Sealed Documents in Criminal Cases. Upon receipt of a motion to seal in a criminal case, the clerk shall immediately transmit the motion and the documents which are the subject of the motion to the chambers of the judge to whom the case has been assigned. If the Court grants the motion to seal, the motion to seal, the order granting the motion to seal, and the sealed documents shall be placed in an envelope which shall be sealed and to which a copy of the Court's order shall be affixed. The envelope shall then be retained by the clerk in a secure location until further order of the Court. If the Court denies the motion to seal, the motion shall be docketed and filed in accordance with these Local Rules, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.

(e) Unsealing of Documents. Documents sealed by the Court may be unsealed at any time upon motion of a party or non-party or by the Court sua sponte, provided that the parties first are given notice and an opportunity to be heard. A ruling on any request to unseal documents shall be made within ten (10) days.

Comment: Overly cautious efforts to protect privacy in sensitive court filings can significantly harm the public's long-standing right to access to judicial records, especially in light of the attendant delays inherent in seeking to unseal documents. On the other hand, while the ACLU strongly supports a presumption of openness in judicial records, unduly vague guidelines could on occasion potentially harm legitimate privacy interests, since the consequences of improper electronic disclosure are hard to undo. LR Gen 102(b) provides little guidance to practitioners as to what information being filed can and should be deemed confidential. We therefore suggest language designed to reduce sealing to appropriate circumstances, and ensure prompt consideration of any unsealing requests.

In recognition of the presumptively public nature of court proceedings and records (*see In re Providence Journal Company*, 293 F.3d 1 (1st Cir. 2002)), we believe it is important that a specified timeframe be in place for the Court to rule on motions to seal. We have proposed five days in a new subsection 102(a)(5), and a ten day time period for the Court to rule on motions to unseal in subsection 102(e). Tracking the language of First Circuit Local Rule 11(c), the ACLU also suggests that the Rule expressly state that the motion to seal should specify a suggested duration and that counsel seek to limit the information subject to any sealing order.

The proposed changes to subsections 102(c) clarify that only the potentially confidential material that is submitted does not get filed.

2. LR Gen 107 REQUESTS FOR DAILY TRANSCRIPTS OF COURT PROCEEDINGS

Amend LR Gen 107 as follows:

Except for good cause shown, all requests for daily or expedited transcripts must be made in writing to the court reporter, if known, and if not, to the Clerk. A copy of the request must be provided to opposing counsel. If the hearing or trial has been scheduled sufficiently in advance, the request shall be made not later than 7 days before the hearing or trial to be transcribed.

Comment: The ACLU proposes a clarifying amendment to this rule. There are certain hearings, particularly requests for temporary restraining orders and, in some instances, preliminary injunctions, where it may be impossible for the attorney to provide seven days advance notice about the need for expedited transcripts.

3. LR Gen 111 PHOTOGRAPHING; RECORDING; BROADCASTING

Amend LR Gen 111(b) as follows:

****

(b) Note-Taking. Nothing in subsection (a) of this Rule shall prevent any person from taking notes in the courtroom during a proceeding in Court, provided that such notetaking ~~has been authorized by the presiding judicial officer~~ is not disruptive of court proceedings. No authorization is necessary for note-taking by any persons seated inside the bar of the Court or located outside of the courtroom.

Comment: The Court's recent general order authorizing media use of electronic equipment in the courtroom is a very important step in promoting public knowledge of court activities, and the ACLU commends the Court for this action. At the same time, LR Gen 111(b) continues to impose an unnecessary barrier for members of the public who attend court proceedings. Unlike the heightened responsibilities associated with electronic equipment, we do not believe the automatic right to take handwritten notes should be limited to members of the media. Our proposed amendment to 111(b) would authorize spectators to take handwritten notes, without the need for advance authorization, so long as it was not disruptive.

Requiring individuals to obtain advance judicial approval is problematic for a number of reasons: people should not be required to identify themselves in order to take notes; in many instances, a person will not be aware of this approval process until they appear at the hearing or trial itself, when it is too late to seek approval; some spectators are bound to be intimidated by any approval procedure; and there are no standards in place as to when approval would be granted. There are many reasons that members of the public, just like members of the news media, might want to take notes of a court proceeding. The only compelling justification for limiting this is to prevent disruption, something that note-taking normally will not create.

4. LR Gen 113 AMENDMENTS TO LOCAL RULES

Amend LR Gen 113(d) and 113(e) as follows:

(d) Emergency Amendments. The Court may adopt sua sponte and without public comment any rule necessary to meet any condition of emergency. If such emergency rule is promulgated, public notice of it shall be given promptly after its adoption, and it shall be submitted for public consideration in accordance with subsection (c) ~~during the next regular amendment cycle~~ within sixty days. An emergency rule shall expire within 180 days unless ratified after completion of the public rule-making process provided in subsection (c).

(e) General Orders / Administrative Orders. Nothing contained in these Rules shall restrict the Court from promulgating such General Orders, Administrative Orders, standing orders and/or other directives as its business may require, provided that they are not in conflict with these rules and comply with any applicable rule-making procedures of 28 U.S.C. §2071 et seq.

Comment: The proposed change to 113(d) would put the rule into conformance with the Rules Enabling Act, 28 U.S.C. §2071(e), which allows for the emergency promulgation of rules but further requires that the Court "promptly thereafter" afford notice and opportunity for comment. The proposed change to subsection (e) is in the same vein.

5. LR Gen 204 PRO HAC VICE COUNSEL

Amend LR Gen 204 as follows:

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

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

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

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

(c) ~~Limit on Number. Unless otherwise permitted by the Court for good cause shown, no more than 3 pro hac vice counsel may be admitted to represent any party in a case. (d)~~ Application. An application for pro hac vice admission shall be made by completing and filing a form provided by the Clerk, together with a check for the application fee fixed by the Court which shall be payable to the "Bar Fund." The

application fee will not be refunded if the application is denied. A motion for pro hac vice admission shall be signed both by the applicant and by local counsel affiliated with the applicant.

Comment: Complex or novel civil rights cases can often require the assistance of pro hac counsel. It is therefore important that court rules not set unnecessary barriers in the way of such counsels' participation in litigation. While we appreciate the Court's interest in avoiding duplication of effort, we also believe that the restriction on more than three pro hac counsel, absent court permission, serves no compelling purpose. To the extent there is concern about overstaffing of a case, that can occur just as easily with more than three local counsel. The Court is well equipped to address accountability issues with large numbers of counsel without this restriction, just as it can address issues of duplication of effort when addressing attorney's fees requests, whether those requests come from local counsel or those admitted pro hac vice. For similar reasons of encouraging the availability of pro hac counsel when they can provide needed expertise in a case, we urge adjustment of the admission criteria, so that an attorney's good standing before a state's highest court is sufficient to allow their participation in a case in this Court.

6. LR Gen 210 DISCIPLINARY PROCEEDINGS

Amend LR Gen 210(b)(2) as follows:

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

****

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

****

Comment: Subsection (b)(2) of this rule authorizes the appointment of "special counsel" to investigate allegations of misconduct by an attorney. Misconduct is broadly defined in LR Gen 209 to include *any* violation of "Standards of Professional Conduct" or an intentional violation of *any* of the local rules. Although these may be civil proceedings, we believe the extraordinary use of special counsel by the courts should be limited to only circumstances where such an appointment is truly necessary. We therefore suggest the addition of language akin to that contained in Fed.R.Crim.P. 42(a)(2). As the First Circuit noted in *In re Special Proceedings*, 373 F.3d 37, 42 (1st Cir. 2004), that standard is a quite flexible one, but it at least has the benefit of somewhat confining the use of outside counsel to only situations where it is truly appropriate.

7. LR Gen 215 REINSTATEMENT OF MEMBERSHIP

Amend LR Gen 215(a)(4) as follows:

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

Comment: Our proposed amendment offers the addition of a clarifying word, designed to protect the confidentiality of an attorney's medical records to the extent they are not relevant to the incapacity that is the subject of review.

8. LR Cv 39.4 SETTLEMENT

Amend LR Cv 39.4(b) as follows:

~~(b) Jury Costs. In cases that are settled later than 7 days before the date scheduled for empanelment of a jury, jury costs may be assessed equally against the parties and/or their counsel unless a party demonstrates to the Court's satisfaction that:~~

~~(1) The costs should be borne entirely or primarily by one or more parties on the ground that the tardiness of the settlement was due to that party's failure to make a good faith effort to settle the case earlier; or~~

~~(2) No costs should be assessed because all parties made a reasonable good faith effort to settle the case earlier.~~

Comment: The ACLU urges the deletion of 39.4(b). As a practical matter, a rule providing for the possible imposition of costs in cases settled shortly before trial can actually have the opposite effect of what is intended. It can serve as an additional hurdle for parties to overcome when they are seeking to settle, or are perhaps on the verge of settling, a case. That is, the possible addition of unknown additional costs may prevent parties from agreeing to a settlement after long negotiations have otherwise finally gotten them to the point of avoiding a trial.

9. LR Cv 54.1 ATTORNEYS' FEES

Amend LR Cv 54.1 as follows:

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

(b) Supporting Affidavits. Unless extended by the Court for good cause shown, a motion for attorneys' fees shall be accompanied by the affidavits described in (1) and (2) below. A party seeking to extend the time to submit the required affidavits shall provide a fair estimate of the amount sought.

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

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

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

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

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

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

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

Comment: As currently written, this rule can place a significant burden on successful plaintiffs' attorneys in civil rights cases where fee awards are available. The attorney has to file all supporting documents within 14 days, and find an attorney willing to review the reasonableness of the requested fee rate. We urge revision of this rule to comport with an earlier practice, where, after filing a motion for fees within the 14 day period to place the opposing side on notice that fees will be sought, an attorney has additional time to gather supporting documentation.

10. LR Cv 56 MOTIONS FOR SUMMARY JUDGMENT

Amend LR Cv 56(a)(3) as follows:

(a) Statement of Undisputed Facts.
****

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

Comment: We believe the proposed amendment to LR Cv 56(a)(3) comports with the current case law, requiring the Court to make an independent assessment of the facts.

11. UNIFORM NUMBERING SYSTEM

Finally, we would like to offer a general comment about the structure of the current Local Rules. We urge that the much of the use of proposed "Local General Rules" be abandoned. Instead, to the extent applicable, each rule should be linked numerically to its civil and/or criminal rule counterpart. The use of a third set of numbers, not keyed either to the existing national civil or criminal rule numbering system, can create confusion for the unwary practitioner who fails to realize that it is insufficient to examine the local-rule counterpart to the applicable civil or criminal rule to determine if there is a local rule relating to the relevant issue. Thus, for example, Fed.R.Civ.P. 43(d) deals specifically with interpreters, but the Local General Rule on the subject is designated LR Gen 108.

Fed.R.Civ.P. 83(a)(1) and Fed.R.Crim.P. 57(a) each require that local rules "conform to any uniform numbering system prescribed by the Judicial Conference of the United States." District court rules should therefore be keyed in numbering to the analogous national rule. Thus, the Local Rules of the District of Massachusetts contain a preface that specifically notes that, "[a]t the request of the Committee on Rules and Practice of the Judicial Conference of the United States," the local civil rules were renumbered to key them to the Fed.R.Civ.P. numbering system.

As the Notes of the Advisory Committee on the adoption of amended Rule 83(a)(1) point out, lack of uniform numbering has the potential to "create unnecessary traps for counsel and litigants." In short, the use of "local general rules" which do not tie into either the criminal or civil numbering systems is both confusing and inconsistent with the Federal Rules. We encourage a revision to the numbering of the Local Rules to conform to this format.

Where there is no national counterpart, a local general rule pertaining to civil matters could appear as a subsection of Rule 83. See, once again for an example, the Local Rules of the District of Massachusetts, which do not contain "local general rules."

Once again, the ACLU appreciates the opportunity to offer these comments. We hope the Committee finds them useful, and that they will be given careful consideration.

Michael Simoncelli

From:	blockislandwine@gmail.com on behalf of E T <ETBI@Verizon.net>
Sent:	Tuesday, February 25, 2014 10:00 AM
To:	Local Rules
Subject:	Suggestions on Local Rules

In order to simply matters, and bring the court into the 21st century, suggest the following:

1. Allow complaints to be filed electronically with payment either by electronic check, or credit or debit card. Could allow pre-registration of attorney accounts for filing fees.
2. In the E-filing, when an error is made in data entry, have the program remember the last entry.
3. Allow single spacing of documents, or at least Memoranda. This will reduce paper use, be an environmental improvement, and a space saver for the Clerk's office.
4. Allow DRI registered attorneys with RI Judicial IDs to bring cellphones, tablets and computers as long as the ringers are turned off and they do not take pictures in the courtroom. This could be an automatic right upon registration, but could be taken away as the Court does with news reporters.

Cordially,

-

Elliot Taubman (R.I.Bar #2816)
Attorney at Law
CAF#1205-07659R

Michael Simoncelli

From: John H. McCann <jmccann@shslawfirm.com>
Sent: Tuesday, February 25, 2014 10:21 AM
To: Local Rules
Subject: Proposed Amendment to Local Rules

Ladies and gentlemen:

I would propose that a Local Rule 12 be added.

The added local rule would add the below bold language to the existing Rule 12(a).

(4) Effect of a Motion. Unless the court sets a different time, serving a motion under this rule, **including a partial motion to dismiss**, alters these periods as follows:

(A) if the court denies the motion or postpones its disposition until trial, the responsive pleading must be served within 14 days after notice of the court's action; or

(B) if the court grants a motion for a more definite statement, the responsive pleading must be served within 14 days after the more definite statement is served.

The reason for the proposed change would be to indicate that the District of Rhode Island follows the majority view on the effect of a motion for partial summary judgment, i.e. that the movant need not answer those counts of the complaint which are not subject to the motion until after the motion has been ruled on. *See, Nat'l Cas. Co. v. OneBeacon Am. Ins. Co.*, 2013 U.S. Dist. LEXIS 92840, 18-19 (D. Mass. July 1, 2013)("[A] partial motion to dismiss suspends the time to answer the claims not subject to the motion, Fed. R. Civ. P. 12(a)(4);" *citing Tingley Sys., Inc. v. CSC Consulting, Inc.*, 152 F. Supp. 2d 95, 122 (D. Mass. 2001); and 5B Charles Alan Wright et al., Federal Practice & Procedure § 1346 (3d ed. 2004) (noting that the "majority rule" is that service of a Rule 12(b) motion directed at only parts of a pleading enlarges the period of time for answering the entire complaint)).

Thank you.

Best regards,

John

John H. McCann
Attorney at Law

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February 28, 2014

United States District Court
District of Rhode Island
Local Rules Review Committee
c/o Clerk's Office
1 Exchange Terrace
Providence, RI 02903
Local_Rules@rid.uscourts.gov

RE: Proposed Addition to Local Rules

Dear Committee,

I am writing to respectfully request your consideration for an addition to our current Local Rules. Specifically, I am requesting that the Committee adopt Local Rule 116.10 of the Local Rules of the District Court for the District of Massachusetts. The Rule states:

RULE 116.10 REQUIREMENTS OF TABLE OF CONTENTS FOR VOLUMINOUS DISCOVERY

Any party producing more than 1,000 pages of discovery in a criminal case shall provide a table of contents that describes, in general terms, the type and origin of the documents (for example, "bank records from Sovereign Bank for John Smith;" "grand jury testimony of Officer Jones") and the location of the documents so described within the larger set (for example, by Bates number).

The purpose of my request is to assist attorneys effectively represent clients who have been indicted on criminal charges prepare and defend their case. Often, the Government's response to request for Discovery contains thousands of documents. Discovery materials are often provided in formats that are not searchable, such as .tiff files. Although there are programs and "tricks" to make reviewing discovery provided in these formats more palatable, often accomplishing same requires hours of work and creates a significant expense to the defendant or the CJA budget. I have personally worked on cases in our District where reviewing discovery materials has presented a challenge due to the volume of documents produced by the Government. Specifically discovery review was an issue in U.S. v. Ralph Mariano, Jr. (CR NO.: 00061-ML) and in U.S. v. Richard P. Baccari (1:13-cr-00150-ML-PAS-1), which is presently in a pre-trial posture.

In Support of this request I submit that MA Local Rule 116.10 has been effectively adopted and implemented without issue or complaint by the District of Massachusetts. The Rule has been implemented to the satisfaction of local counsel and has in some cases eliminated the need for counsel to file Motions relating to discovery, which in turn enhances judicial economy and preserves valuable resources.

Although ideally in addition to a simple index, our Local Rules would impose additional obligations on a party who is providing extensive discovery, such as a requirement that electronic discovery be provided in a readily searchable format, the proposed amendment is a step, albeit minimal, in the right direction.

If I can be of any further assistance in your consideration of this proposal, please do not hesitate to contact me at (401) 218-0862. Thank you in advance for your consideration of this proposed amendment to our Local Rules.

Very truly yours,

Melissa Larsen, Esq.

United States District Court
for the District of Rhode Island

PROPOSED AMENDMENTS TO LOCAL RULES

Originally Submitted on June 30, 2014
Supplemented on October 3, 2014

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Gen 102	**LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION** **(a) Privacy Protections.** ~~**(1) In General.** In compliance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and the policy of the Judicial Conference of the United States, and in order to address the privacy concerns created by Internet access to court documents, parties or non-parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents filed with the Court:~~ ~~(a) MINORS' NAMES: Use of the minors' initials only;~~ ~~(b) SOCIAL SECURITY NUMBERS: Use of the last four numbers only;~~ ~~(c) DATES OF BIRTH: Use of the year of birth only;~~ ~~(d) FINANCIAL ACCOUNT NUMBERS: Identify the type of account and the financial institution, but use only the last four numbers of the account number; and~~ ~~(e) HOME ADDRESSES: Use the city and state only (in criminal cases only).~~ ~~**(2) Responsibility for Removing Personal Information.**~~ It is the responsibility of any party or non-party filing a document, not the Clerk's Office, to review each document to determine if pleadings are in compliance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and the Judicial Conference Policy on Privacy and Public Access to the Electronic Case Files ~~must be modified and are in the proper form~~. If the Court finds a document that contains	**The General Rules Subcommittee recommended adoption of the change as proposed by the Court.**	**PROPOSED CHANGE BY THE COURT ACCEPTED.**	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	personal identifiers referenced in Fed. R. Civ. P. 5.2 and Fed. R. Crim. P. 49.1, the Clerk's Office will limit non-parties' remote electronic access to the document containing the personal identifiers. ~~**(3) Corrective Action.** In cases where the above personal information does appear on documents filed with the Court, the party or non-party responsible for the filing shall file a Motion to Redact, along with a redacted version of the document containing personal information in compliance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1 and Judicial Conference policy. Upon receipt of the Motion to Redact, the Clerk shall grant the motion by text order, restrict the document containing the above personal information from the docket, and replace it with the redacted version.~~ ***** **(c) Filing of Sealed Documents in Civil Cases.** Upon receipt of a motion to seal in a civil case, the clerk shall docket the motion but not the documents which are the subject of the motion and shall immediately transmit the motion and documents to the chambers of the judge to whom the case has been assigned. If the Court grants the motion to seal and unless otherwise ordered by the Court, the sealed ~~envelope~~ documents shall be retained by the clerk in a secure location until further order of the Court. If the Court denies the motion to seal, the motion shall be docketed and filed in accordance with these Local Rules, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court. *****			

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

Rule Number	**Suggestion Received***	**Subcommittee Recommendation**	**Full Committee Action**	**Court Action**
LR Gen 102	*The ACLU proposed an amendment to LR Gen 102 regarding sealed documents. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The General Rules Subcommittee considered the ACLU's proposed amendments in conjunction with the Court's suggested revisions to LR Gen. 102.*** ***The Subcommittee did not believe that it is appropriate to impose the suggested deadlines upon the Court, which would require the adjudication of a motion to seal within five (5) days and a request to unseal within ten (10) days. The Subcommittee concluded that the timing to adjudicate such motions should be left to the Court's administration of its docket and management of the case at issue.*** ***The Subcommittee found the ACLU's proposals to LR Gen. 102(b) and (c) to be unnecessary. Specifically, the Subcommittee concluded that practitioners should be aware of their obligation to cite applicable legal authority and justify the need to seal records in whole or with redactions. Based upon the members' experiences, the Court takes a cautious approach to the sealing of documents, giving full consideration to all available alternatives or limitations to a sealing order, so the Subcommittee did not believe that there is a need to insert such language into LR Rule 102(b)***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	

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

Rule Number	**Suggestion Received***	**Subcommittee Recommendation**	**Full Committee Action**	**Court Action**
LR Gen 107	*The ACLU proposed an amendment to LR Gen 107 regarding requests for daily transcripts of court proceedings. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The General Rules Subcommittee recognized the ACLU's concern that it may be impossible to provide seven (7) days' notice for a transcript request in certain expedited hearings or proceedings. The Subcommittee concluded that the "good cause" language at the outset of LR 107 encompasses such scenarios and that practitioners have not encountered difficulties under the rule in obtaining transcripts as needed.***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	
LR Gen 109	The LRRC tabled some of the Court's proposed amendments to LR Gen 109 during the previous cycle, specifically sections (e) and (f) relating to appeals to the district court of bankruptcy court rulings. The LRRC then asked the Bankruptcy Court's Attorney Advisory Committee to review these amendments before making a final determination. The Bankruptcy Court's Attorney Advisory Committee reviewed the tabled amendments in January 2014, and unanimously agreed that the proposed changes are an improvement and are clearer than the current rules with respect to appellate procedures. **LR Gen 109 BANKRUPTCY** ******** **(e) Appeals to Bankruptcy Appellate Panel.** In accordance with 28 U.S.C. §158(b)(6), ~~when all parties consent,~~ appeals from any judgment, order or decree of a bankruptcy judge which are referred to in 28 U.S.C. § 158(a) ~~may~~ will be heard and determined by the Bankruptcy Appellate Panel for the First Circuit unless a party elects to have the appeal heard by the District Court in accordance	**The General Rules Subcommittee recommended adoption of the proposed change.**	**PROPOSED CHANGE ACCEPTED.**	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	with Bankruptcy Rule 8001(e)(1). **(f) Appeals to District Court.** Except as otherwise provided in this subsection (f) or elsewhere in these rules, or unless otherwise ordered by the District Court, appeals or motions for leave to appeal to the District Court from any judgment, order or decree of a bankruptcy judge shall be governed by the applicable provisions of Rules 8001 - 8020 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules") **(1) ~~Notice of Appeal~~ Record on Appeal.** ~~When a notice of appeal is filed with the bankruptcy clerk, the bankruptcy clerk shall, forthwith, transmit a copy of the notice of appeal to the District Court clerk, together with a copy of the judgment, order or decree that is the subject of the appeal, and the Appeal Cover Sheet. The District Court clerk, thereupon, shall treat the matter administratively as a newly filed case, but in accordance with Bankruptcy Rule 8001(f)(2), the matter shall not be deemed "pending" in this Court until the record has been transmitted and docketed.~~ Upon the completion of the record on appeal in accordance with Bankruptcy Rule 8007(b), the bankruptcy clerk shall transmit a copy of the following to the District Court clerk: (A) Notice of appeal; (B) Judgment, order or decree that is the subject of the appeal; (C) Docket sheet; (D) Appeal cover sheet; (E) Election form requesting the appeal be heard by the district court;			

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	(F) Designation(s) of the contents of the record on appeal; (G) Statement(s) of issues on appeal; and (H) Any written decision(s) and a transcript of any oral decision(s) by the bankruptcy judge stating the reasons for the judgment, order or decree The District Court clerk, thereupon, shall treat the matter as a newly filed case and docket the appeal in accordance with Bankruptcy Rule 8007(b). ***** **(5) Dismissal of Appeals by Bankruptcy Judge.** A bankruptcy judge may dismiss an appeal if: (A) the notice of appeal is not filed within the time specified in Bankruptcy Rule 8002; (B) the appellant has failed to file a designation of the record or a statement of the issues within the time specified in Bankruptcy Rule 8006 or any extension thereof; or ~~(C) the appellant has failed to comply with paragraph (6)(C) of this subsection.~~ ~~(D)~~(C) the appellant has failed to pay the prescribed appeal filing fee as required by Bankruptcy Rule 8001(a). **~~(6) Record on Appeal.~~** ~~In addition to any other applicable requirements, the Bankruptcy Court clerk shall ensure that the record electronically transmitted to the District Court clerk~~			

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	~~includes:~~ ~~(A) the judgment, order or decree of the bankruptcy judge that is the subject of the appeal;~~ ~~(B) any written decision(s) and a transcript of any oral decision(s) by the bankruptcy judge stating the reasons for the judgment(s), order(s) and/or decree(s) referred to in subparagraph (A);~~ ~~(C) the record on appeal;~~ ~~(D) a statement of the issues on appeal; and,~~ ~~(E) a copy of the docket sheet.~~ ~~(7)~~**(6) Form of and Schedule for Filing Briefs**. Unless otherwise ordered by the District Court or provided in these rules, the form and schedule for filing appellate briefs and memoranda shall be governed by Bankruptcy Rule 8009 and 8010, except that: (A) all briefs~~,~~ and memoranda ~~and appendices thereto~~ shall conform to the applicable requirements of LR Cv 7; and (B) with respect to documents that are conventionally filed, two copies of any brief or memorandum shall be provided to the district judge to whom the appeal or motion for leave to appeal is assigned. Such motion and any related objection(s) and replies shall be governed by the applicable provisions of LR Cv 7. *****			

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

General/Attorney Rules

Rule Number	**Suggestion Received***	**Subcommittee Recommendation**	**Full Committee Action**	**Court Action**
LR Gen 111	*The ACLU proposed an amendment to LR Gen 111 regarding public note-taking. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The General Rules Subcommittee reviewed the ACLU's suggestion in light of the Court's recent General Order addressing the press's transmission of information electronically from courtrooms. The Subcommittee determined that the extent to which public note-taking may occur in the courtrooms should be left to the discretion of the judges.***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	
LR Gen 113	*The ACLU proposed an amendment to LR Gen 113 regarding emergency amendments to the Court's Local Rules. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The General Rules Subcommittee did not believe that it is proper to impose explicit time restrictions in LR Gen 113(d), which would govern the promulgation and duration of the Court's emergency amendments to the Local Rules. The Local Rules allow for the subsequent evaluation of the Court's sua sponte amendments through requests for public comment and in the course of the LRRC's annual review. The Subcommittee concluded that LR Gen 113(d) should remain as written, rather than impose firm deadlines that may not be workable in all instances. Further, the Subcommittee did not believe that an explicit reference to the Rules Enabling Act, 28 U.S.C. § 2071(e) is necessary in LR 113(e).***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Gen 201	**LR Gen 201 PRACTICE BEFORE THIS COURT** ********* **(b) Exceptions to Requirement of Membership.** Notwithstanding the provisions of subsection (a), the following individuals may appear and/or practice before this Court: ~~**(5) Attorneys in Transferred Cases.** An attorney who is a member in good standing of the bar of another federal district court, and who represents a party in a case transferred to the District of Rhode Island from another district, may appear and practice in this Court in that case.~~ ~~**(6)**~~**(5) 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).	**The General Rules Subcommittee recommended that this proposal be discussed by the full LRRC.**	**The LRRC accepted the following revision to LR Gen 201(b)(5) instead of removing the subsection. The language added to the current (b)(5) is indicated by double underline:** **(5) Attorneys in Transferred Cases.** An attorney who is a member in good standing of the bar of another federal district court, and who represents a party in a case transferred to the District of Rhode Island from another district, may appear and practice in this Court in ~~that case~~ the transferred case provided that within fourteen (14) days of such transfer, the attorney files a motion for admission *pro hac vice* and otherwise satisfies the requirements of LR Gen 204 and that the motion of the attorney for admission *pro hac vice* be granted by the Court.	
LR Gen 202	**LR Gen 202 ELIGIBILITY AND PROCEDURE FOR ADMISSION** ********* **(b) Procedure for Admission.** ***** **(2) ~~Application~~ Admission F~~f~~ee.** An individual ~~application~~ applying for admission also shall ~~be accompanied by a check payable to the "Bar Fund" in payment of~~ pay the ~~application~~ admission fee fixed by the Court. ~~The application fee shall not be refundable.~~ ***** **(4) Admission Ceremony**. Admission to the Bar of this Court is effected by the granting of a	**The General Rules Subcommittee recommended adoption of the proposed change.**	**PROPOSED CHANGE ACCEPTED.**	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	motion made by the Chairman of the Board of Bar Admissions or his designee at an admission ceremony presided over by the Court. In the case of an individual admitted pursuant to LR Gen 202(a)(2)(B), admission is effected upon approval by the Chief Judge of the application for admission. In order to be admitted, an applicant shall make the following oath or affirmation: I do solemnly [swear] [affirm] that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic, and that I will bear true faith and allegiance to the same; that I take the obligation freely, without any mental reservation or purpose of evasion; and that I will demean myself as an attorney, proctor, and solicitor of this court, uprightly and according to the law. [So help me God.] Upon making the prescribed oath or affirmation, ~~and upon payment of the admission fee established by the Judicial Conference of the United States,~~ the applicant shall be a member of the Bar of this Court. ~~The admission fee shall be paid by check payable to the "Clerk, U.S. District Court."~~ *****			

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Gen 204	**LR Gen 204 *PRO HAC VICE* COUNSEL** ***** **(d) ~~Application~~ Procedure for Admission**. An attorney seeking ~~An application for~~ *pro hac vice* admission shall ~~be made by~~ complet~~inge~~ and fil~~inge~~ a ~~form~~ motion provided by the Clerk, and ~~together with a check for the application~~ pay the admission fee fixed by the Court~~.~~ ~~which shall be payable to the "Bar Fund."~~ The ~~application~~ admission fee will not be refunded if the ~~application~~ motion for admission *pro hac vice* is denied. A motion for admission *pro hac vice* ~~admission~~ shall be signed both by the applicant and by local counsel affiliated with the applicant. ***** **(g) Notification**. ~~(1)~~ *Pro hac vice* counsel shall promptly notify the Court of any change in counsel's name, address, telephone number, fax number, e-mail address and/or law firm name from that shown on counsel's application for *pro hac vice* admission. ~~(2) Any notice sent to *pro hac vice* counsel shall be deemed delivered if sent to the most recent address or fax number or e-mail address provided in counsel's application for *pro hac vice* admission or in any subsequent change of address provided by such counsel.~~	**The General Rules Subcommittee recommended adoption of the change as proposed by the Court.**	**PROPOSED CHANGE BY THE COURT ACCEPTED.**	

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

Rule Number	**Suggestion Received***	**Subcommittee Recommendation**	**Full Committee Action**	**Court Action**
LR Gen 204	*The ACLU proposed an amendment to LR Gen 204 regarding the admission and eligibility of pro hac vice counsel. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The General Rules Subcommittee considered the ACLU's proposals in conjunction with the Court's suggested revisions to LR Gen. 204. The pro hac vice rule was the subject of considerable discussion at both the General Rules Subcommittee and LRRC levels.*** ***Regarding the ACLU's proposed change to L.R. Gen. 204(b)(1), the LRRC does not believe that it is appropriate to revise the eligibility criteria to allow for the pro hac vice admission of an attorney without a federal bar admission elsewhere. It is reasonable for the Court to require that counsel has federal practice experience and is a member of good standing of another federal court.*** ***The Subcommittee rejected the ACLU's proposal to delete the rule's limitation of three (3) pro hac vice counsel per party unless otherwise permitted by the Court for good cause shown in LR Gen 204(c). The Subcommittee concluded that the rule as written properly sets a presumptive limit, but affords the judges with flexibility to determine the proper number of pro hac vice appearances based upon the needs of each case.***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Gen 205	**LR Gen 205 *PRO SE* LITIGANTS** ***** **(b) Filing of Documents**. Any document requiring a signature that is filed by a party appearing *pro se* shall bear the words "*pro se*" following that party's signature and shall state the party's mailing address, telephone number, e-mail address, and fax number, if any. **(c) Service on Party Acting *Pro Se*.** The Court may order any party who is appearing without an attorney to designate a~~n~~ mailing address at which service upon that party can be made. Service may be made on such *pro se* party by mailing papers to that party at the designated mailing address. **(d) Notification** (1) Every *pro se* litigant shall inform the Clerk in writing of any change of name, mailing address, telephone number, e-mail address, and/or fax number within 14 days of such change. (2) Any notice sent to and any paper served on a *pro se* litigant shall be deemed delivered if sent to the most recent mailing address ~~or fax number or e-mail address~~ provided by the litigant pursuant to subsection (b) or (c) of this Rule.	**The General Rules Subcommittee recommended adoption of the proposed change.**	**PROPOSED CHANGE ACCEPTED.**	

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

General/Attorney Rules

Rule Number	**Suggestion Received***	**Subcommittee Recommendation**	**Full Committee Action**	**Court Action**
LR Gen 210	*The ACLU proposed an amendment regarding the appointment of special counsel in disciplinary proceedings. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The General Rules Subcommittee did not believe that the inclusion of language "when necessary in the interest of justice" in LR Gen 210(b)(2) is necessary regarding the Court's discretion to appoint special counsel. The Subcommittee concluded that the rule as written appropriately affords the Court with the flexibility to investigate and resolve a disciplinary issue in the best manner that it deems fit in each case.***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	
LR Gen 215	*The ACLU proposed an amending regarding reinstatement of membership to the Court's bar. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The General Rules Subcommittee did not believe that the inclusion of the word "relevant" before the phrase "treatment of the attorney during the period of incapacity" would add clarification to the rule. The Subcommittee appreciated the ACLU's concerns to protect the applicant's privacy, but believes that the Court and special counsel can implement any necessary safeguards in a proceeding. The insertion of the word "relevant" could lead to interpretative disputes as to its scope, which could delay or impair the proceedings under LR Gen 215.***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Gen 302	**LR Gen 302 EXEMPTIONS; EXCEPTIONS; PRO SE LITIGANTS** ***** **(d) *Pro Se* Litigants.** ~~All *pro se* litigants shall conventionally file and serve all documents in accordance with the provisions of the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure and the Local Rules of this Court.~~ A non-incarcerated *pro se* litigant in a pending case may apply to the Court for permission to file documents electronically using ECF on a form prescribed by the Clerk's Office. If the court grants a *pro se* litigant permission to file documents electronically, that permission is limited to the case specified, and the Court may withdraw that permission at any time during the pendency of a case. In the absence of a court order authorizing electronic filing, all *pro se* litigants shall conventionally file and serve all documents in accordance with the provisions of the Federal Rules of Civil Procedure and Criminal Procedures and the Local Rules of this Court, and all electronically filed documents must be conventionally served on the *pro se* litigant.	**The General Rules Subcommittee recommended adoption with the following modification to the first sentence of paragraph 1 of the proposed (d). (Changes indicated by ~~double strikethrough~~ and double underline.** A non-incarcerated *pro se* litigant in a pending case may apply to the Court for permission to file and receive documents electronically ~~using ECF~~ on a form prescribed by the Clerk's Office.	**PROPOSED CHANGE ACCEPTED AS MODIFIED BY THE GENERAL RULES SUBCOMMITTEE.**	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Gen 303	**LR Gen 303 SPECIAL FILING REQUIREMENTS AND EXCEPTIONS** **(a) Civil ~~and Miscellaneous~~ Case Opening Documents**. **(1) Complaints and Notices of Removal.** Absent an exemption under LR Gen 302, complaints or notices of removal, together with the civil cover sheet and a summons for each defendant to be served, shall be filed electronically, and the required filing fee shall be paid at the time of filing. The Clerk's Office will issue a summons for each defendant to be served to the filer. **(2) Other Civil Case Initiating Documents.** Civil case initiating documents not mentioned in (a)(1), or to be filed under seal, shall be filed conventionally, together with the civil cover sheet, a summons for each defendant to be served, and the required filing fee. The Clerk's Office will issue a summons for each defendant to be served to the filer. ~~(1) Civil case opening documents, such as a complaint, petition and notice of removal, together with a summons and civil cover sheet, shall be filed conventionally. Also, documents seeking emergency relief under LR Cv 9, such as a request for a temporary restraining order, shall be filed conventionally. The case will be assigned and opened electronically by the Clerk's Office, and the documents submitted will be incorporated into the electronic case file.~~	**The General Rules Subcommittee recommended adoption of the proposed changes to LR Gen 303(a); (d)(1)(B); (d)(2)(B); and (d)(4), and recommended the full LRRC discuss whether (d)(2)(I) should be removed. Specifically, whether documents for emergency relief could be filed electronically.**	**PROPOSED CHANGES TO LR GEN 303(a), (d)(1)(B); (d)(2)(B), and (d)(4) ACCEPTED.** **IN ADDITION, THE LRRC PROPOSED TO REMOVE (d)(2)(I) IN THE ORIGINAL PROPOSAL, AND ALLOW DOCUMENTS FOR EMERGENCY RELIEF TO BE FILED ELECTRONICALLY.**	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	~~(2) The Clerk's Office will return the signed and sealed summonses to counsel for the plaintiff for service of process. A party may not electronically serve a civil complaint, but shall effect service in accordance with Fed. R. Civ. P. 4.~~ ~~(3)~~**(b) Miscellaneous Case Opening Documents.** Miscellaneous case opening documents shall be filed conventionally along with the prescribed filing fee. **~~(b)~~(c) Limit on Size of Documents.** No documents shall be filed that are larger than 2.5 megabytes. In cases where a single document is larger than 2.5 MB, the filer shall break the document into files smaller than 2.5 MB before filing. **~~(c)~~(d) Other Documents** (1) The following documents must be conventionally filed and will not appear in the electronic case file: (A) Motions to file documents under seal and documents filed under seal in criminal cases as set forth in LR Gen 102(d); (B) ~~Administrative r~~Records ~~in social security cases, IDEA cases and in other~~ of administrative review proceedings other than social security cases; (C) The state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings; (D) The state court record in Notice of Removal actions;			

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	(E) *Ex parte* motions and applications; and (F) Consent to Proceed Before a Magistrate Judge. (2)The following documents must be conventionally filed, but will be scanned into the electronic case file by the Clerk's Office: (A)Motions to file documents under seal in civil cases as set forth in LR Gen 102(c); (B)All pleadings and documents filed by prisoner *pro se* litigants and non-prisoner *pro se* litigants not granted permission to file documents electronically; (C)The charging document in a criminal case, such as the complaint, indictment and information; (D)Affidavits for search and arrest warrants and related papers; (E) Fed.R.Crim.P. 20 and Fed.R.Crim.P. 5 papers received from another court; (F) Any pleading or document in a criminal case containing the signature of a defendant, such as a waiver of indictment or plea agreement; (G)Petitions for violations of supervised release; and (H)Appearance Bonds. (I) Documents seeking emergency relief under LR Cv 9. (Note: The requirement that documents seeking emergency relief be filed conventionally appears in the current			

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	(a)(1). It has been moved to this section, but will still be filed conventionally.) (3) The following documents must be filed in a Scanned PDF format using ECF and may not be filed in an Electronically Converted PDF format: (A) Rule 4 executed service of process documents; and (B) Affidavits in support of motions or objections with original signatures. ~~(4) No document should be placed in the public case file that does not comply with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and LR Gen 102 and the Judicial Conference Policy on Privacy & Public Access to Electronic Case Files.~~			
Suggestion from the Bar	The American Civil Liberties Union submitted a general comment requesting that the Court adopt a "Uniform Numbering System" for the Local Rules.		**PROPOSED CHANGES REJECTED.** ***10/3/14 SUPPLEMENT: THE LRRC REJECTED THE ACLU'S SUGGESTION THAT A "UNIFORM NUMBERING SYSTEM" BE ADOPTED FOR THE LOCAL RULES.*** ***THIS PROPOSAL WOULD UNDO THE SIGNIFICANT WORK IN DRAFTING AND REFINING THE LOCAL RULES, DATING BACK TO CHIEF JUDGE TORRES' INITIATIVE TO DRAFT A COMPREHENSIVE SET OF RULES. SUCH A CHANGE IN STRUCTURE WOULD BE A DRAMATIC ALTERATION OF THE RULES AND COULD HAVE A SIGNIFICANT DISRUPTIVE EFFECT UPON THE COURT'S PRACTITIONERS, WHO***	

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

General/Attorney Rules

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
			HAVE WORKED WITH THE CURRENT STRUCTURE OF THE LOCAL RULES FOR SEVERAL YEARS. THE LOCAL RULES FUNCTION WELL AND ARE INDEXED TO GUIDE PRACTITIONERS IN THEIR APPLICATION.	
Suggestion from the Bar	Attorney Elliot Taubman submitted suggestions that the Court adopt rules relating to: the filing of complaints and payment of fees electronically; the way that CM/ECF operates when data entry errors are made; the line spacing of documents filed with the Court; and the use of electronic devices by members of the bar in the Courthouse.	**The General Rules Subcommittee did not recommend adoption of any of the proposals submitted by Mr. Taubman that relate to the General Rules. Further, it noted that the amendment to LR Gen 303 allows for the filing of complaints electronically, and under LR Gen 112(b), attorneys can bring electronic devices into the Courthouse.** **The suggestion regarding line spacing falls under the Civil Rules (LR Cv 5). See discussion below in Civil Rules section.**	**PROPOSED CHANGES REJECTED.**	

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

Rule Number	**Suggestion Received***	**Subcommittee Recommendation**	**Full Committee Action**	**Court Action**
LR Cv 39.4	*The ACLU proposed an amendment regarding the possible imposition of jury costs on parties and/or counsel in case settled later than 7 days before the date of a scheduled jury empanelment. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The Civil Rules Subcommittee believes that the rule is sound, has effectuated early settlements and has been fairly implemented by the Court when necessary. Therefore, the committee recommends that the proposal not be adopted.***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	
LR Cv 54.1	*The ACLU proposed an amendment regarding motions for attorneys' fees. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The Civil Rules Subcommittee believes that there is no reason to split the time for the filing of the motion and the time for the filing of the affidavit and therefore the proposal to LR Cv 54.1(b) should not be adopted.*** ***The ACLU has also proposed the deletion of LR. Cv 54.1(b)(1)(D). The LRRC rejects this proposal because the Court should be allowed to review a fee arrangement between an attorney and a party in the adjudication of a petition seeking an award of attorneys' fees.***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	
LR Cv 56	*The ACLU proposed an amendment regarding statements of undisputed facts filed in conjunction with a motion for summary judgment. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The Civil Rules Subcommittee believes that the proposed change is inconsistent with LR Cv 56 (a)(2) and therefore should not be adopted***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Cv 72	**LR Cv 72 AUTHORITY OF MAGISTRATE JUDGES IN CIVIL CASES** ********* **(c) Objections to Rulings on Nondispositive Matters.** ***** **(3) Responses and Replies**. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and file a reply to the response within ~~14~~ 7 days thereafter. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in response to an objection to a magistrate judge's order or ruling. Any response and/or reply shall comply with LR Cv 7. ***** **(d) Objections to Reports and Recommendations.** **(3) Responses and Replies**. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and file a reply to the response within ~~14~~ 7 days thereafter. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in opposition to an objection to a magistrate judge's Report and Recommendation. Any response and/or reply shall comply with LR Cv 7.	**The Civil Rules Subcommittee recommended adoption of the proposed change.**	***10/3/14 SUPPLEMENT:*** **PROPOSED CHANGE ACCEPTED.**	

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

Civil Rules

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
Suggestion from the Bar	During the 2011-12 local rules review cycle, 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 LRRC created an *ad hoc* committee to study and recommend an ESI proposal for consideration during the 2012-2013 LRRC cycle. The members of the ad hoc committee are: Jeffrey Techentin, Byron McMasters, Ranen Schechner, and Steven Richard. Mr. Richard will chair the ad hoc committee. The subcommittee reported to the LRRC during the 2012-13 cycle, and would make an additional report during the 2013-2014 session.	**Co-chair Stephen Richard indicated that the ESI discovery issue should be discussed at the next Federal Bench-Bar Committee meeting.**	**The LRRC determined that the issue of ESI discovery is outside the purview of the LRRC, and agreed to table the suggestion.**	
Suggestion from the Bar	During the 2011-2012 local rules review cycle, 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 LRRC chose to table the proposal for reconsideration during the 2012-2013 local rules review cycle due to an appeal to the Rhode Island Supreme Court on this issue, and reconsider it during the 2013-14 local rules review cycle.	**The Civil Rules Subcommittee tabled the suggestion pending decision on three "ghostwriting" cases at the Rhode Island Supreme Court. Decisions are expected in late 2014.**	**The LRRC tabled the suggestion for reconsideration during the 2014-2015 local rules review cycle.**	
Suggestion from the Bar	Attorney Elliot Taubman submitted suggestions that the Court adopt rules relating to: the filing of complaints and payment of fees electronically; the way that CM/ECF operates when data entry errors are made; the line spacing of documents filed with the Court; and the use of electronic devices by members of the bar in the Courthouse.	**The Civil Rules Subcommittee did not recommended adoption of the proposed change by Mr. Taubman with respect to the line spacing of documents. (See, LR Cv 5(a)(3)).**	**PROPOSED CHANGE REJECTED.**	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
Suggestion from the Bar	Attorney John McCann suggested that the Court create a new local rule that tracks Fed. R. Civ. P. 12. In Mr. McCann's proposal, he suggests that the newly adopted rule contain additional language in (a)(4) that is not in the current Fed. R. Civ. P. 12.	**The Civil Rules Subcommittee did not recommend adoption of the proposed change.**	**PROPOSED CHANGE REJECTED.** ***10/3/14 SUPPLEMENT:* The LRRC rejected the amendment because (1) they thought that it was unnecessary to add a local civil rule that largely tracks the federal rule, and (2) that Mr. McCann's particular concern about the effect of a partial motion to dismiss on deadlines was already established case law, and did not need to be included in a local rule.**	
Suggestion from the Bar	During the 2012-13 review cycle, the Civil Rules Subcommittee proposed a new local rule—modelled on District of Massachusetts LR 26.5—to set uniform definitions in discovery requests. The full LRRC ultimately rejected the proposed amendment at its final meeting. **LR Cv 26.1 Uniform Definitions In Discovery Requests** (a) Incorporation by Reference and Limitations. The full text of the definitions set forth in paragraph (c) is deemed incorporated by reference into all discovery requests, but shall not preclude (1) the definition of other terms specific to the particular litigation; (2) the use of abbreviations; or (3) a narrower definition of a term defined in paragraph (c).	**The Civil Rules Subcommittee revisited the rejected uniform definitions amendment in the 2013-14 cycle, and offered a revision of the 2012-13 proposed amendment for the full LRRC's reconsideration. Removed language from the 2012-13 proposal is indicated by ~~strikethrough~~ and the added language is indicated by underline.** **LR Cv 26.1 Uniform Definitions In Discovery Requests** (a) Incorporation by Reference and Limitations. The full text of the definitions set forth in paragraph (c) ~~is deemed~~ may be incorporated by reference into all discovery requests, but this shall not preclude. (1) the definition of other terms specific to the particular litigation; (2) the use of abbreviations (3) a narrower definition of a term defined in paragraph (c) or (4) the use of a definition of any term other than as defined by this Local Rule.	**PROPOSED CHANGE REJECTED.**	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	(b) Effect on Scope of Discovery. This rule is not intended to broaden or narrow the scope of discovery permitted by the Federal Rules of Civil Procedure. (c) Definitions. The following definitions apply to all discovery requests: (1) Communication. The term "communication" means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise). (2) Document. The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Fed. R. Civ. P. 34(a). A draft or non-identical copy is a separate document within the meaning of this term. (3) Identify (With Respect to Persons). When referring to a person, "to identify" means to give, to the extent known, the person's full name, present or last known address, and, when referring to a natural person, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person. (4) Identify (With Respect to Documents). When referring to documents, "to identify" means to give, to the extent known, the (a) type of document; (b) general subject matter;	(b) Effect on Scope of Discovery. This rule is not intended to broaden or narrow the scope of discovery permitted by the Federal Rules of Civil Procedure <u>or create any presumption in the event of a motion under Rule 26 or 37.</u> (c) Definitions. The following definitions apply to all discovery requests <u>if incorporated by reference in discovery requests</u> : (1) Communication. The term "communication" means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise). (2) Document. The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Fed. R. Civ. P. 34(a). A draft or non-identical copy is a separate document within the meaning of this term. (3) Identify (With Respect to Persons). When referring to a person, "to identify" means to give, to the extent known, the person's full name, present or last known address, and, when referring to a natural person, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person. (4) Identify (With Respect to Documents). When referring to documents, "to identify" means to give, to the extent known, the (a) type of document; (b) general subject matter;		

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	(c) date of the document; and (d) author(s), addressee(s), and recipient(s). (5) Parties. The terms "plaintiff" and "defendant" as well as a party's full or abbreviated name or a pronoun referring to a party mean the party and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries, or affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation. (6) Person. The term "person" is defined as any natural person or any business, legal, or governmental entity or association. (7) Concerning. The term "concerning" means referring to, describing, evidencing, or constituting. (8) State the Basis. When an interrogatory calls upon a party to "state the basis" of or for a particular claim, assertion, allegation, or contention, the party shall (a) identify each and every document (and, where pertinent, the section, article, or subparagraph thereof), which forms any part of the source of the party's information regarding the alleged facts or legal conclusions referred to by the interrogatory; (b) identify each and every communication which forms any part of the source of the party's information regarding the alleged facts or legal conclusions referred to by the interrogatory;	(c) date of the document; and (d) author(s), addressee(s), and recipient(s). (5) Parties. The terms "plaintiff" and "defendant" as well as a party's full or abbreviated name or a pronoun referring to a party mean the party and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries, or affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation. (6) Person. The term "person" is defined as any natural person or any business, legal, or governmental entity or association. (7) Concerning. The term "concerning" means referring to, describing, evidencing, or constituting. (8) State the Basis. When an interrogatory calls upon a party to "state the basis" of or for a particular claim, assertion, allegation, or contention, the party shall (a) identify each and every document (and, where pertinent, the section, article, or subparagraph thereof), which forms any part of the source of the party's information regarding the alleged facts or legal conclusions referred to by the interrogatory; (b) identify each and every communication which forms any part of the source of the party's information regarding the alleged facts or legal conclusions referred to by the interrogatory; (c) state separately the acts or omissions		

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	(c) state separately the acts or omissions to act on the part of any person (identifying the acts or omissions to act by stating their nature, time, and place and identifying the persons involved) which form any part of the party's information regarding the alleged facts or legal conclusions referred to in the interrogatory; and (d) state separately any other fact which forms the basis of the party's information regarding the alleged facts or conclusions referred to in the interrogatory.	to act on the part of any person (identifying the acts or omissions to act by stating their nature, time, and place and identifying the persons involved) which form any part of the party's information regarding the alleged facts or legal conclusions referred to in the interrogatory; and (d) state separately any other fact which forms the basis of the party's information regarding the alleged facts or conclusions referred to in the interrogatory.		

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Cr 17	**LR Cr 17 SUBPOENAS** **(a) Subpoena *Duces Tecum*** **(1) Subpoenas for the Production Before Trial.** ***** ~~(C) All other parties shall be entitled to inspect any item produced unless otherwise ordered by the Court.~~ ~~(D)~~(C) Any such subpoena, whether issued *ex parte* or upon notice, shall be returnable to the Court. All other parties shall be entitled to inspect any item(s) produced unless otherwise ordered by the Court for 7 days after production. During the 7-day period, the documents are held in temporary custody by the Clerk, and shall not be placed in the public case file. After the 7-day period expires, the party requesting the production of the documents, objects, or other materials shall retrieve the produced items from the Court. *****	**The Criminal Rules Subcommittee recommended adoption of the proposed change.**	**PROPOSED CHANGE ACCEPTED.**	

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Cr 57.2	**LR Cr 57.2 AUTHORITY OF MAGISTRATE JUDGES IN CRIMINAL CASES** ***** **(c) Objections to Rulings on Nondispositive Matters.** ***** **(3) Responses and Replies**. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and file a reply to the response within ~~14~~ 7 days thereafter. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in response to an objection to a magistrate judge's order or ruling. Any response and/or reply shall comply with LR Cr 47. ***** **(d) Objections to Reports and Recommendations.** ***** **(3) Responses and Replies**. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and file a reply to the response within ~~14~~ 7 days thereafter. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in opposition to an objection to a magistrate judge's Report and Recommendation. Any response and/or reply shall comply with LR Cr 47. *****	**The Criminal Rules Subcommittee recommended adoption of the proposed change.**	**PROPOSED CHANGE ACCEPTED.**	

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

Criminal Rules

Rule Number	**Suggestion Received***	**Subcommittee Recommendation**	**Full Committee Action**	**Court Action**
Suggestion from the Bar	Attorney Melissa Larsen suggested that the Court consider adopting a local criminal rule modelled on Massachusetts Rule 116.10, which requires any party producing more than 1,000 pages of discovery in a criminal case to provide a table of contents that describes the type and origin of the document and the location of the document within the larger set.	***10/3/14 SUPPLEMENT: The Criminal Rules Subcommittee did not recommend adoption of the proposed change submitted by Ms. Larsen because this proposal raises issues that are case specific and also may not be ripe for a rule change in light of evolving developments in searchable electronic discovery.***	**PROPOSED CHANGE REJECTED.**	

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

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COMMENTS ON LOCAL RULES OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND

February 2014

The ACLU of Rhode Island appreciates the opportunity to submit recommendations for revisions to the U.S. District Court's current Local Rules. Our suggestions – some of which are minor and clarifying in nature, and some of which are more substantive – appear below.

Where applicable, we have copied the text of the rule at issue, and indicated our proposed revisions through underlining for new language and ~~strikethrough~~ for proposed deletion of language, followed by a brief commentary explaining our recommendation.

1. LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION

Amend LR Gen 102 as follows:

(b) Sealed Documents Generally.

(1) Documents filed with the Court may not be sealed unless ordered by the Court. If a party or non-party filing a document has a good faith basis for believing that a document should be sealed, the document shall be accompanied by a motion to seal, which explains why the document should be sealed and any legal authority for such sealing. The motion should specify the desired duration of the sealing order.

(2) Unless the Court otherwise permits, if a party or non-party has good reason to believe that a document that such party or non-party proposes to file contains material that another party or non-party would maintain is confidential, the document shall not be filed until such other party or non-party has been notified and afforded an opportunity to file a motion to seal.

(3) If only a portion of a document contains confidential information, the party or non-party requesting sealing shall file both an unredacted version of the document and a redacted version that excises the confidential information. Counsel should consider alternatives that will minimize the information subject to any sealing order.

(4) The motion to seal shall not be filed electronically, but shall be filed by hand or by mail, together with the documents or materials which are the subject of the motion.

(5) The Court shall rule on the motion to seal within five (5) days.

(c) Filing of Sealed Documents in Civil Cases. Upon receipt of a motion to seal in a civil case, the clerk shall docket the motion and memorandum but not the unredacted documents which are the subject of the motion and shall immediately transmit the motion and documents to the chambers of the judge to whom the case has been assigned. If the Court grants the motion to seal and unless otherwise ordered by the Court, the sealed envelope shall be retained by the clerk in a secure location until further order of the Court. If the Court denies the motion to seal, the motion shall be docketed and filed in accordance with these Local Rules, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.

(d) Filing of Sealed Documents in Criminal Cases. Upon receipt of a motion to seal in a criminal case, the clerk shall immediately transmit the motion and the documents which are the subject of the motion to the chambers of the judge to whom the case has been assigned. If the Court grants the motion to seal, the motion to seal, the order granting the motion to seal, and the sealed documents shall be placed in an envelope which shall be sealed and to which a copy of the Court's order shall be affixed. The envelope shall then be retained by the clerk in a secure location until further order of the Court. If the Court denies the motion to seal, the motion shall be docketed and filed in accordance with these Local Rules, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.

(e) Unsealing of Documents. Documents sealed by the Court may be unsealed at any time upon motion of a party or non-party or by the Court sua sponte, provided that the parties first are given notice and an opportunity to be heard. A ruling on any request to unseal documents shall be made within ten (10) days.

Comment: Overly cautious efforts to protect privacy in sensitive court filings can significantly harm the public's long-standing right to access to judicial records, especially in light of the attendant delays inherent in seeking to unseal documents. On the other hand, while the ACLU strongly supports a presumption of openness in judicial records, unduly vague guidelines could on occasion potentially harm legitimate privacy interests, since the consequences of improper electronic disclosure are hard to undo. LR Gen 102(b) provides little guidance to practitioners as to what information being filed can and should be deemed confidential. We therefore suggest language designed to reduce sealing to appropriate circumstances, and ensure prompt consideration of any unsealing requests.

In recognition of the presumptively public nature of court proceedings and records (*see In re Providence Journal Company*, 293 F.3d 1 (1st Cir. 2002)), we believe it is important that a specified timeframe be in place for the Court to rule on motions to seal. We have proposed five days in a new subsection 102(a)(5), and a ten day time period for the Court to rule on motions to unseal in subsection 102(e). Tracking the language of First Circuit Local Rule 11(c), the ACLU also suggests that the Rule expressly state that the motion to seal should specify a suggested duration and that counsel seek to limit the information subject to any sealing order.

The proposed changes to subsections 102(c) clarify that only the potentially confidential material that is submitted does not get filed.

2. LR Gen 107 REQUESTS FOR DAILY TRANSCRIPTS OF COURT PROCEEDINGS

Amend LR Gen 107 as follows:

Except for good cause shown, all requests for daily or expedited transcripts must be made in writing to the court reporter, if known, and if not, to the Clerk. A copy of the request must be provided to opposing counsel. If the hearing or trial has been scheduled sufficiently in advance, the request shall be made not later than 7 days before the hearing or trial to be transcribed.

Comment: The ACLU proposes a clarifying amendment to this rule. There are certain hearings, particularly requests for temporary restraining orders and, in some instances, preliminary injunctions, where it may be impossible for the attorney to provide seven days advance notice about the need for expedited transcripts.

3. LR Gen 111 PHOTOGRAPHING; RECORDING; BROADCASTING

Amend LR Gen 111(b) as follows:

****

(b) Note-Taking. Nothing in subsection (a) of this Rule shall prevent any person from taking notes in the courtroom during a proceeding in Court, provided that such notetaking ~~has been authorized by the presiding judicial officer~~ is not disruptive of court proceedings. No authorization is necessary for note-taking by any persons seated inside the bar of the Court or located outside of the courtroom.

Comment: The Court's recent general order authorizing media use of electronic equipment in the courtroom is a very important step in promoting public knowledge of court activities, and the ACLU commends the Court for this action. At the same time, LR Gen 111(b) continues to impose an unnecessary barrier for members of the public who attend court proceedings. Unlike the heightened responsibilities associated with electronic equipment, we do not believe the automatic right to take handwritten notes should be limited to members of the media. Our proposed amendment to 111(b) would authorize spectators to take handwritten notes, without the need for advance authorization, so long as it was not disruptive.

Requiring individuals to obtain advance judicial approval is problematic for a number of reasons: people should not be required to identify themselves in order to take notes; in many instances, a person will not be aware of this approval process until they appear at the hearing or trial itself, when it is too late to seek approval; some spectators are bound to be intimidated by any approval procedure; and there are no standards in place as to when approval would be granted. There are many reasons that members of the public, just like members of the news media, might want to take notes of a court proceeding. The only compelling justification for limiting this is to prevent disruption, something that note-taking normally will not create.

4. LR Gen 113 AMENDMENTS TO LOCAL RULES

Amend LR Gen 113(d) and 113(e) as follows:

(d) Emergency Amendments. The Court may adopt sua sponte and without public comment any rule necessary to meet any condition of emergency. If such emergency rule is promulgated, public notice of it shall be given promptly after its adoption, and it shall be submitted for public consideration in accordance with subsection (c) ~~during the next regular amendment cycle~~ within sixty days. An emergency rule shall expire within 180 days unless ratified after completion of the public rule-making process provided in subsection (c).

(e) General Orders / Administrative Orders. Nothing contained in these Rules shall restrict the Court from promulgating such General Orders, Administrative Orders, standing orders and/or other directives as its business may require, provided that they are not in conflict with these rules and comply with any applicable rule-making procedures of 28 U.S.C. §2071 et seq.

Comment: The proposed change to 113(d) would put the rule into conformance with the Rules Enabling Act, 28 U.S.C. §2071(e), which allows for the emergency promulgation of rules but further requires that the Court "promptly thereafter" afford notice and opportunity for comment. The proposed change to subsection (e) is in the same vein.

5. LR Gen 204 PRO HAC VICE COUNSEL

Amend LR Gen 204 as follows:

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

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

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

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

(c) ~~Limit on Number. Unless otherwise permitted by the Court for good cause shown, no more than 3 pro hac vice counsel may be admitted to represent any party in a case. (d)~~ Application. An application for pro hac vice admission shall be made by completing and filing a form provided by the Clerk, together with a check for the application fee fixed by the Court which shall be payable to the "Bar Fund." The

application fee will not be refunded if the application is denied. A motion for pro hac vice admission shall be signed both by the applicant and by local counsel affiliated with the applicant.

Comment: Complex or novel civil rights cases can often require the assistance of pro hac counsel. It is therefore important that court rules not set unnecessary barriers in the way of such counsels' participation in litigation. While we appreciate the Court's interest in avoiding duplication of effort, we also believe that the restriction on more than three pro hac counsel, absent court permission, serves no compelling purpose. To the extent there is concern about overstaffing of a case, that can occur just as easily with more than three local counsel. The Court is well equipped to address accountability issues with large numbers of counsel without this restriction, just as it can address issues of duplication of effort when addressing attorney's fees requests, whether those requests come from local counsel or those admitted pro hac vice. For similar reasons of encouraging the availability of pro hac counsel when they can provide needed expertise in a case, we urge adjustment of the admission criteria, so that an attorney's good standing before a state's highest court is sufficient to allow their participation in a case in this Court.

6. LR Gen 210 DISCIPLINARY PROCEEDINGS

Amend LR Gen 210(b)(2) as follows:

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

****

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

****

Comment: Subsection (b)(2) of this rule authorizes the appointment of "special counsel" to investigate allegations of misconduct by an attorney. Misconduct is broadly defined in LR Gen 209 to include *any* violation of "Standards of Professional Conduct" or an intentional violation of *any* of the local rules. Although these may be civil proceedings, we believe the extraordinary use of special counsel by the courts should be limited to only circumstances where such an appointment is truly necessary. We therefore suggest the addition of language akin to that contained in Fed.R.Crim.P. 42(a)(2). As the First Circuit noted in *In re Special Proceedings*, 373 F.3d 37, 42 (1st Cir. 2004), that standard is a quite flexible one, but it at least has the benefit of somewhat confining the use of outside counsel to only situations where it is truly appropriate.

7. LR Gen 215 REINSTATEMENT OF MEMBERSHIP

Amend LR Gen 215(a)(4) as follows:

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

Comment: Our proposed amendment offers the addition of a clarifying word, designed to protect the confidentiality of an attorney's medical records to the extent they are not relevant to the incapacity that is the subject of review.

8. LR Cv 39.4 SETTLEMENT

Amend LR Cv 39.4(b) as follows:

~~(b) Jury Costs. In cases that are settled later than 7 days before the date scheduled for empanelment of a jury, jury costs may be assessed equally against the parties and/or their counsel unless a party demonstrates to the Court's satisfaction that:~~

~~(1) The costs should be borne entirely or primarily by one or more parties on the ground that the tardiness of the settlement was due to that party's failure to make a good faith effort to settle the case earlier; or~~

~~(2) No costs should be assessed because all parties made a reasonable good faith effort to settle the case earlier.~~

Comment: The ACLU urges the deletion of 39.4(b). As a practical matter, a rule providing for the possible imposition of costs in cases settled shortly before trial can actually have the opposite effect of what is intended. It can serve as an additional hurdle for parties to overcome when they are seeking to settle, or are perhaps on the verge of settling, a case. That is, the possible addition of unknown additional costs may prevent parties from agreeing to a settlement after long negotiations have otherwise finally gotten them to the point of avoiding a trial.

9. LR Cv 54.1 ATTORNEYS' FEES

Amend LR Cv 54.1 as follows:

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

(b) Supporting Affidavits. Unless extended by the Court for good cause shown, a motion for attorneys' fees shall be accompanied by the affidavits described in (1) and (2) below. A party seeking to extend the time to submit the required affidavits shall provide a fair estimate of the amount sought.

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

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

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

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

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

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

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

Comment: As currently written, this rule can place a significant burden on successful plaintiffs' attorneys in civil rights cases where fee awards are available. The attorney has to file all supporting documents within 14 days, and find an attorney willing to review the reasonableness of the requested fee rate. We urge revision of this rule to comport with an earlier practice, where, after filing a motion for fees within the 14 day period to place the opposing side on notice that fees will be sought, an attorney has additional time to gather supporting documentation.

10. LR Cv 56 MOTIONS FOR SUMMARY JUDGMENT

Amend LR Cv 56(a)(3) as follows:

(a) Statement of Undisputed Facts.
****

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

Comment: We believe the proposed amendment to LR Cv 56(a)(3) comports with the current case law, requiring the Court to make an independent assessment of the facts.

11. UNIFORM NUMBERING SYSTEM

Finally, we would like to offer a general comment about the structure of the current Local Rules. We urge that the much of the use of proposed "Local General Rules" be abandoned. Instead, to the extent applicable, each rule should be linked numerically to its civil and/or criminal rule counterpart. The use of a third set of numbers, not keyed either to the existing national civil or criminal rule numbering system, can create confusion for the unwary practitioner who fails to realize that it is insufficient to examine the local-rule counterpart to the applicable civil or criminal rule to determine if there is a local rule relating to the relevant issue. Thus, for example, Fed.R.Civ.P. 43(d) deals specifically with interpreters, but the Local General Rule on the subject is designated LR Gen 108.

Fed.R.Civ.P. 83(a)(1) and Fed.R.Crim.P. 57(a) each require that local rules "conform to any uniform numbering system prescribed by the Judicial Conference of the United States." District court rules should therefore be keyed in numbering to the analogous national rule. Thus, the Local Rules of the District of Massachusetts contain a preface that specifically notes that, "[a]t the request of the Committee on Rules and Practice of the Judicial Conference of the United States," the local civil rules were renumbered to key them to the Fed.R.Civ.P. numbering system.

As the Notes of the Advisory Committee on the adoption of amended Rule 83(a)(1) point out, lack of uniform numbering has the potential to "create unnecessary traps for counsel and litigants." In short, the use of "local general rules" which do not tie into either the criminal or civil numbering systems is both confusing and inconsistent with the Federal Rules. We encourage a revision to the numbering of the Local Rules to conform to this format.

Where there is no national counterpart, a local general rule pertaining to civil matters could appear as a subsection of Rule 83. See, once again for an example, the Local Rules of the District of Massachusetts, which do not contain "local general rules."

Once again, the ACLU appreciates the opportunity to offer these comments. We hope the Committee finds them useful, and that they will be given careful consideration.

Michael Simoncelli

From:	blockislandwine@gmail.com on behalf of E T <ETBI@Verizon.net>
Sent:	Tuesday, February 25, 2014 10:00 AM
To:	Local Rules
Subject:	Suggestions on Local Rules

In order to simply matters, and bring the court into the 21st century, suggest the following:

1. Allow complaints to be filed electronically with payment either by electronic check, or credit or debit card. Could allow pre-registration of attorney accounts for filing fees.
2. In the E-filing, when an error is made in data entry, have the program remember the last entry.
3. Allow single spacing of documents, or at least Memoranda. This will reduce paper use, be an environmental improvement, and a space saver for the Clerk's office.
4. Allow DRI registered attorneys with RI Judicial IDs to bring cellphones, tablets and computers as long as the ringers are turned off and they do not take pictures in the courtroom. This could be an automatic right upon registration, but could be taken away as the Court does with news reporters.

Cordially,

-

Elliot Taubman (R.I.Bar #2816)
Attorney at Law
CAF#1205-07659R

Michael Simoncelli

From: John H. McCann <jmccann@shslawfirm.com>
Sent: Tuesday, February 25, 2014 10:21 AM
To: Local Rules
Subject: Proposed Amendment to Local Rules

Ladies and gentlemen:

I would propose that a Local Rule 12 be added.

The added local rule would add the below bold language to the existing Rule 12(a).

(4) Effect of a Motion. Unless the court sets a different time, serving a motion under this rule, **including a partial motion to dismiss**, alters these periods as follows:

(A) if the court denies the motion or postpones its disposition until trial, the responsive pleading must be served within 14 days after notice of the court's action; or

(B) if the court grants a motion for a more definite statement, the responsive pleading must be served within 14 days after the more definite statement is served.

The reason for the proposed change would be to indicate that the District of Rhode Island follows the majority view on the effect of a motion for partial summary judgment, i.e. that the movant need not answer those counts of the complaint which are not subject to the motion until after the motion has been ruled on. *See, Nat'l Cas. Co. v. OneBeacon Am. Ins. Co.*, 2013 U.S. Dist. LEXIS 92840, 18-19 (D. Mass. July 1, 2013)("[A] partial motion to dismiss suspends the time to answer the claims not subject to the motion, Fed. R. Civ. P. 12(a)(4);" *citing Tingley Sys., Inc. v. CSC Consulting, Inc.*, 152 F. Supp. 2d 95, 122 (D. Mass. 2001); and 5B Charles Alan Wright et al., Federal Practice & Procedure § 1346 (3d ed. 2004) (noting that the "majority rule" is that service of a Rule 12(b) motion directed at only parts of a pleading enlarges the period of time for answering the entire complaint)).

Thank you.

Best regards,

John

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Attorney at Law

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February 28, 2014

United States District Court
District of Rhode Island
Local Rules Review Committee
c/o Clerk's Office
1 Exchange Terrace
Providence, RI 02903
Local_Rules@rid.uscourts.gov

RE: Proposed Addition to Local Rules

Dear Committee,

I am writing to respectfully request your consideration for an addition to our current Local Rules. Specifically, I am requesting that the Committee adopt Local Rule 116.10 of the Local Rules of the District Court for the District of Massachusetts. The Rule states:

RULE 116.10 REQUIREMENTS OF TABLE OF CONTENTS FOR VOLUMINOUS DISCOVERY

Any party producing more than 1,000 pages of discovery in a criminal case shall provide a table of contents that describes, in general terms, the type and origin of the documents (for example, "bank records from Sovereign Bank for John Smith;" "grand jury testimony of Officer Jones") and the location of the documents so described within the larger set (for example, by Bates number).

The purpose of my request is to assist attorneys effectively represent clients who have been indicted on criminal charges prepare and defend their case. Often, the Government's response to request for Discovery contains thousands of documents. Discovery materials are often provided in formats that are not searchable, such as .tiff files. Although there are programs and "tricks" to make reviewing discovery provided in these formats more palatable, often accomplishing same requires hours of work and creates a significant expense to the defendant or the CJA budget. I have personally worked on cases in our District where reviewing discovery materials has presented a challenge due to the volume of documents produced by the Government. Specifically discovery review was an issue in U.S. v. Ralph Mariano, Jr. (CR NO.: 00061-ML) and in U.S. v. Richard P. Baccari (1:13-cr-00150-ML-PAS-1), which is presently in a pre-trial posture.

In Support of this request I submit that MA Local Rule 116.10 has been effectively adopted and implemented without issue or complaint by the District of Massachusetts. The Rule has been implemented to the satisfaction of local counsel and has in some cases eliminated the need for counsel to file Motions relating to discovery, which in turn enhances judicial economy and preserves valuable resources.

Although ideally in addition to a simple index, our Local Rules would impose additional obligations on a party who is providing extensive discovery, such as a requirement that electronic discovery be provided in a readily searchable format, the proposed amendment is a step, albeit minimal, in the right direction.

If I can be of any further assistance in your consideration of this proposal, please do not hesitate to contact me at (401) 218-0862. Thank you in advance for your consideration of this proposed amendment to our Local Rules.

Very truly yours,

Melissa Larsen, Esq.

UNITED STATES DISTRICT COURT
District of Rhode Island

NOTICE OF PROPOSED AMENDMENTS TO LOCAL RULES

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

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

General Rules: LR Gen 102, LR Gen 109, LR Gen 111, LR Gen 202, LR Gen 204, LR Gen 205, LR Gen 215, LR Gen 302, and LR Gen 303.

Civil Rules: LR Cv 72.

Criminal Rules: LR Cr 17 and LR Cr 57.2.

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

Any comments must be submitted, in writing, no later than November 17, 2014, via e-mail to Local_Rules@rid.uscourts.gov or by submission to the Clerk's Office.

October 17, 2014

DAVID A. DiMARZIO
CLERK OF COURT

LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION

(a) Privacy Protections.

~~**(1) In General.** In compliance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and the policy of the Judicial Conference of the United States, and in order to address the privacy concerns created by Internet access to court documents, parties or non-parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents filed with the Court:~~

~~(a) MINORS' NAMES: Use of the minors' initials only;~~

~~(b) SOCIAL SECURITY NUMBERS: Use of the last four numbers only;~~

~~(c) DATES OF BIRTH: Use of the year of birth only;~~

~~(d) FINANCIAL ACCOUNT NUMBERS: Identify the type of account and the financial institution, but use only the last four numbers of the account number; and~~

~~(e) HOME ADDRESSES: Use the city and state only (in criminal cases only).~~

~~**(2) Responsibility for Removing Personal Information.**~~ It is the responsibility of any party or non-party filing a document, not the Clerk's Office, to review each document to determine if pleadings are in compliance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and the Judicial Conference Policy on Privacy and Public Access to the Electronic Case Files ~~must be modified and are in the proper form~~.

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

~~**(3) Corrective Action.** In cases where the above personal information does appear on documents filed with the Court, the party or non-party responsible for the filing shall file a Motion to Redact, along with a redacted version of the document containing personal information in compliance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1 and Judicial Conference policy. Upon receipt of the Motion to Redact, the Clerk shall grant the motion by text order, restrict the document containing the above personal information from the docket, and replace it with the redacted version.~~

(b) Sealed Documents Generally.

(1) Documents filed with the Court may not be sealed unless ordered by the Court. If a party or non-party filing a document has a good faith basis for believing that a document should be sealed, the document shall be accompanied by a motion to seal, which explains why the document should be sealed.

(2) Unless the Court otherwise permits, if a party or non-party has good reason to believe that a document that such party or non-party proposes to file contains

material that another party or non-party would maintain is confidential, the document shall not be filed until such other party or non-party has been notified and afforded an opportunity to file a motion to seal.

(3) If only a portion of a document contains confidential information, the party or non-party requesting sealing shall file both an unredacted version of the document and a redacted version that excises the confidential information.

(4) The motion to seal shall not be filed electronically, but shall be filed by hand or by mail, together with the documents or materials which are the subject of the motion.

(c) Filing of Sealed Documents in Civil Cases. Upon receipt of a motion to seal in a civil case, the clerk shall docket the motion but not the documents which are the subject of the motion and shall immediately transmit the motion and documents to the chambers of the judge to whom the case has been assigned. If the Court grants the motion to seal and unless otherwise ordered by the Court, the sealed ~~envelope~~ documents shall be retained by the clerk in a secure location until further order of the Court. If the Court denies the motion to seal, the motion shall be docketed and filed in accordance with these Local Rules, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.

(d) Filing of Sealed Documents in Criminal Cases. Upon receipt of a motion to seal in a criminal case, the clerk shall immediately transmit the motion and the documents which are the subject of the motion to the chambers of the judge to whom the case has been assigned. If the Court grants the motion to seal, the motion to seal, the order granting the motion to seal, and the sealed documents shall be placed in an envelope which shall be sealed and to which a copy of the Court's order shall be affixed. The envelope shall then be retained by the clerk in a secure location until further order of the Court. If the Court denies the motion to seal, the motion shall be docketed and filed in accordance with these Local Rules, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.

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

LR Gen 109 BANKRUPTCY

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

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

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

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

(b) Filings in Bankruptcy Cases. The bankruptcy clerk shall maintain all files in bankruptcy cases referred by the District Court. Except with respect to appeals, cases in which the reference has been withdrawn, or other matters pending before the District Court, all documents filed in such cases shall be filed with the bankruptcy clerk.

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

(d) Reports and Recommendations by Bankruptcy Judge.

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

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

(3) **Responses and Replies**. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and file a reply to the response within 14 days thereafter. Any response and /or reply shall comply with LR Cv 7. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in opposition to an objection to a bankruptcy judge's proposed findings of fact and rulings of law.

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

(f) **Appeals to District Court.** Except as otherwise provided in this subsection (f) or elsewhere in these rules, or unless otherwise ordered by the District Court, appeals or motions for leave to appeal to the District Court from any judgment, order or decree of a bankruptcy judge shall be governed by the applicable provisions of Rules 8001 - ~~8020~~ 8028 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules").

(1) **Record on Appeal.** ~~**Notice of Appeal.** When a notice of appeal is filed with the bankruptcy clerk, the bankruptcy clerk shall, forthwith, transmit a copy of the notice of appeal to the District Court clerk, together with a copy of the judgment, order or decree that is the subject of the appeal, and the Appeal Cover Sheet. The District Court clerk, thereupon, shall treat the matter administratively as a newly filed case, but in accordance with Bankruptcy Rule 8001(f)(2), the matter shall not be deemed "pending" in this Court until the record has been transmitted and docketed.~~

Upon the completion of the record on appeal in accordance with Bankruptcy Rule 8010, the bankruptcy clerk shall transmit a copy of the following to the District Court clerk:

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

(B) Docket sheet;

(C) Appeal cover sheet;

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

(E) Statement(s) of issues on appeal; and

(F) Any written decision(s) and a transcript of any oral decision(s) by the bankruptcy judge stating the reasons for the judgment, order or decree

(2) **Motion for Leave to Appeal.** When a motion for leave to appeal is filed with the bankruptcy clerk, the bankruptcy clerk shall, in accordance with Bankruptcy Rule 8004(c), promptly ~~forthwith~~, transmit a copy of the motion to the District Court clerk, together with copies of the notice of appeal if not previously transmitted, the judgment, order or decree that is the subject of the proposed appeal, and any memorandum of counsel submitted in support of ~~or in opposition to~~ the motion. ~~The District Court clerk, thereupon, shall treat the matter administratively as a newly filed case, but in accordance with Bankruptcy Rule 8001(f)(2), the matter shall not be deemed "pending" in this Court until leave to appeal has been granted.~~

(3) **Requests for Certification**. Any request by a party for the certification of an appeal directly to the Court of Appeals filed in the District Court pursuant to 28 U.S.C. 158(d)(2) and Bankruptcy Rule ~~8001(f)~~ 8006 shall be in the form of a motion complying with LR Cv 7.

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

(5) **Dismissal of Appeals by Bankruptcy Judge.** A bankruptcy judge may dismiss an appeal if:

~~(A)~~ the notice of appeal is not filed within the time specified in Bankruptcy Rule 8002;

~~(B) the appellant has failed to file a designation of the record or a statement of the issues within the time specified in Bankruptcy Rule 8006 or any extension thereof; or~~

~~(C) the appellant has failed to comply with paragraph (6)(C) of this subsection.~~

~~(D) the appellant has failed to pay the prescribed appeal filing fee as required by Bankruptcy Rule 8001(a).~~

~~**(6) Record on Appeal.** In addition to any other applicable requirements, the Bankruptcy Court clerk shall ensure that the record electronically transmitted to the District Court clerk includes:~~

~~(A) the judgment, order or decree of the bankruptcy judge that is the subject of the appeal;~~

~~(B) any written decision(s) and a transcript of any oral decision(s) by the bankruptcy judge stating the reasons for the judgment(s), order(s) and/or decree(s) referred to in subparagraph (A);~~

~~(C) the record on appeal;~~

~~(D) a statement of the issues on appeal; and,~~

~~(E) a copy of the docket sheet.~~

~~(7)~~**(6)** **Form of and Schedule for Filing Briefs**. Unless otherwise ordered by the District Court or provided in these rules, the form and schedule for filing appellate briefs and memoranda shall be governed by Bankruptcy Rule ~~8009~~ 8014 and 8015, except that:

(A) all briefs~~,~~ and memoranda ~~and appendices thereto~~ shall conform to the applicable requirements of LR Cv 7; and

(B) with respect to documents that are conventionally filed, two copies of any brief or memorandum shall be provided to the district judge to whom the appeal or motion for leave to appeal is assigned.

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

(g) Stays Pending Appeal to the District Court. When a motion is made in the District Court in accordance with Bankruptcy Rule 8007(b) to stay a judgment, order or decree of a bankruptcy judge or for any other relief pending appeal, the movant shall file the following with its motion:

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

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

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

(4) a memorandum of law setting forth the reasons why a stay should be granted and the legal authorities supporting the motion for a stay.

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

(h) Local Bankruptcy Rules.

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

(2) Notice to District Court. The bankruptcy court must give notice to the District Court of any amendment to the bankruptcy court's local rules prior to such rules

taking effect. After notice is given, such amendment shall take effect on the date specified by the bankruptcy court, unless abrogated by the District Court.

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

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

LR Gen 111 PHOTOGRAPHING; RECORDING; BROADCASTING

(a) **General Prohibition.** Except to the extent expressly authorized by the Court, no person shall photograph, record, broadcast, or otherwise transmit any proceeding, event or activity in or from any interior portion of the United States Courthouse or that portion of the John O. Pastore Building that is occupied by the Court. The Court may permit photographing, recording or broadcasting of ceremonial proceedings upon such terms and conditions as the Court may specify.

(b) **Note-Taking.** Nothing in subsection (a) of this Rule shall prevent any person from taking notes in the courtroom during a proceeding in Court, provided that such note-taking ~~has been authorized by the presiding judicial officer~~ is not disruptive of Court proceedings. No authorization is necessary for note-taking by any persons seated inside the bar of the Court or located outside of the courtroom.

LR Gen 202 ELIGIBILITY AND PROCEDURE FOR ADMISSION

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

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

(2) Either:

(A) Have completed the course of instruction on Federal Practice and Procedure given by this Court's Board of Bar Admissions, or

(B) Have at least 5 years of experience in practicing before federal courts and certify that he or she has read and understands these Local Rules;

and

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

(b) Procedure for Admission.

(1) Application for Admission. An individual applying for admission pursuant to LR Gen 202(a)(2)(A) shall file with the Clerk a completed application form, together with a current certificate from the Rhode Island Supreme Court that the applicant is a member in good standing of the Bar of that Court.

An individual applying for admission pursuant to LR Gen 202(a)(2)(B) shall file with the Clerk a completed application form accompanied by a current certificate from the Rhode Island Supreme Court that the applicant is a member in good standing of the Bar of that Court, together with a current certificate from a United States district court that the applicant is a member in good standing of the Bar of that court.

(2) ~~Application~~ Admission F~~f~~ee. An individual ~~application~~ applying for admission also shall ~~be accompanied by a check payable to the "Bar Fund" in payment of~~ pay the ~~application~~ admission fee fixed by the Court. ~~The application fee shall not be refundable.~~

(3) Review of Application. In the case of an application pursuant to LR Gen 202(a)(2)(A), the Clerk shall examine the application, the court certificate and the records indicating that the applicant has completed the course of instruction given by the Board of Bar Admissions. If the Clerk finds that those documents and records indicate that the applicant satisfies the prerequisite for admission, the Clerk shall notify the applicant and the Chairman of the Board of Bar Admissions and place the applicant on the list for admission. If the Clerk finds that the documents and records indicate that the applicant does not satisfy the

prerequisites for admission, the Clerk shall notify the applicant and the Chief Judge of this Court. Said notification shall specify the reasons for this determination.

In the case of an application pursuant to LR Gen 202(a)(2)(B) the application shall be reviewed by the Chair of the Board of Bar Admissions who shall recommend to the Chief Judge whether the application should be approved or rejected. The final decision shall be made by the Chief Judge who shall direct the Clerk to notify the applicant of the decision.

(4) **Admission Ceremony**. Admission to the Bar of this Court is effected by the granting of a motion made by the Chairman of the Board of Bar Admissions or his designee at an admission ceremony presided over by the Court. In the case of an individual admitted pursuant to LR Gen 202(a)(2)(B), admission is effected upon approval by the Chief Judge of the application for admission.

In order to be admitted, an applicant shall make the following oath or affirmation:

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

Upon making the prescribed oath or affirmation, ~~and upon payment of the admission fee established by the Judicial Conference of the United States,~~ the applicant shall be a member of the Bar of this Court. ~~The admission fee shall be paid by check payable to the "Clerk, U.S. District Court."~~

(c) **Board of Bar Admissions and Course of Instruction.**

(1) **Board of Bar Admissions.**

(A) **Establishment of Board.** There shall be a Board of Bar Admissions which shall administer a course of instruction on federal practice and practice before this Court, in particular.

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

(C) **Term.** Board members shall serve staggered 3-year terms with the terms of one-third of the members expiring on May 31 of each year. At the

expiration of his or her term, a Board member who has served 3 years or less may be reappointed for one additional 3-year term.

(2) **Course of Instruction**. The course of instruction shall cover those subjects determined by the Court, in consultation with the Board of Bar Admissions, and shall include instruction on these Local Rules. Applicants for admission shall be required to attend all sessions unless excused by the Court or by the Chair of the Board of Bar Admissions, for good cause shown.

LR Gen 204 *PRO HAC VICE* COUNSEL

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

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

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

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

(c) **Limit on Number**. Unless otherwise permitted by the Court for good cause shown, no more than 3 *pro hac vice* counsel may be admitted to represent any party in a case.

(d) ~~**Application**~~ **Procedure for Admission**. An attorney seeking ~~An application for~~ *pro hac vice* admission shall ~~be made by~~ complet~~inge~~ and fil~~inge~~ a ~~form~~ motion provided by the Clerk, and ~~together with a check for the application~~ pay the admission fee fixed by the Court~~. which shall be payable to the "Bar Fund."~~ The ~~application~~ admission fee will not be refunded if the ~~application~~ motion for admission *pro hac vice* is denied.

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

(e) **Local Counsel**.

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

(2) Local counsel shall:

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

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

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

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

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

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

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

(f) Admission and Revocation.

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

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

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

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

(g) Notification.

~~(1)~~ *Pro hac vice* counsel shall promptly notify the Court of any change in counsel's name, address, telephone number, fax number, e-mail address and/or law firm name from that shown on counsel's application for *pro hac vice* admission.

~~(2) Any notice sent to *pro hac vice* counsel shall be deemed delivered if sent to the most recent address or fax number or e-mail address provided in counsel's application for *pro hac vice* admission or in any subsequent change of address provided by such counsel.~~

LR Gen 205 *PRO SE* LITIGANTS

(a) Eligibility to Appear *Pro Se*.

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

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

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

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

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

(d) Notification

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

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

LR Gen 215 REINSTATEMENT OF MEMBERSHIP

(a) Application for Reinstatement.

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

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

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

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

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

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

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

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

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

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

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

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

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

LR Gen 302 EXEMPTIONS; EXCEPTIONS; PRO SE LITIGANTS

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

(b) **One-Time Exemption.** An attorney who is not a Filing User may conventionally file documents on behalf of a client in an ECF case without leave of the Court for 21 days from the filing of the first document by the attorney. However, within that 21-day period, the attorney must register as a Filing User, or seek an exemption under § (a) above.

(c) **Attorneys in Removal Cases.** An attorney who is not a member of the bar of this Court but who is permitted to appear and practice in this Court pursuant to the provisions of LR Gen 201(b)(3) may, but is not required to, register as a Filing User and file documents electronically using ECF.

(d) ***Pro Se* Litigants.** ~~All *pro se* litigants shall conventionally file and serve all documents in accordance with the provisions of the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure and the Local Rules of this Court.~~

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

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

LR Gen 303 SPECIAL FILING REQUIREMENTS AND EXCEPTIONS

(a) Civil ~~and Miscellaneous~~ Case Opening Documents.

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

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

~~(1) Civil case opening documents, such as a complaint, petition and notice of removal, together with a summons and civil cover sheet, shall be filed conventionally. Also, documents seeking emergency relief under LR Cv 9, such as a request for a temporary restraining order, shall be filed conventionally. The case will be assigned and opened electronically by the Clerk's Office, and the documents submitted will be incorporated into the electronic case file.~~

~~(2) The Clerk's Office will return the signed and sealed summonses to counsel for the plaintiff for service of process. A party may not electronically serve a civil complaint, but shall effect service in accordance with Fed. R. Civ. P. 4.~~

~~(3)~~**(b) Miscellaneous Case Opening Documents.** Miscellaneous case opening documents shall be filed conventionally along with the prescribed filing fee.

~~(b)~~(c) Limit on Size of Documents. No documents shall be filed that are larger than 2.5 megabytes. In cases where a single document is larger than 2.5 MB, the filer shall break the document into files smaller than 2.5 MB before filing.

~~(c)~~(d) Other Documents

(1) The following documents must be conventionally filed and will not appear in the electronic case file:

(A) Motions to file documents under seal and documents filed under seal in criminal cases as set forth in LR Gen 102(d);

(B) ~~Administrative r~~Records ~~in social security cases, IDEA cases and in other~~ of administrative review proceedings other than social security cases;

(C) The state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings;

(D) The state court record in Notice of Removal actions;

(E) *Ex parte* motions and applications; and

(F) Consent to Proceed Before a Magistrate Judge.

(2) The following documents must be conventionally filed, but will be scanned into the electronic case file by the Clerk's Office:

(A) Motions to file documents under seal in civil cases as set forth in LR Gen 102(c);

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

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

(D) Affidavits for search and arrest warrants and related papers;

(E) Fed.R.Crim.P. 20 and Fed.R.Crim.P. 5 papers received from another court;

(F) Any pleading or document in a criminal case containing the signature of a defendant, such as a waiver of indictment or plea agreement;

(G) Petitions for violations of supervised release; and

(H) Appearance Bonds.

(3) The following documents must be filed in a Scanned PDF format using ECF and may not be filed in an Electronically Converted PDF format:

(A) Rule 4 executed service of process documents; and

(B) Affidavits in support of motions or objections with original signatures.

~~(4) No document should be placed in the public case file that does not comply with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and LR Gen 102 and the Judicial Conference Policy on Privacy & Public Access to Electronic Case Files.~~

LR Cv 72 AUTHORITY OF MAGISTRATE JUDGES IN CIVIL CASES

(a) Authority and Duties. A full-time or recalled magistrate judge shall perform any duties assigned by the Court or by a district judge and, in doing so, may exercise all powers conferred upon full-time magistrate judges pursuant to 28 U.S.C. § 636.

(b) Vacating Referrals. A district judge who has referred any matter to a magistrate judge may, in his or her discretion, vacate the reference at any time.

(c) Objections to Rulings on Nondispositive Matters.

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

(2) Content of Objections. An objection to a magistrate judge's order or ruling in a nondispositive matter shall set forth the basis of the objection and be accompanied by a memorandum of law which complies with LR Cv 7.

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

(d) Objections to Reports and Recommendations.

(1) Time for Objections; Failure to File. Any objection to a Report and Recommendation by a magistrate judge shall be filed and served within 14 days after such Report and Recommendation is served on the objecting party. The objecting party shall also order a transcript of any evidentiary hearing(s) before the magistrate judge within the same 14-day period. Failure to file specific objections and order the transcript in a timely manner constitutes waiver of the right to review by the district judge and the right to appeal the Court's decision.

(2) Content of Objections. An objection to a magistrate judge's Report and Recommendation shall be accompanied by a memorandum of law specifying the findings and/or recommendations to which objection is made and the basis for the objection. The memorandum shall comply with LR Cv 7.

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

permitted or required by the Court, nothing further shall be filed in support of or in opposition to an objection to a magistrate judge's Report and Recommendation. Any response and/or reply shall comply with LR Cv 7.

LR Cr 17 SUBPOENAS

(a) Subpoena *Duces Tecum*

(1) Subpoenas for the Production Before Trial.

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

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

~~(C) All other parties shall be entitled to inspect any item produced unless otherwise ordered by the Court.~~

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

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

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

LR Cr 57.2 AUTHORITY OF MAGISTRATE JUDGES IN CRIMINAL CASES

(a) Authority and Duties. A full-time or recalled magistrate judge shall perform any duties assigned by the Court or by a district judge and, in doing so, may exercise all powers conferred upon full-time magistrate judges pursuant to 28 U.S.C. § 636.

(b) Vacating Referrals. A district judge who has referred any matter to a magistrate judge may, in his or her discretion, vacate the reference at any time.

(c) Objections to Rulings on Nondispositive Matters.

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

(2) Content of Objections. An objection to a magistrate judge's order or ruling in a nondispositive matter shall set forth the basis of the objection and be accompanied by a memorandum of law which complies with LR Cr 47.

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

(d) Objections to Reports and Recommendations.

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

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

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

United States District Court
for the District of Rhode Island

AMENDMENTS TO LOCAL RULES

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Gen 102	**LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION** **(a) Privacy Protections.** ~~**(1) In General.** In compliance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and the policy of the Judicial Conference of the United States, and in order to address the privacy concerns created by Internet access to court documents, parties or non-parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents filed with the Court:~~ ~~(a) MINORS' NAMES: Use of the minors' initials only;~~ ~~(b) SOCIAL SECURITY NUMBERS: Use of the last four numbers only;~~ ~~(c) DATES OF BIRTH: Use of the year of birth only;~~ ~~(d) FINANCIAL ACCOUNT NUMBERS: Identify the type of account and the financial institution, but use only the last four numbers of the account number; and~~ ~~(e) HOME ADDRESSES: Use the city and state only (in criminal cases only).~~ ~~**(2) Responsibility for Removing Personal Information.**~~ It is the responsibility of any party or non-party filing a document, not the Clerk's Office, to review each document to determine if pleadings <u>are in compliance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and the Judicial Conference Policy on Privacy and Public Access to the Electronic Case Files</u> ~~must be modified and are in the proper form~~. <u>If the Court finds a document that contains</u>	**The General Rules Subcommittee recommended adoption of the change as proposed by the Court.**	**PROPOSED CHANGE BY THE COURT ACCEPTED.**	**During the public comment period on the proposed amendments to the local rules, the Court received a comment from the American Civil Liberties Union regarding the proposed amendment to LR Gen 102(a)(2) (<u>See</u> comment from ACLU dated 11/4/14.) In response to that comment, the Court modified the final amendment to LR Gen 102(a)(2). The additional added language is indicated by <u>double-underlining</u>:** ~~**(2) Responsibility for Removing Personal Information.**~~ It is the responsibility of any party or non-party filing a document, not the Clerk's Office, to review each document to determine if pleadings <u>are in compliance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and the Judicial Conference Policy on Privacy and Public Access to the</u>

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	personal identifiers referenced in Fed. R. Civ. P. 5.2 and Fed. R. Crim. P. 49.1, the Clerk's Office will limit non-parties' remote electronic access to the document containing the personal identifiers. ~~**(3) Corrective Action.** In cases where the above personal information does appear on documents filed with the Court, the party or non-party responsible for the filing shall file a Motion to Redact, along with a redacted version of the document containing personal information in compliance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1 and Judicial Conference policy. Upon receipt of the Motion to Redact, the Clerk shall grant the motion by text order, restrict the document containing the above personal information from the docket, and replace it with the redacted version.~~ ***** **(c) Filing of Sealed Documents in Civil Cases.** Upon receipt of a motion to seal in a civil case, the clerk shall docket the motion but not the documents which are the subject of the motion and shall immediately transmit the motion and documents to the chambers of the judge to whom the case has been assigned. If the Court grants the motion to seal and unless otherwise ordered by the Court, the sealed ~~envelope~~ documents shall be retained by the clerk in a secure location until further order of the Court. If the Court denies the motion to seal, the motion shall be docketed and filed in accordance with these Local Rules, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court. *****			Electronic Case Files ~~must be modified and are in the proper form~~. If the Court finds a document that contains personal identifiers referenced in Fed. R. Civ. P. 5.2 and Fed. R. Crim. P. 49.1, the Clerk's Office will limit non-parties' remote electronic access to the document containing the personal identifiers, and direct the party responsible for the filing to file a redacted version of the document.

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

Rule Number	**Suggestion Received***	**Subcommittee Recommendation**	**Full Committee Action**	**Court Action**
LR Gen 102	*The ACLU proposed an amendment to LR Gen 102 regarding sealed documents. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The General Rules Subcommittee considered the ACLU's proposed amendments in conjunction with the Court's suggested revisions to LR Gen. 102.*** ***The Subcommittee did not believe that it is appropriate to impose the suggested deadlines upon the Court, which would require the adjudication of a motion to seal within five (5) days and a request to unseal within ten (10) days. The Subcommittee concluded that the timing to adjudicate such motions should be left to the Court's administration of its docket and management of the case at issue.*** ***The Subcommittee found the ACLU's proposals to LR Gen. 102(b) and (c) to be unnecessary. Specifically, the Subcommittee concluded that practitioners should be aware of their obligation to cite applicable legal authority and justify the need to seal records in whole or with redactions. Based upon the members' experiences, the Court takes a cautious approach to the sealing of documents, giving full consideration to all available alternatives or limitations to a sealing order, so the Subcommittee did not believe that there is a need to insert such language into LR Rule 102(b)***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	**N/A**

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Gen 107	*The ACLU proposed an amendment to LR Gen 107 regarding requests for daily transcripts of court proceedings. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The General Rules Subcommittee recognized the ACLU's concern that it may be impossible to provide seven (7) days' notice for a transcript request in certain expedited hearings or proceedings. The Subcommittee concluded that the "good cause" language at the outset of LR 107 encompasses such scenarios and that practitioners have not encountered difficulties under the rule in obtaining transcripts as needed.***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	**N/A**
LR Gen 109	The LRRC tabled some of the Court's proposed amendments to LR Gen 109 during the previous cycle, specifically sections (e) and (f) relating to appeals to the district court of bankruptcy court rulings. The LRRC then asked the Bankruptcy Court's Attorney Advisory Committee to review these amendments before making a final determination. The Bankruptcy Court's Attorney Advisory Committee reviewed the tabled amendments in January 2014, and unanimously agreed that the proposed changes are an improvement and are clearer than the current rules with respect to appellate procedures. **LR Gen 109 BANKRUPTCY** ******** **(e) Appeals to Bankruptcy Appellate Panel.** In accordance with 28 U.S.C. §158(b)(6), ~~when all parties consent,~~ appeals from any judgment, order or decree of a bankruptcy judge which are referred to in 28 U.S.C. § 158(a) ~~may~~ will be heard and determined by the Bankruptcy Appellate Panel for the First Circuit unless a party elects to have the appeal heard by the District Court in accordance	**The General Rules Subcommittee recommended adoption of the proposed change.**	**PROPOSED CHANGE ACCEPTED.**	**COURT APPROVED CHANGE.**

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	with Bankruptcy Rule 8001(e)(1). **(f) Appeals to District Court.** Except as otherwise provided in this subsection (f) or elsewhere in these rules, or unless otherwise ordered by the District Court, appeals or motions for leave to appeal to the District Court from any judgment, order or decree of a bankruptcy judge shall be governed by the applicable provisions of Rules 8001 - 8020 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules") **(1) ~~Notice of Appeal~~ Record on Appeal.** ~~When a notice of appeal is filed with the bankruptcy clerk, the bankruptcy clerk shall, forthwith, transmit a copy of the notice of appeal to the District Court clerk, together with a copy of the judgment, order or decree that is the subject of the appeal, and the Appeal Cover Sheet. The District Court clerk, thereupon, shall treat the matter administratively as a newly filed case, but in accordance with Bankruptcy Rule 8001(f)(2), the matter shall not be deemed "pending" in this Court until the record has been transmitted and docketed.~~ Upon the completion of the record on appeal in accordance with Bankruptcy Rule 8007(b), the bankruptcy clerk shall transmit a copy of the following to the District Court clerk: (A) Notice of appeal; (B) Judgment, order or decree that is the subject of the appeal; (C) Docket sheet; (D) Appeal cover sheet; (E) Election form requesting the appeal be heard by the district court;			

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	(F) Designation(s) of the contents of the record on appeal; (G) Statement(s) of issues on appeal; and (H) Any written decision(s) and a transcript of any oral decision(s) by the bankruptcy judge stating the reasons for the judgment, order or decree The District Court clerk, thereupon, shall treat the matter as a newly filed case and docket the appeal in accordance with Bankruptcy Rule 8007(b). ***** **(5) Dismissal of Appeals by Bankruptcy Judge.** A bankruptcy judge may dismiss an appeal if: (A) the notice of appeal is not filed within the time specified in Bankruptcy Rule 8002; (B) the appellant has failed to file a designation of the record or a statement of the issues within the time specified in Bankruptcy Rule 8006 or any extension thereof; or ~~(C) the appellant has failed to comply with paragraph (6)(C) of this subsection.~~ ~~(D)~~(C) the appellant has failed to pay the prescribed appeal filing fee as required by Bankruptcy Rule 8001(a). **~~(6) Record on Appeal.~~** ~~In addition to any other applicable requirements, the Bankruptcy Court clerk shall ensure that the record electronically transmitted to the District Court clerk~~			

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	~~includes:~~ ~~(A) the judgment, order or decree of the bankruptcy judge that is the subject of the appeal;~~ ~~(B) any written decision(s) and a transcript of any oral decision(s) by the bankruptcy judge stating the reasons for the judgment(s), order(s) and/or decree(s) referred to in subparagraph (A);~~ ~~(C) the record on appeal;~~ ~~(D) a statement of the issues on appeal; and,~~ ~~(E) a copy of the docket sheet.~~ ~~(7)~~**(6) Form of and Schedule for Filing Briefs**. Unless otherwise ordered by the District Court or provided in these rules, the form and schedule for filing appellate briefs and memoranda shall be governed by Bankruptcy Rule 8009 and 8010, except that: (A) all briefs~~,~~ and memoranda ~~and appendices thereto~~ shall conform to the applicable requirements of LR Cv 7; and (B) with respect to documents that are conventionally filed, two copies of any brief or memorandum shall be provided to the district judge to whom the appeal or motion for leave to appeal is assigned. Such motion and any related objection(s) and replies shall be governed by the applicable provisions of LR Cv 7. *****			

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

General/Attorney Rules

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Gen 111	*The ACLU proposed an amendment to LR Gen 111 regarding public note-taking. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The General Rules Subcommittee reviewed the ACLU's suggestion in light of the Court's recent General Order addressing the press's transmission of information electronically from courtrooms. The Subcommittee determined that the extent to which public note-taking may occur in the courtrooms should be left to the discretion of the judges.***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	**The Court approved the following change to LR Gen 111(b):** **(b) Note-Taking.** Nothing in subsection (a) of this Rule shall prevent any person from taking notes in the courtroom during a proceeding in Court, provided that such note-taking ~~has been authorized by the presiding judicial officer~~ is not disruptive of Court proceedings. No authorization is necessary for note-taking by any persons seated inside the bar of the Court or located outside of the courtroom.
LR Gen 113	*The ACLU proposed an amendment to LR Gen 113 regarding emergency amendments to the Court's Local Rules. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The General Rules Subcommittee did not believe that it is proper to impose explicit time restrictions in LR Gen 113(d), which would govern the promulgation and duration of the Court's emergency amendments to the Local Rules. The Local Rules allow for the subsequent evaluation of the Court's sua sponte amendments through requests for public comment and in the course of the***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	**N/A**

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
		LRRC's annual review. The Subcommittee concluded that LR Gen 113(d) should remain as written, rather than impose firm deadlines that may not be workable in all instances. Further, the Subcommittee did not believe that an explicit reference to the Rules Enabling Act, 28 U.S.C. § 2071(e) is necessary in LR 113(e).		
LR Gen 201	**LR Gen 201 PRACTICE BEFORE THIS COURT** ********* **(b) Exceptions to Requirement of Membership.** Notwithstanding the provisions of subsection (a), the following individuals may appear and/or practice before this Court: ~~**(5) Attorneys in Transferred Cases.** An attorney who is a member in good standing of the bar of another federal district court, and who represents a party in a case transferred to the District of Rhode Island from another district, may appear and practice in this Court in that case.~~ ~~**(6)**~~**(5) 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).	**The General Rules Subcommittee recommended that this proposal be discussed by the full LRRC.**	**The LRRC accepted the following revision to LR Gen 201(b)(5) instead of removing the subsection. The language added to the current (b)(5) is indicated by double underline:** **(5) Attorneys in Transferred Cases.** An attorney who is a member in good standing of the bar of another federal district court, and who represents a party in a case transferred to the District of Rhode Island from another district, may appear and practice in this Court in ~~that case~~ the transferred case provided that within fourteen (14) days of such transfer, the attorney files a motion for admission *pro hac vice* and otherwise satisfies the requirements of LR Gen 204 and that the motion of the attorney for admission *pro hac vice* be granted by the Court.	**COURT APPROVED CHANGE.**

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Gen 202	**LR Gen 202 ELIGIBILITY AND PROCEDURE FOR ADMISSION** ********* **(b) Procedure for Admission.** ***** **(2) ~~Application~~ Admission F~~f~~ee.** An individual ~~application~~ applying for admission also shall ~~be accompanied by a check payable to the "Bar Fund" in payment of~~ pay the ~~application~~ admission fee fixed by the Court. ~~The application fee shall not be refundable.~~ ***** **(4) Admission Ceremony**. Admission to the Bar of this Court is effected by the granting of a motion made by the Chairman of the Board of Bar Admissions or his designee at an admission ceremony presided over by the Court. In the case of an individual admitted pursuant to LR Gen 202(a)(2)(B), admission is effected upon approval by the Chief Judge of the application for admission. In order to be admitted, an applicant shall make the following oath or affirmation: I do solemnly [swear] [affirm] that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic, and that I will bear true faith and allegiance to the same; that I take the obligation freely, without any mental	**The General Rules Subcommittee recommended adoption of the proposed change.**	**PROPOSED CHANGE ACCEPTED.**	**COURT APPROVED CHANGE.**

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	reservation or purpose of evasion; and that I will demean myself as an attorney, proctor, and solicitor of this court, uprightly and according to the law. [So help me God.] Upon making the prescribed oath or affirmation, ~~and upon payment of the admission fee established by the Judicial Conference of the United States,~~ the applicant shall be a member of the Bar of this Court. ~~The admission fee shall be paid by check payable to the "Clerk, U.S. District Court."~~ *****			
LR Gen 204	**LR Gen 204 *PRO HAC VICE* COUNSEL** ***** **(d)** ~~**Application**~~ **Procedure for Admission**. An attorney seeking ~~An application for~~ *pro hac vice* admission shall ~~be made by~~ complet~~inge~~ and fil~~inge~~ a ~~form~~ motion provided by the Clerk, and ~~together with a check for the application~~ pay the admission fee fixed by the Court. ~~which shall be payable to the "Bar Fund."~~ The ~~application~~ admission fee will not be refunded if the ~~application~~ motion for admission *pro hac vice* is denied. A motion for admission *pro hac vice* ~~admission~~ shall be signed both by the applicant and by local counsel affiliated with the applicant. ***** **(g) Notification**. ~~(1)~~ *Pro hac vice* counsel shall promptly notify the Court of any change in counsel's name, address, telephone number, fax number, e-mail	**The General Rules Subcommittee recommended adoption of the change as proposed by the Court.**	**PROPOSED CHANGE BY THE COURT ACCEPTED.**	**COURT APPROVED CHANGE.**

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

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	address and/or law firm name from that shown on counsel's application for *pro hac vice* admission. ~~(2) Any notice sent to *pro hac vice* counsel shall be deemed delivered if sent to the most recent address or fax number or e-mail address provided in counsel's application for *pro hac vice* admission or in any subsequent change of address provided by such counsel.~~			
LR Gen 204	*The ACLU proposed an amendment to LR Gen 204 regarding the admission and eligibility of pro hac vice counsel. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The General Rules Subcommittee considered the ACLU's proposals in conjunction with the Court's suggested revisions to LR Gen. 204. The pro hac vice rule was the subject of considerable discussion at both the General Rules Subcommittee and LRRC levels.*** ***Regarding the ACLU's proposed change to L.R. Gen. 204(b)(1), the LRRC does not believe that it is appropriate to revise the eligibility criteria to allow for the pro hac vice admission of an attorney without a federal bar admission elsewhere. It is reasonable for the Court to require that counsel has federal practice experience and is a member of good standing of another federal court.*** ***The Subcommittee rejected the ACLU's proposal to delete the rule's limitation of three (3) pro hac vice counsel per party unless otherwise permitted by the Court for good cause shown in LR Gen 204(c). The Subcommittee***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	**N/A**

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		concluded that the rule as written properly sets a presumptive limit, but affords the judges with flexibility to determine the proper number of pro hac vice appearances based upon the needs of each case.		
LR Gen 205	**LR Gen 205 *PRO SE* LITIGANTS** ***** **(b) Filing of Documents**. Any document requiring a signature that is filed by a party appearing *pro se* shall bear the words "*pro se*" following that party's signature and shall state the party's mailing address, telephone number, e-mail address, and fax number, if any. **(c) Service on Party Acting *Pro Se*.** The Court may order any party who is appearing without an attorney to designate a~~n~~ mailing address at which service upon that party can be made. Service may be made on such *pro se* party by mailing papers to that party at the designated mailing address. **(d) Notification** (1) Every *pro se* litigant shall inform the Clerk in writing of any change of name, mailing address, telephone number, e-mail address, and/or fax number within 14 days of such change. (2) Any notice sent to and any paper served on a *pro se* litigant shall be deemed delivered if sent to the most recent mailing address ~~or fax number or e-mail address~~ provided by the litigant pursuant to subsection (b) or (c) of this Rule.	**The General Rules Subcommittee recommended adoption of the proposed change.**	**PROPOSED CHANGE ACCEPTED.**	**N/A**

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Rule Number	**Suggestion Received***	**Subcommittee Recommendation**	**Full Committee Action**	**Court Action**
LR Gen 210	*The ACLU proposed an amendment regarding the appointment of special counsel in disciplinary proceedings. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The General Rules Subcommittee did not believe that the inclusion of language "when necessary in the interest of justice" in LR Gen 210(b)(2) is necessary regarding the Court's discretion to appoint special counsel. The Subcommittee concluded that the rule as written appropriately affords the Court with the flexibility to investigate and resolve a disciplinary issue in the best manner that it deems fit in each case.***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	**N/A**
LR Gen 215	*The ACLU proposed an amending regarding reinstatement of membership to the Court's bar. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The General Rules Subcommittee did not believe that the inclusion of the word "relevant" before the phrase "treatment of the attorney during the period of incapacity" would add clarification to the rule. The Subcommittee appreciated the ACLU's concerns to protect the applicant's privacy, but believes that the Court and special counsel can implement any necessary safeguards in a proceeding. The insertion of the word "relevant" could lead to interpretative disputes as to its scope, which could delay or impair the proceedings under LR Gen 215.***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	**The Court approved the following change to LR Gen 215(a)(4):** **(a) Application for Reinstatement.** ***** (4) An attorney who was placed on inactive status because of incapacity also shall file, along with his or her application, a written waiver of any doctor/patient privilege with respect to relevant treatment of the attorney during the period of incapacity. In

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Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
				addition, such attorney shall disclose the name of every psychiatrist, psychologist, physician and hospital or other institution by whom or in which the attorney has been examined or treated for any condition or conditions relating to the incapacity since being placed on inactive status and a written consent authorizing each of them to disclose any relevant information and provide any relevant records requested by the Court or special counsel. *****
LR Gen 302	**LR Gen 302 EXEMPTIONS; EXCEPTIONS; PRO SE LITIGANTS** ***** **(d) *Pro Se* Litigants.** ~~All *pro se* litigants shall conventionally file and serve all documents in accordance with the provisions of the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure and the Local Rules of this Court.~~	**The General Rules Subcommittee recommended adoption with the following modification to the first sentence of paragraph 1 of the proposed (d). (Changes indicated by ~~double strikethrough~~ and double underline.**	**PROPOSED CHANGE ACCEPTED AS MODIFIED BY THE GENERAL RULES SUBCOMMITTEE.**	**COURT ACCEPTED CHANGE.**

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	A non-incarcerated *pro se* litigant in a pending case may apply to the Court for permission to file documents electronically using ECF on a form prescribed by the Clerk's Office. If the court grants a *pro se* litigant permission to file documents electronically, that permission is limited to the case specified, and the Court may withdraw that permission at any time during the pendency of a case. In the absence of a court order authorizing electronic filing, all *pro se* litigants shall conventionally file and serve all documents in accordance with the provisions of the Federal Rules of Civil Procedure and Criminal Procedures and the Local Rules of this Court, and all electronically filed documents must be conventionally served on the *pro se* litigant.	A non-incarcerated *pro se* litigant in a pending case may apply to the Court for permission to file and receive documents electronically ~~using ECF~~ on a form prescribed by the Clerk's Office.		
LR Gen 303	**LR Gen 303 SPECIAL FILING REQUIREMENTS AND EXCEPTIONS** **(a) Civil ~~and Miscellaneous~~ Case Opening Documents**. **(1) Complaints and Notices of Removal.** Absent an exemption under LR Gen 302, complaints or notices of removal, together with the civil cover sheet and a summons for each defendant to be served, shall be filed electronically, and the required filing fee shall be paid at the time of filing. The Clerk's Office will issue a summons for each defendant to be served to the filer. **(2) Other Civil Case Initiating Documents.** Civil case initiating documents not mentioned in (a)(1), or to be filed under seal,	**The General Rules Subcommittee recommended adoption of the proposed changes to LR Gen 303(a); (d)(1)(B); (d)(2)(B); and (d)(4), and recommended the full LRRC discuss whether (d)(2)(I) should be removed. Specifically, whether documents for emergency relief could be filed electronically.**	**PROPOSED CHANGES TO LR GEN 303(a), (d)(1)(B); (d)(2)(B), and (d)(4) ACCEPTED.** **IN ADDITION, THE LRRC PROPOSED TO REMOVE (d)(2)(I) IN THE ORIGINAL PROPOSAL, AND ALLOW DOCUMENTS FOR EMERGENCY RELIEF TO BE FILED ELECTRONICALLY.**	**COURT ACCEPTED CHANGE.**

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	shall be filed conventionally, together with the civil cover sheet, a summons for each defendant to be served, and the required filing fee. The Clerk's Office will issue a summons for each defendant to be served to the filer. ~~(1) Civil case opening documents, such as a complaint, petition and notice of removal, together with a summons and civil cover sheet, shall be filed conventionally. Also, documents seeking emergency relief under LR Cv 9, such as a request for a temporary restraining order, shall be filed conventionally. The case will be assigned and opened electronically by the Clerk's Office, and the documents submitted will be incorporated into the electronic case file.~~ ~~(2) The Clerk's Office will return the signed and sealed summonses to counsel for the plaintiff for service of process. A party may not electronically serve a civil complaint, but shall effect service in accordance with Fed. R. Civ. P. 4.~~ ~~(3)~~**(b) Miscellaneous Case Opening Documents.** Miscellaneous case opening documents shall be filed conventionally along with the prescribed filing fee. **~~(b)~~(c) Limit on Size of Documents.** No documents shall be filed that are larger than 2.5 megabytes. In cases where a single document is larger than 2.5 MB, the filer shall break the document into files smaller than 2.5 MB before filing. **~~(c)~~(d) Other Documents** (1) The following documents must be			

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Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	conventionally filed and will not appear in the electronic case file: (A) Motions to file documents under seal and documents filed under seal in criminal cases as set forth in LR Gen 102(d); (B) ~~Administrative r~~Records ~~in social security cases, IDEA cases and in other~~ of administrative review proceedings other than social security cases; (C) The state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings; (D) The state court record in Notice of Removal actions; (E) *Ex parte* motions and applications; and (F) Consent to Proceed Before a Magistrate Judge. (2) The following documents must be conventionally filed, but will be scanned into the electronic case file by the Clerk's Office: (A) Motions to file documents under seal in civil cases as set forth in LR Gen 102(c); (B) All pleadings and documents filed by prisoner *pro se* litigants and non-prisoner *pro se* litigants not granted permission to file documents electronically; (C) The charging document in a criminal case, such as the complaint, indictment and information;			

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	(D) Affidavits for search and arrest warrants and related papers; (E) Fed.R.Crim.P. 20 and Fed.R.Crim.P. 5 papers received from another court; (F) Any pleading or document in a criminal case containing the signature of a defendant, such as a waiver of indictment or plea agreement; (G) Petitions for violations of supervised release; and (H) Appearance Bonds. (I) Documents seeking emergency relief under LR Cv 9. (Note: The requirement that documents seeking emergency relief be filed conventionally appears in the current (a)(1). It has been moved to this section, but will still be filed conventionally.) (3) The following documents must be filed in a Scanned PDF format using ECF and may not be filed in an Electronically Converted PDF format: (A) Rule 4 executed service of process documents; and (B) Affidavits in support of motions or objections with original signatures. ~~(4) No document should be placed in the public case file that does not comply with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and LR Gen 102 and the Judicial Conference Policy on Privacy & Public Access to Electronic Case Files.~~			

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General/Attorney Rules

Rule Number	**Suggestion Received***	**Subcommittee Recommendation**	**Full Committee Action**	**Court Action**
Suggestion from the Bar	The American Civil Liberties Union submitted a general comment requesting that the Court adopt a "Uniform Numbering System" for the Local Rules.		**PROPOSED CHANGES REJECTED.** ***10/3/14 SUPPLEMENT:* THE LRRC REJECTED THE ACLU'S SUGGESTION THAT A "UNIFORM NUMBERING SYSTEM" BE ADOPTED FOR THE LOCAL RULES.** ***THIS PROPOSAL WOULD UNDO THE SIGNIFICANT WORK IN DRAFTING AND REFINING THE LOCAL RULES, DATING BACK TO CHIEF JUDGE TORRES' INITIATIVE TO DRAFT A COMPREHENSIVE SET OF RULES. SUCH A CHANGE IN STRUCTURE WOULD BE A DRAMATIC ALTERATION OF THE RULES AND COULD HAVE A SIGNIFICANT DISRUPTIVE EFFECT UPON THE COURT'S PRACTITIONERS, WHO HAVE WORKED WITH THE CURRENT STRUCTURE OF THE LOCAL RULES FOR SEVERAL YEARS. THE LOCAL RULES FUNCTION WELL AND ARE INDEXED TO GUIDE PRACTITIONERS IN THEIR APPLICATION.***	**N/A**

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

General/Attorney Rules

Rule Number	**Suggestion Received***	**Subcommittee Recommendation**	**Full Committee Action**	**Court Action**
Suggestion from the Bar	Attorney Elliot Taubman submitted suggestions that the Court adopt rules relating to: the filing of complaints and payment of fees electronically; the way that CM/ECF operates when data entry errors are made; the line spacing of documents filed with the Court; and the use of electronic devices by members of the bar in the Courthouse.	**The General Rules Subcommittee did not recommend adoption of any of the proposals submitted by Mr. Taubman that relate to the General Rules. Further, it noted that the amendment to LR Gen 303 allows for the filing of complaints electronically, and under LR Gen 112(b), attorneys can bring electronic devices into the Courthouse.** **The suggestion regarding line spacing falls under the Civil Rules (LR Cv 5). See discussion below in Civil Rules section.**	**PROPOSED CHANGES REJECTED.**	**N/A**

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Rule Number	**Suggestion Received***	**Subcommittee Recommendation**	**Full Committee Action**	**Court Action**
LR Cv 39.4	*The ACLU proposed an amendment regarding the possible imposition of jury costs on parties and/or counsel in case settled later than 7 days before the date of a scheduled jury empanelment. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The Civil Rules Subcommittee believes that the rule is sound, has effectuated early settlements and has been fairly implemented by the Court when necessary. Therefore, the committee recommends that the proposal not be adopted.***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	**N/A**
LR Cv 54.1	*The ACLU proposed an amendment regarding motions for attorneys' fees. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The Civil Rules Subcommittee believes that there is no reason to split the time for the filing of the motion and the time for the filing of the affidavit and therefore the proposal to LR Cv 54.1(b) should not be adopted.*** ***The ACLU has also proposed the deletion of LR. Cv 54.1(b)(1)(D). The LRRC rejects this proposal because the Court should be allowed to review a fee arrangement between an attorney and a party in the adjudication of a petition seeking an award of attorneys' fees.***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	**N/A**
LR Cv 56	*The ACLU proposed an amendment regarding statements of undisputed facts filed in conjunction with a motion for summary judgment. (See, ACLU's "Comments on Local Rules of the U.S. District Court for the District of Rhode Island" at the end of this report for the full text of the proposal.)*	***10/3/14 SUPPLEMENT: The Civil Rules Subcommittee believes that the proposed change is inconsistent with LR Cv 56 (a)(2) and therefore should not be adopted***	***10/3/14 SUPPLEMENT: PROPOSED CHANGE REJECTED.***	**N/A**

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Cv 72	**LR Cv 72 AUTHORITY OF MAGISTRATE JUDGES IN CIVIL CASES** ********* **(c) Objections to Rulings on Nondispositive Matters.** ***** **(3) Responses and Replies**. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and file a reply to the response within ~~14~~ 7 days thereafter. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in response to an objection to a magistrate judge's order or ruling. Any response and/or reply shall comply with LR Cv 7. ***** **(d) Objections to Reports and Recommendations.** **(3) Responses and Replies**. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and file a reply to the response within ~~14~~ 7 days thereafter. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in opposition to an objection to a magistrate judge's Report and Recommendation. Any response and/or reply shall comply with LR Cv 7.	**The Civil Rules Subcommittee recommended adoption of the proposed change.**	**PROPOSED CHANGE ACCEPTED.**	**COURT ACCEPTED CHANGE.**

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

Civil Rules

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
Suggestion from the Bar	During the 2011-12 local rules review cycle, 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 LRRC created an *ad hoc* committee to study and recommend an ESI proposal for consideration during the 2012-2013 LRRC cycle. The members of the ad hoc committee are: Jeffrey Techentin, Byron McMasters, Ranen Schechner, and Steven Richard. Mr. Richard will chair the ad hoc committee. The subcommittee reported to the LRRC during the 2012-13 cycle, and would make an additional report during the 2013-2014 session.	**Co-chair Stephen Richard indicated that the ESI discovery issue should be discussed at the next Federal Bench-Bar Committee meeting.**	**The LRRC determined that the issue of ESI discovery is outside the purview of the LRRC, and agreed to table the suggestion.**	**N/A**
Suggestion from the Bar	During the 2011-2012 local rules review cycle, 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 LRRC chose to table the proposal for reconsideration during the 2012-2013 local rules review cycle due to an appeal to the Rhode Island Supreme Court on this issue, and reconsider it during the 2013-14 local rules review cycle.	**The Civil Rules Subcommittee tabled the suggestion pending decision on three "ghostwriting" cases at the Rhode Island Supreme Court. Decisions are expected in late 2014.**	**The LRRC tabled the suggestion for reconsideration during the 2014-2015 local rules review cycle.**	**N/A**
Suggestion from the Bar	Attorney Elliot Taubman submitted suggestions that the Court adopt rules relating to: the filing of complaints and payment of fees electronically; the way that CM/ECF operates when data entry errors are made; the line spacing of documents filed with the Court; and the use of electronic devices by members of the bar in the Courthouse.	**The Civil Rules Subcommittee did not recommended adoption of the proposed change by Mr. Taubman with respect to the line spacing of documents. (See, LR Cv 5(a)(3)).**	**PROPOSED CHANGE REJECTED.**	**N/A**

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Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
Suggestion from the Bar	Attorney John McCann suggested that the Court create a new local rule that tracks Fed. R. Civ. P. 12. In Mr. McCann's proposal, he suggests that the newly adopted rule contain additional language in (a)(4) that is not in the current Fed. R. Civ. P. 12.	**The Civil Rules Subcommittee did not recommend adoption of the proposed change.**	**PROPOSED CHANGE REJECTED.** ***10/3/14 SUPPLEMENT:* The LRRC rejected the amendment because (1) they thought that it was unnecessary to add a local civil rule that largely tracks the federal rule, and (2) that Mr. McCann's particular concern about the effect of a partial motion to dismiss on deadlines was already established case law, and did not need to be included in a local rule.**	**N/A**
Suggestion from the Bar	During the 2012-13 review cycle, the Civil Rules Subcommittee proposed a new local rule—modelled on District of Massachusetts LR 26.5—to set uniform definitions in discovery requests. The full LRRC ultimately rejected the proposed amendment at its final meeting. **LR Cv 26.1 Uniform Definitions In Discovery Requests** (a) Incorporation by Reference and Limitations. The full text of the definitions set forth in paragraph (c) is deemed incorporated by reference into all discovery requests, but shall not preclude (1) the definition of other terms specific to the particular litigation; (2) the use of abbreviations; or (3) a narrower definition of a term defined in paragraph (c).	**The Civil Rules Subcommittee revisited the rejected uniform definitions amendment in the 2013-14 cycle, and offered a revision of the 2012-13 proposed amendment for the full LRRC's reconsideration. Removed language from the 2012-13 proposal is indicated by ~~strikethrough~~ and the added language is indicated by underline.** **LR Cv 26.1 Uniform Definitions In Discovery Requests** (a) Incorporation by Reference and Limitations. The full text of the definitions set forth in paragraph (c) ~~is deemed~~ may be incorporated by reference into all discovery requests, but this shall not preclude. (1) the definition of other terms specific to the particular litigation; (2) the use of abbreviations (3) a narrower definition of a term defined in paragraph (c) or (4) the use of a definition of any term other than as defined by this Local Rule.	**PROPOSED CHANGE REJECTED.**	**N/A**

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Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	(b) Effect on Scope of Discovery. This rule is not intended to broaden or narrow the scope of discovery permitted by the Federal Rules of Civil Procedure. (c) Definitions. The following definitions apply to all discovery requests: (1) Communication. The term "communication" means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise). (2) Document. The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Fed. R. Civ. P. 34(a). A draft or non-identical copy is a separate document within the meaning of this term. (3) Identify (With Respect to Persons). When referring to a person, "to identify" means to give, to the extent known, the person's full name, present or last known address, and, when referring to a natural person, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person. (4) Identify (With Respect to Documents). When referring to documents, "to identify" means to give, to the extent known, the (a) type of document; (b) general subject matter;	(b) Effect on Scope of Discovery. This rule is not intended to broaden or narrow the scope of discovery permitted by the Federal Rules of Civil Procedure <u>or create any presumption in the event of a motion under Rule 26 or 37.</u> (c) Definitions. The following definitions apply to all discovery requests <u>if incorporated by reference in discovery requests</u> : (1) Communication. The term "communication" means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise). (2) Document. The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Fed. R. Civ. P. 34(a). A draft or non-identical copy is a separate document within the meaning of this term. (3) Identify (With Respect to Persons). When referring to a person, "to identify" means to give, to the extent known, the person's full name, present or last known address, and, when referring to a natural person, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person. (4) Identify (With Respect to Documents). When referring to documents, "to identify" means to give, to the extent known, the (a) type of document; (b) general subject matter;		

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Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
	(c) date of the document; and (d) author(s), addressee(s), and recipient(s). (5) Parties. The terms "plaintiff" and "defendant" as well as a party's full or abbreviated name or a pronoun referring to a party mean the party and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries, or affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation. (6) Person. The term "person" is defined as any natural person or any business, legal, or governmental entity or association. (7) Concerning. The term "concerning" means referring to, describing, evidencing, or constituting. (8) State the Basis. When an interrogatory calls upon a party to "state the basis" of or for a particular claim, assertion, allegation, or contention, the party shall (a) identify each and every document (and, where pertinent, the section, article, or subparagraph thereof), which forms any part of the source of the party's information regarding the alleged facts or legal conclusions referred to by the interrogatory; (b) identify each and every communication which forms any part of the source of the party's information regarding the alleged facts or legal conclusions referred to by the interrogatory;	(c) date of the document; and (d) author(s), addressee(s), and recipient(s). (5) Parties. The terms "plaintiff" and "defendant" as well as a party's full or abbreviated name or a pronoun referring to a party mean the party and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries, or affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation. (6) Person. The term "person" is defined as any natural person or any business, legal, or governmental entity or association. (7) Concerning. The term "concerning" means referring to, describing, evidencing, or constituting. (8) State the Basis. When an interrogatory calls upon a party to "state the basis" of or for a particular claim, assertion, allegation, or contention, the party shall (a) identify each and every document (and, where pertinent, the section, article, or subparagraph thereof), which forms any part of the source of the party's information regarding the alleged facts or legal conclusions referred to by the interrogatory; (b) identify each and every communication which forms any part of the source of the party's information regarding the alleged facts or legal conclusions referred to by the interrogatory; (c) state separately the acts or omissions		

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	(c) state separately the acts or omissions to act on the part of any person (identifying the acts or omissions to act by stating their nature, time, and place and identifying the persons involved) which form any part of the party's information regarding the alleged facts or legal conclusions referred to in the interrogatory; and (d) state separately any other fact which forms the basis of the party's information regarding the alleged facts or conclusions referred to in the interrogatory.	to act on the part of any person (identifying the acts or omissions to act by stating their nature, time, and place and identifying the persons involved) which form any part of the party's information regarding the alleged facts or legal conclusions referred to in the interrogatory; and (d) state separately any other fact which forms the basis of the party's information regarding the alleged facts or conclusions referred to in the interrogatory.		

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Cr 17	**LR Cr 17 SUBPOENAS** **(a) Subpoena *Duces Tecum*** **(1) Subpoenas for the Production Before Trial.** ***** ~~(C) All other parties shall be entitled to inspect any item produced unless otherwise ordered by the Court.~~ ~~(D)~~(C) Any such subpoena, whether issued *ex parte* or upon notice, shall be returnable to the Court. All other parties shall be entitled to inspect any item(s) produced unless otherwise ordered by the Court for 7 days after production. During the 7-day period, the documents are held in temporary custody by the Clerk, and shall not be placed in the public case file. After the 7-day period expires, the party requesting the production of the documents, objects, or other materials shall retrieve the produced items from the Court. *****	**The Criminal Rules Subcommittee recommended adoption of the proposed change.**	**PROPOSED CHANGE ACCEPTED.**	**COURT ACCEPTED CHANGE.**

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

Rule Number	Suggestion Received*	Subcommittee Recommendation	Full Committee Action	Court Action
LR Cr 57.2	**LR Cr 57.2 AUTHORITY OF MAGISTRATE JUDGES IN CRIMINAL CASES** ***** **(c) Objections to Rulings on Nondispositive Matters.** ***** **(3) Responses and Replies**. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and file a reply to the response within ~~14~~ 7 days thereafter. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in response to an objection to a magistrate judge's order or ruling. Any response and/or reply shall comply with LR Cr 47. ***** **(d) Objections to Reports and Recommendations.** ***** **(3) Responses and Replies**. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and file a reply to the response within ~~14~~ 7 days thereafter. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in opposition to an objection to a magistrate judge's Report and Recommendation. Any response and/or reply shall comply with LR Cr 47. *****	**The Criminal Rules Subcommittee recommended adoption of the proposed change.**	**PROPOSED CHANGE ACCEPTED.**	**COURT ACCEPTED CHANGE.**

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

Criminal Rules

Rule Number	**Suggestion Received***	**Subcommittee Recommendation**	**Full Committee Action**	**Court Action**
Suggestion from the Bar	Attorney Melissa Larsen suggested that the Court consider adopting a local criminal rule modelled on Massachusetts Rule 116.10, which requires any party producing more than 1,000 pages of discovery in a criminal case to provide a table of contents that describes the type and origin of the document and the location of the document within the larger set.	***10/3/14 SUPPLEMENT: The Criminal Rules Subcommittee did not recommend adoption of the proposed change submitted by Ms. Larsen because this proposal raises issues that are case specific and also may not be ripe for a rule change in light of evolving developments in searchable electronic discovery.***	**PROPOSED CHANGE REJECTED.**	**N/A**

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

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COMMENTS ON LOCAL RULES OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND

February 2014

The ACLU of Rhode Island appreciates the opportunity to submit recommendations for revisions to the U.S. District Court's current Local Rules. Our suggestions – some of which are minor and clarifying in nature, and some of which are more substantive – appear below.

Where applicable, we have copied the text of the rule at issue, and indicated our proposed revisions through underlining for new language and ~~strikethrough~~ for proposed deletion of language, followed by a brief commentary explaining our recommendation.

1. LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION

Amend LR Gen 102 as follows:

(b) Sealed Documents Generally.

(1) Documents filed with the Court may not be sealed unless ordered by the Court. If a party or non-party filing a document has a good faith basis for believing that a document should be sealed, the document shall be accompanied by a motion to seal, which explains why the document should be sealed and any legal authority for such sealing. The motion should specify the desired duration of the sealing order.

(2) Unless the Court otherwise permits, if a party or non-party has good reason to believe that a document that such party or non-party proposes to file contains material that another party or non-party would maintain is confidential, the document shall not be filed until such other party or non-party has been notified and afforded an opportunity to file a motion to seal.

(3) If only a portion of a document contains confidential information, the party or non-party requesting sealing shall file both an unredacted version of the document and a redacted version that excises the confidential information. Counsel should consider alternatives that will minimize the information subject to any sealing order.

(4) The motion to seal shall not be filed electronically, but shall be filed by hand or by mail, together with the documents or materials which are the subject of the motion.

(5) The Court shall rule on the motion to seal within five (5) days.

(c) Filing of Sealed Documents in Civil Cases. Upon receipt of a motion to seal in a civil case, the clerk shall docket the motion and memorandum but not the unredacted documents which are the subject of the motion and shall immediately transmit the motion and documents to the chambers of the judge to whom the case has been assigned. If the Court grants the motion to seal and unless otherwise ordered by the Court, the sealed envelope shall be retained by the clerk in a secure location until further order of the Court. If the Court denies the motion to seal, the motion shall be docketed and filed in accordance with these Local Rules, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.

(d) Filing of Sealed Documents in Criminal Cases. Upon receipt of a motion to seal in a criminal case, the clerk shall immediately transmit the motion and the documents which are the subject of the motion to the chambers of the judge to whom the case has been assigned. If the Court grants the motion to seal, the motion to seal, the order granting the motion to seal, and the sealed documents shall be placed in an envelope which shall be sealed and to which a copy of the Court's order shall be affixed. The envelope shall then be retained by the clerk in a secure location until further order of the Court. If the Court denies the motion to seal, the motion shall be docketed and filed in accordance with these Local Rules, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.

(e) Unsealing of Documents. Documents sealed by the Court may be unsealed at any time upon motion of a party or non-party or by the Court sua sponte, provided that the parties first are given notice and an opportunity to be heard. A ruling on any request to unseal documents shall be made within ten (10) days.

Comment: Overly cautious efforts to protect privacy in sensitive court filings can significantly harm the public's long-standing right to access to judicial records, especially in light of the attendant delays inherent in seeking to unseal documents. On the other hand, while the ACLU strongly supports a presumption of openness in judicial records, unduly vague guidelines could on occasion potentially harm legitimate privacy interests, since the consequences of improper electronic disclosure are hard to undo. LR Gen 102(b) provides little guidance to practitioners as to what information being filed can and should be deemed confidential. We therefore suggest language designed to reduce sealing to appropriate circumstances, and ensure prompt consideration of any unsealing requests.

In recognition of the presumptively public nature of court proceedings and records (*see In re Providence Journal Company*, 293 F.3d 1 (1st Cir. 2002)), we believe it is important that a specified timeframe be in place for the Court to rule on motions to seal. We have proposed five days in a new subsection 102(a)(5), and a ten day time period for the Court to rule on motions to unseal in subsection 102(e). Tracking the language of First Circuit Local Rule 11(c), the ACLU also suggests that the Rule expressly state that the motion to seal should specify a suggested duration and that counsel seek to limit the information subject to any sealing order.

The proposed changes to subsections 102(c) clarify that only the potentially confidential material that is submitted does not get filed.

2. LR Gen 107 REQUESTS FOR DAILY TRANSCRIPTS OF COURT PROCEEDINGS

Amend LR Gen 107 as follows:

Except for good cause shown, all requests for daily or expedited transcripts must be made in writing to the court reporter, if known, and if not, to the Clerk. A copy of the request must be provided to opposing counsel. If the hearing or trial has been scheduled sufficiently in advance, the request shall be made not later than 7 days before the hearing or trial to be transcribed.

Comment: The ACLU proposes a clarifying amendment to this rule. There are certain hearings, particularly requests for temporary restraining orders and, in some instances, preliminary injunctions, where it may be impossible for the attorney to provide seven days advance notice about the need for expedited transcripts.

3. LR Gen 111 PHOTOGRAPHING; RECORDING; BROADCASTING

Amend LR Gen 111(b) as follows:

****

(b) Note-Taking. Nothing in subsection (a) of this Rule shall prevent any person from taking notes in the courtroom during a proceeding in Court, provided that such notetaking ~~has been authorized by the presiding judicial officer~~ is not disruptive of court proceedings. No authorization is necessary for note-taking by any persons seated inside the bar of the Court or located outside of the courtroom.

Comment: The Court's recent general order authorizing media use of electronic equipment in the courtroom is a very important step in promoting public knowledge of court activities, and the ACLU commends the Court for this action. At the same time, LR Gen 111(b) continues to impose an unnecessary barrier for members of the public who attend court proceedings. Unlike the heightened responsibilities associated with electronic equipment, we do not believe the automatic right to take handwritten notes should be limited to members of the media. Our proposed amendment to 111(b) would authorize spectators to take handwritten notes, without the need for advance authorization, so long as it was not disruptive.

Requiring individuals to obtain advance judicial approval is problematic for a number of reasons: people should not be required to identify themselves in order to take notes; in many instances, a person will not be aware of this approval process until they appear at the hearing or trial itself, when it is too late to seek approval; some spectators are bound to be intimidated by any approval procedure; and there are no standards in place as to when approval would be granted. There are many reasons that members of the public, just like members of the news media, might want to take notes of a court proceeding. The only compelling justification for limiting this is to prevent disruption, something that note-taking normally will not create.

4. LR Gen 113 AMENDMENTS TO LOCAL RULES

Amend LR Gen 113(d) and 113(e) as follows:

(d) Emergency Amendments. The Court may adopt sua sponte and without public comment any rule necessary to meet any condition of emergency. If such emergency rule is promulgated, public notice of it shall be given promptly after its adoption, and it shall be submitted for public consideration in accordance with subsection (c) ~~during the next regular amendment cycle~~ within sixty days. An emergency rule shall expire within 180 days unless ratified after completion of the public rule-making process provided in subsection (c).

(e) General Orders / Administrative Orders. Nothing contained in these Rules shall restrict the Court from promulgating such General Orders, Administrative Orders, standing orders and/or other directives as its business may require, provided that they are not in conflict with these rules and comply with any applicable rule-making procedures of 28 U.S.C. §2071 et seq.

Comment: The proposed change to 113(d) would put the rule into conformance with the Rules Enabling Act, 28 U.S.C. §2071(e), which allows for the emergency promulgation of rules but further requires that the Court "promptly thereafter" afford notice and opportunity for comment. The proposed change to subsection (e) is in the same vein.

5. LR Gen 204 PRO HAC VICE COUNSEL

Amend LR Gen 204 as follows:

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

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

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

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

(c) ~~Limit on Number. Unless otherwise permitted by the Court for good cause shown, no more than 3 pro hac vice counsel may be admitted to represent any party in a case. (d)~~ Application. An application for pro hac vice admission shall be made by completing and filing a form provided by the Clerk, together with a check for the application fee fixed by the Court which shall be payable to the "Bar Fund." The

application fee will not be refunded if the application is denied. A motion for pro hac vice admission shall be signed both by the applicant and by local counsel affiliated with the applicant.

Comment: Complex or novel civil rights cases can often require the assistance of pro hac counsel. It is therefore important that court rules not set unnecessary barriers in the way of such counsels' participation in litigation. While we appreciate the Court's interest in avoiding duplication of effort, we also believe that the restriction on more than three pro hac counsel, absent court permission, serves no compelling purpose. To the extent there is concern about overstaffing of a case, that can occur just as easily with more than three local counsel. The Court is well equipped to address accountability issues with large numbers of counsel without this restriction, just as it can address issues of duplication of effort when addressing attorney's fees requests, whether those requests come from local counsel or those admitted pro hac vice. For similar reasons of encouraging the availability of pro hac counsel when they can provide needed expertise in a case, we urge adjustment of the admission criteria, so that an attorney's good standing before a state's highest court is sufficient to allow their participation in a case in this Court.

6. LR Gen 210 DISCIPLINARY PROCEEDINGS

Amend LR Gen 210(b)(2) as follows:

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

****

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

****

Comment: Subsection (b)(2) of this rule authorizes the appointment of "special counsel" to investigate allegations of misconduct by an attorney. Misconduct is broadly defined in LR Gen 209 to include *any* violation of "Standards of Professional Conduct" or an intentional violation of *any* of the local rules. Although these may be civil proceedings, we believe the extraordinary use of special counsel by the courts should be limited to only circumstances where such an appointment is truly necessary. We therefore suggest the addition of language akin to that contained in Fed.R.Crim.P. 42(a)(2). As the First Circuit noted in *In re Special Proceedings*, 373 F.3d 37, 42 (1st Cir. 2004), that standard is a quite flexible one, but it at least has the benefit of somewhat confining the use of outside counsel to only situations where it is truly appropriate.

7. LR Gen 215 REINSTATEMENT OF MEMBERSHIP

Amend LR Gen 215(a)(4) as follows:

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

Comment: Our proposed amendment offers the addition of a clarifying word, designed to protect the confidentiality of an attorney's medical records to the extent they are not relevant to the incapacity that is the subject of review.

8. LR Cv 39.4 SETTLEMENT

Amend LR Cv 39.4(b) as follows:

~~(b) Jury Costs. In cases that are settled later than 7 days before the date scheduled for empanelment of a jury, jury costs may be assessed equally against the parties and/or their counsel unless a party demonstrates to the Court's satisfaction that:~~

~~(1) The costs should be borne entirely or primarily by one or more parties on the ground that the tardiness of the settlement was due to that party's failure to make a good faith effort to settle the case earlier; or~~

~~(2) No costs should be assessed because all parties made a reasonable good faith effort to settle the case earlier.~~

Comment: The ACLU urges the deletion of 39.4(b). As a practical matter, a rule providing for the possible imposition of costs in cases settled shortly before trial can actually have the opposite effect of what is intended. It can serve as an additional hurdle for parties to overcome when they are seeking to settle, or are perhaps on the verge of settling, a case. That is, the possible addition of unknown additional costs may prevent parties from agreeing to a settlement after long negotiations have otherwise finally gotten them to the point of avoiding a trial.

9. LR Cv 54.1 ATTORNEYS' FEES

Amend LR Cv 54.1 as follows:

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

(b) Supporting Affidavits. Unless extended by the Court for good cause shown, a motion for attorneys' fees shall be accompanied by the affidavits described in (1) and (2) below. A party seeking to extend the time to submit the required affidavits shall provide a fair estimate of the amount sought.

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

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

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

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

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

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

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

Comment: As currently written, this rule can place a significant burden on successful plaintiffs' attorneys in civil rights cases where fee awards are available. The attorney has to file all supporting documents within 14 days, and find an attorney willing to review the reasonableness of the requested fee rate. We urge revision of this rule to comport with an earlier practice, where, after filing a motion for fees within the 14 day period to place the opposing side on notice that fees will be sought, an attorney has additional time to gather supporting documentation.

10. LR Cv 56 MOTIONS FOR SUMMARY JUDGMENT

Amend LR Cv 56(a)(3) as follows:

(a) Statement of Undisputed Facts.
****

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

Comment: We believe the proposed amendment to LR Cv 56(a)(3) comports with the current case law, requiring the Court to make an independent assessment of the facts.

11. UNIFORM NUMBERING SYSTEM

Finally, we would like to offer a general comment about the structure of the current Local Rules. We urge that the much of the use of proposed "Local General Rules" be abandoned. Instead, to the extent applicable, each rule should be linked numerically to its civil and/or criminal rule counterpart. The use of a third set of numbers, not keyed either to the existing national civil or criminal rule numbering system, can create confusion for the unwary practitioner who fails to realize that it is insufficient to examine the local-rule counterpart to the applicable civil or criminal rule to determine if there is a local rule relating to the relevant issue. Thus, for example, Fed.R.Civ.P. 43(d) deals specifically with interpreters, but the Local General Rule on the subject is designated LR Gen 108.

Fed.R.Civ.P. 83(a)(1) and Fed.R.Crim.P. 57(a) each require that local rules "conform to any uniform numbering system prescribed by the Judicial Conference of the United States." District court rules should therefore be keyed in numbering to the analogous national rule. Thus, the Local Rules of the District of Massachusetts contain a preface that specifically notes that, "[a]t the request of the Committee on Rules and Practice of the Judicial Conference of the United States," the local civil rules were renumbered to key them to the Fed.R.Civ.P. numbering system.

As the Notes of the Advisory Committee on the adoption of amended Rule 83(a)(1) point out, lack of uniform numbering has the potential to "create unnecessary traps for counsel and litigants." In short, the use of "local general rules" which do not tie into either the criminal or civil numbering systems is both confusing and inconsistent with the Federal Rules. We encourage a revision to the numbering of the Local Rules to conform to this format.

Where there is no national counterpart, a local general rule pertaining to civil matters could appear as a subsection of Rule 83. See, once again for an example, the Local Rules of the District of Massachusetts, which do not contain "local general rules."

Once again, the ACLU appreciates the opportunity to offer these comments. We hope the Committee finds them useful, and that they will be given careful consideration.

Michael Simoncelli

From:	blockislandwine@gmail.com on behalf of E T <ETBI@Verizon.net>
Sent:	Tuesday, February 25, 2014 10:00 AM
To:	Local Rules
Subject:	Suggestions on Local Rules

In order to simply matters, and bring the court into the 21st century, suggest the following:

1. Allow complaints to be filed electronically with payment either by electronic check, or credit or debit card. Could allow pre-registration of attorney accounts for filing fees.
2. In the E-filing, when an error is made in data entry, have the program remember the last entry.
3. Allow single spacing of documents, or at least Memoranda. This will reduce paper use, be an environmental improvement, and a space saver for the Clerk's office.
4. Allow DRI registered attorneys with RI Judicial IDs to bring cellphones, tablets and computers as long as the ringers are turned off and they do not take pictures in the courtroom. This could be an automatic right upon registration, but could be taken away as the Court does with news reporters.

Cordially,

-

Elliot Taubman (R.I.Bar #2816)
Attorney at Law
CAF#1205-07659R

Michael Simoncelli

From: John H. McCann <jmccann@shslawfirm.com>
Sent: Tuesday, February 25, 2014 10:21 AM
To: Local Rules
Subject: Proposed Amendment to Local Rules

Ladies and gentlemen:

I would propose that a Local Rule 12 be added.

The added local rule would add the below bold language to the existing Rule 12(a).

(4) Effect of a Motion. Unless the court sets a different time, serving a motion under this rule, **including a partial motion to dismiss**, alters these periods as follows:

(A) if the court denies the motion or postpones its disposition until trial, the responsive pleading must be served within 14 days after notice of the court's action; or

(B) if the court grants a motion for a more definite statement, the responsive pleading must be served within 14 days after the more definite statement is served.

The reason for the proposed change would be to indicate that the District of Rhode Island follows the majority view on the effect of a motion for partial summary judgment, i.e. that the movant need not answer those counts of the complaint which are not subject to the motion until after the motion has been ruled on. *See, Nat'l Cas. Co. v. OneBeacon Am. Ins. Co.*, 2013 U.S. Dist. LEXIS 92840, 18-19 (D. Mass. July 1, 2013)("[A] partial motion to dismiss suspends the time to answer the claims not subject to the motion, Fed. R. Civ. P. 12(a)(4);" *citing Tingley Sys., Inc. v. CSC Consulting, Inc.*, 152 F. Supp. 2d 95, 122 (D. Mass. 2001); and 5B Charles Alan Wright et al., Federal Practice & Procedure § 1346 (3d ed. 2004) (noting that the "majority rule" is that service of a Rule 12(b) motion directed at only parts of a pleading enlarges the period of time for answering the entire complaint)).

Thank you.

Best regards,

John

John H. McCann
Attorney at Law

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February 28, 2014

United States District Court
District of Rhode Island
Local Rules Review Committee
c/o Clerk's Office
1 Exchange Terrace
Providence, RI 02903
Local_Rules@rid.uscourts.gov

RE: Proposed Addition to Local Rules

Dear Committee,

I am writing to respectfully request your consideration for an addition to our current Local Rules. Specifically, I am requesting that the Committee adopt Local Rule 116.10 of the Local Rules of the District Court for the District of Massachusetts. The Rule states:

RULE 116.10 REQUIREMENTS OF TABLE OF CONTENTS FOR VOLUMINOUS DISCOVERY

Any party producing more than 1,000 pages of discovery in a criminal case shall provide a table of contents that describes, in general terms, the type and origin of the documents (for example, "bank records from Sovereign Bank for John Smith;" "grand jury testimony of Officer Jones") and the location of the documents so described within the larger set (for example, by Bates number).

The purpose of my request is to assist attorneys effectively represent clients who have been indicted on criminal charges prepare and defend their case. Often, the Government's response to request for Discovery contains thousands of documents. Discovery materials are often provided in formats that are not searchable, such as .tiff files. Although there are programs and "tricks" to make reviewing discovery provided in these formats more palatable, often accomplishing same requires hours of work and creates a significant expense to the defendant or the CJA budget. I have personally worked on cases in our District where reviewing discovery materials has presented a challenge due to the volume of documents produced by the Government. Specifically discovery review was an issue in U.S. v. Ralph Mariano, Jr. (CR NO.: 00061-ML) and in U.S. v. Richard P. Baccari (1:13-cr-00150-ML-PAS-1), which is presently in a pre-trial posture.

In Support of this request I submit that MA Local Rule 116.10 has been effectively adopted and implemented without issue or complaint by the District of Massachusetts. The Rule has been implemented to the satisfaction of local counsel and has in some cases eliminated the need for counsel to file Motions relating to discovery, which in turn enhances judicial economy and preserves valuable resources.

Although ideally in addition to a simple index, our Local Rules would impose additional obligations on a party who is providing extensive discovery, such as a requirement that electronic discovery be provided in a readily searchable format, the proposed amendment is a step, albeit minimal, in the right direction.

If I can be of any further assistance in your consideration of this proposal, please do not hesitate to contact me at (401) 218-0862. Thank you in advance for your consideration of this proposed amendment to our Local Rules.

Very truly yours,

Melissa Larsen, Esq.

AMERICAN CIVIL LIBERTIES UNION of RHODE ISLAND

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COMMENTS ON LOCAL RULES OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND

November 2014

The ACLU of Rhode Island appreciates the opportunity to comment on the proposed amendments to the U.S. District Court's current Local Rules. We wish to raise concerns about one of the amendments, and express strong support for two others.

1. LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION

The Court proposes to amend subsection (a), dealing with "Privacy Protections," in a way that we believe could have a significant, if unintended, adverse impact on public access to court records.

The current rule and the proposed revision both appropriately place the responsibility on the filing parties to make sure that certain discrete personal identifying information, as set out in other rules, is redacted. Presently, the parties are also responsible for filing a motion to redact, along with a redacted version of any document, when a document has been submitted with such personal information unredacted. Under the proposed revision, however, if the Court finds that a public document inappropriately contains personal identifiers, "the Clerk's Office will limit non-parties' remote electronic access *to the document* containing the personal identifiers." (emphasis added)

Although it may be unintentional, this revision amounts to a subtle but significant change. The current rule requires a redacted version of the offending document to be filed so that the public can still have access to the document in that redacted form. Under the proposed amendment, though, if a document is inappropriately filed with personal information, it appears that the public will be prevented from reviewing the entire document. That is, the revision eliminates any obligation on either the party or the Clerk to instead redact the information so that the rest of the document can still be available for public review.

In concrete terms, it appears that a member of the public could be denied electronic access to, for example, an entire civil complaint or a 20-page memorandum of law if the document inadvertently contains one piece of confidential personal information.

The ACLU urges that the current rule regarding the redaction process be retained, or that another process be instituted that will ensure that the public maintains the right to gain electronic access to redacted copies of these documents. We believe such a change is essential in recognition of the presumptively public nature of court proceedings and records *See In re Providence Journal Company*, 293 F.3d 1 (1st Cir. 2002).

2. LR Gen 111 PHOTOGRAPHING; RECORDING; BROADCASTING

The ACLU strongly supports the proposed amendment to LR Gen 111(b) to allow individuals to take notes in a non-disruptive manner without the need to seek prior judicial approval.

Last year's general order authorizing media use of electronic equipment in the courtroom was a very important step in promoting public knowledge of court activities. We believe this proposed revision commendably supplements that goal for public attendees.

The ACLU has long considered it problematic, on a number of grounds, to require members of the public to obtain advance judicial approval to take notes: we do not believe people should be required to identify themselves in order to take notes; in many instances, a person will not be aware of an approval requirement until they appear at the hearing or trial itself, when it is too late to seek approval; some spectators are bound to be intimidated by any approval procedure; and there are no standards in place as to when approval should be granted. There are many reasons that members of the public, just like members of the news media, might want to take (non-electronic) notes of a court proceeding. The only compelling justification for limiting this is to prevent disruption, something that note-taking normally will not create. We applaud the Court for proposing to implement such a standard.

3. LR Gen 215 REINSTATEMENT OF MEMBERSHIP

The ACLU supports the proposed amendment to LR Gen 215(a)(4) to clarify that attorneys seeking reinstatement, after an inactive status based on incapacity, need only waive their medical confidentiality rights for *relevant* treatment information. This minor clarifying amendment will better protect the confidentiality of an attorney's medical records to the extent they are not germane to the incapacity that is the subject of review.

Once again, the ACLU appreciates the opportunity to offer these comments. We hope the Court finds them useful, and that they will be given careful consideration.

To whom it may concern,

I am writing on behalf of The Associated Press to express our support of the proposed changes to LR Gen 111, subsection (b): Note-Taking.

The proposed change would allow anyone to take notes during court proceedings as long as it is not disruptive.

The rule as it is currently written allows the presiding judicial officer to prohibit note-taking during public court proceedings.

Note-taking is an essential tool for journalists (or anyone else) to report accurately on the proceedings in our judicial system. We believe the proposed change will be a positive one that will help ensure the public receives an accurate picture of what happens at U.S. District Court in Providence.

Thank you.

Michelle R. Smith
Correspondent
The Associated Press - Providence

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

IN RE: LOCAL RULES **Misc. 71-7673**

GENERAL ORDER
RE: AMENDMENTS TO LOCAL RULES

Pursuant to 28 U.S.C. § 2071, Fed. R. Civ. P. 83(a)(1) and Fed. R. Crim. P. 57(a)(1), this Court hereby approves amendments to the Local Rules of the United States District Court for the District of Rhode Island, effective December 15, 2014. The Local Rules, as amended, shall govern all proceedings in this Court that are pending, commenced or re-opened on and after that date. A copy of the amended local rules is attached to this Order.

Date: December 5, 2014

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

/s/ Mary M. Lisi
Judge Mary M. Lisi

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

/s/ Ronald R. Lagueux
Senior Judge Ronald R. Lagueux

LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION

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

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

(b) Sealed Documents Generally.

(1) Documents filed with the Court may not be sealed unless ordered by the Court. If a party or non-party filing a document has a good faith basis for believing that a document should be sealed, the document shall be accompanied by a motion to seal, which explains why the document should be sealed.

(2) Unless the Court otherwise permits, if a party or non-party has good reason to believe that a document that such party or non-party proposes to file contains material that another party or non-party would maintain is confidential, the document shall not be filed until such other party or non-party has been notified and afforded an opportunity to file a motion to seal.

(3) If only a portion of a document contains confidential information, the party or non-party requesting sealing shall file both an unredacted version of the document and a redacted version that excises the confidential information.

(4) The motion to seal shall not be filed electronically, but shall be filed by hand or by mail, together with the documents or materials which are the subject of the motion.

(c) Filing of Sealed Documents in Civil Cases. Upon receipt of a motion to seal in a civil case, the clerk shall docket the motion but not the documents which are the subject of the motion and shall immediately transmit the motion and documents to the chambers of the judge to whom the case has been assigned. If the Court grants the motion to seal and unless otherwise ordered by the Court, the sealed documents shall be retained by the clerk in a secure location until further order of the Court. If the Court denies the motion to seal, the motion shall be docketed and filed in accordance with these Local Rules, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.

(d) Filing of Sealed Documents in Criminal Cases. Upon receipt of a motion to seal in a criminal case, the clerk shall immediately transmit the motion and the documents which are the subject of the motion to the chambers of the judge to whom the case has been assigned. If the Court grants the motion to seal, the motion to seal, the order granting the motion to seal, and the sealed documents shall be placed in an envelope which shall be

sealed and to which a copy of the Court's order shall be affixed. The envelope shall then be retained by the clerk in a secure location until further order of the Court. If the Court denies the motion to seal, the motion shall be docketed and filed in accordance with these Local Rules, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.

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

LR Gen 109 BANKRUPTCY

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

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

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

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

(b) Filings in Bankruptcy Cases. The bankruptcy clerk shall maintain all files in bankruptcy cases referred by the District Court. Except with respect to appeals, cases in which the reference has been withdrawn, or other matters pending before the District Court, all documents filed in such cases shall be filed with the bankruptcy clerk.

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

(d) Reports and Recommendations by Bankruptcy Judge.

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

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

(3) **Responses and Replies**. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and file a reply to the response within 14 days thereafter. Any response and /or reply shall comply with LR Cv 7. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in opposition to an objection to a bankruptcy judge's proposed findings of fact and rulings of law.

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

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

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

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

(B) Docket sheet;

(C) Appeal cover sheet;

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

(E) Statement(s) of issues on appeal; and

(F) Any written decision(s) and a transcript of any oral decision(s) by the bankruptcy judge stating the reasons for the judgment, order or decree

(2) **Motion for Leave to Appeal.** When a motion for leave to appeal is filed with the bankruptcy clerk, the bankruptcy clerk shall, in accordance with Bankruptcy Rule 8004(c), promptly transmit a copy of the motion to the District Court clerk, together with copies of the notice of appeal if not previously transmitted, the judgment, order or decree that is the subject of the proposed appeal, and any memorandum of counsel submitted in support of the motion.

(3) **Requests for Certification**. Any request by a party for the certification of an appeal directly to the Court of Appeals filed in the District Court pursuant to 28 U.S.C. 158(d)(2) and Bankruptcy Rule 8006 shall be in the form of a motion complying with LR Cv 7.

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

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

(6) **Form of and Schedule for Filing Briefs**. Unless otherwise ordered by the District Court or provided in these rules, the form and schedule for filing appellate briefs and memoranda shall be governed by Bankruptcy Rule 8014 and 8015, except that:

(A) all briefs and memoranda shall conform to the applicable requirements of LR Cv 7; and

(B) with respect to documents that are conventionally filed, two copies of any brief or memorandum shall be provided to the district judge to whom the appeal or motion for leave to appeal is assigned.

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

(g) **Stays Pending Appeal to the District Court.** When a motion is made in the District Court in accordance with Bankruptcy Rule 8007(b) to stay a judgment, order or decree of a bankruptcy judge or for any other relief pending appeal, the movant shall file the following with its motion:

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

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

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

(4) a memorandum of law setting forth the reasons why a stay should be granted and the legal authorities supporting the motion for a stay.

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

(h) **Local Bankruptcy Rules.**

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

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

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

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

LR Gen 111 PHOTOGRAPHING; RECORDING; BROADCASTING

(a) **General Prohibition.** Except to the extent expressly authorized by the Court, no person shall photograph, record, broadcast, or otherwise transmit any proceeding, event or activity in or from any interior portion of the United States Courthouse or that portion of the John O. Pastore Building that is occupied by the Court. The Court may permit photographing, recording or broadcasting of ceremonial proceedings upon such terms and conditions as the Court may specify.

(b) **Note-Taking.** Nothing in subsection (a) of this Rule shall prevent any person from taking notes in the courtroom during a proceeding in Court, provided that such note-taking is not disruptive of Court proceedings. No authorization is necessary for note-taking by any persons seated inside the bar of the Court or located outside of the courtroom.

LR Gen 202 ELIGIBILITY AND PROCEDURE FOR ADMISSION

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

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

(2) Either:

(A) Have completed the course of instruction on Federal Practice and Procedure given by this Court's Board of Bar Admissions, or

(B) Have at least 5 years of experience in practicing before federal courts and certify that he or she has read and understands these Local Rules;

and

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

(b) Procedure for Admission.

(1) Application for Admission. An individual applying for admission pursuant to LR Gen 202(a)(2)(A) shall file with the Clerk a completed application form, together with a current certificate from the Rhode Island Supreme Court that the applicant is a member in good standing of the Bar of that Court.

An individual applying for admission pursuant to LR Gen 202(a)(2)(B) shall file with the Clerk a completed application form accompanied by a current certificate from the Rhode Island Supreme Court that the applicant is a member in good standing of the Bar of that Court, together with a current certificate from a United States district court that the applicant is a member in good standing of the Bar of that court.

(2) Admission Fee. An individual applying for admission also shall pay the admission fee fixed by the Court.

(3) Review of Application. In the case of an application pursuant to LR Gen 202(a)(2)(A), the Clerk shall examine the application, the court certificate and the records indicating that the applicant has completed the course of instruction given by the Board of Bar Admissions. If the Clerk finds that those documents and records indicate that the applicant satisfies the prerequisite for admission, the Clerk shall notify the applicant and the Chairman of the Board of Bar Admissions and place the applicant on the list for admission. If the Clerk finds that the documents and records indicate that the applicant does not satisfy the prerequisites for admission, the Clerk shall notify the applicant and the Chief

Judge of this Court. Said notification shall specify the reasons for this determination.

In the case of an application pursuant to LR Gen 202(a)(2)(B) the application shall be reviewed by the Chair of the Board of Bar Admissions who shall recommend to the Chief Judge whether the application should be approved or rejected. The final decision shall be made by the Chief Judge who shall direct the Clerk to notify the applicant of the decision.

(4) **Admission Ceremony**. Admission to the Bar of this Court is effected by the granting of a motion made by the Chairman of the Board of Bar Admissions or his designee at an admission ceremony presided over by the Court. In the case of an individual admitted pursuant to LR Gen 202(a)(2)(B), admission is effected upon approval by the Chief Judge of the application for admission.

In order to be admitted, an applicant shall make the following oath or affirmation:

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

Upon making the prescribed oath or affirmation, the applicant shall be a member of the Bar of this Court.

(c) Board of Bar Admissions and Course of Instruction.

(1) Board of Bar Admissions.

(A) Establishment of Board. There shall be a Board of Bar Admissions which shall administer a course of instruction on federal practice and practice before this Court, in particular.

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

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

(2) **Course of Instruction**. The course of instruction shall cover those subjects determined by the Court, in consultation with the Board of Bar Admissions, and shall include instruction on these Local Rules. Applicants for admission shall be required to attend all sessions unless excused by the Court or by the Chair of the Board of Bar Admissions, for good cause shown.

LR Gen 204 *PRO HAC VICE* COUNSEL

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

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

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

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

(c) **Limit on Number**. Unless otherwise permitted by the Court for good cause shown, no more than 3 *pro hac vice* counsel may be admitted to represent any party in a case.

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

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

(e) **Local Counsel**.

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

(2) Local counsel shall:

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

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

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

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

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

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

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

(f) Admission and Revocation.

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

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

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

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

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

LR Gen 205 *PRO SE* LITIGANTS

(a) Eligibility to Appear *Pro Se*.

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

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

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

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

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

(d) Notification

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

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

LR Gen 215 REINSTATEMENT OF MEMBERSHIP

(a) Application for Reinstatement.

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

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

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

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

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

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

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

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

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

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

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

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

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

LR Gen 302 EXEMPTIONS; EXCEPTIONS; PRO SE LITIGANTS

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

(b) **One-Time Exemption.** An attorney who is not a Filing User may conventionally file documents on behalf of a client in an ECF case without leave of the Court for 21 days from the filing of the first document by the attorney. However, within that 21-day period, the attorney must register as a Filing User, or seek an exemption under (a) above.

(c) **Attorneys in Removal Cases.** An attorney who is not a member of the bar of this Court but who is permitted to appear and practice in this Court pursuant to the provisions of LR Gen 201(b)(3) may, but is not required to, register as a Filing User and file documents electronically using ECF.

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

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

***COMMENT**

Prior to requesting an exemption, attorneys should seek assistance from the Clerk's Office. The Court offers ECF training sessions as well as computer-based training modules for attorneys and their staff. Also, the Clerk's Office has a workstation available at the Courthouse for any Filing User who needs assistance with electronic filing. ECF training and support information can be obtained from the Clerk's Office and found on the Court's web site at: www.rid.uscourts.gov.

LR Gen 303 SPECIAL FILING REQUIREMENTS AND EXCEPTIONS

(a) Civil Case Opening Documents.

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

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

(b) Miscellaneous Case Opening Documents. Miscellaneous case opening documents shall be filed conventionally along with the prescribed filing fee.

(c) Limit on Size of Documents. No documents shall be filed that are larger than 2.5 megabytes. In cases where a single document is larger than 2.5 MB, the filer shall break the document into files smaller than 2.5 MB before filing.

(d) Other Documents

(1) The following documents must be conventionally filed and will not appear in the electronic case file:

(A) Motions to file documents under seal and documents filed under seal in criminal cases as set forth in LR Gen 102(d);

(B) Records of administrative review proceedings other than social security cases;

(C) The state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings;

(D) The state court record in Notice of Removal actions;

(E) *Ex parte* motions and applications; and

(F) Consent to Proceed Before a Magistrate Judge.

(2) The following documents must be conventionally filed, but will be scanned into the electronic case file by the Clerk's Office:

(A) Motions to file documents under seal in civil cases as set forth in LR Gen 102(c);

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

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

(D) Affidavits for search and arrest warrants and related papers;

(E) Fed.R.Crim.P. 20 and Fed.R.Crim.P. 5 papers received from another court;

(F) Any pleading or document in a criminal case containing the signature of a defendant, such as a waiver of indictment or plea agreement;

(G) Petitions for violations of supervised release; and

(H) Appearance Bonds.

(3) The following documents must be filed in a Scanned PDF format using ECF and may not be filed in an Electronically Converted PDF format:

(A) Rule 4 executed service of process documents; and

(B) Affidavits in support of motions or objections with original signatures.

LR Cv 72 AUTHORITY OF MAGISTRATE JUDGES IN CIVIL CASES

(a) Authority and Duties. A full-time or recalled magistrate judge shall perform any duties assigned by the Court or by a district judge and, in doing so, may exercise all powers conferred upon full-time magistrate judges pursuant to 28 U.S.C. § 636.

(b) Vacating Referrals. A district judge who has referred any matter to a magistrate judge may, in his or her discretion, vacate the reference at any time.

(c) Objections to Rulings on Nondispositive Matters.

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

(2) Content of Objections. An objection to a magistrate judge's order or ruling in a nondispositive matter shall set forth the basis of the objection and be accompanied by a memorandum of law which complies with LR Cv 7.

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

(d) Objections to Reports and Recommendations.

(1) Time for Objections; Failure to File. Any objection to a Report and Recommendation by a magistrate judge shall be filed and served within 14 days after such Report and Recommendation is served on the objecting party. The objecting party shall also order a transcript of any evidentiary hearing(s) before the magistrate judge within the same 14-day period. Failure to file specific objections and order the transcript in a timely manner constitutes waiver of the right to review by the district judge and the right to appeal the Court's decision.

(2) Content of Objections. An objection to a magistrate judge's Report and Recommendation shall be accompanied by a memorandum of law specifying the findings and/or recommendations to which objection is made and the basis for the objection. The memorandum shall comply with LR Cv 7.

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

or required by the Court, nothing further shall be filed in support of or in opposition to an objection to a magistrate judge's Report and Recommendation. Any response and/or reply shall comply with LR Cv 7.

LR Cr 17 SUBPOENAS

(a) Subpoena *Duces Tecum*

(1) Subpoenas for the Production Before Trial.

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

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

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

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

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

LR Cr 57.2 AUTHORITY OF MAGISTRATE JUDGES IN CRIMINAL CASES

(a) Authority and Duties. A full-time or recalled magistrate judge shall perform any duties assigned by the Court or by a district judge and, in doing so, may exercise all powers conferred upon full-time magistrate judges pursuant to 28 U.S.C. § 636.

(b) Vacating Referrals. A district judge who has referred any matter to a magistrate judge may, in his or her discretion, vacate the reference at any time.

(c) Objections to Rulings on Nondispositive Matters.

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

(2) Content of Objections. An objection to a magistrate judge's order or ruling in a nondispositive matter shall set forth the basis of the objection and be accompanied by a memorandum of law which complies with LR Cr 47.

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

(d) Objections to Reports and Recommendations.

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

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

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

LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION

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

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

(b) Sealed Documents Generally.

(1) Documents filed with the Court may not be sealed unless ordered by the Court. If a party or non-party filing a document has a good faith basis for believing that a document should be sealed, the document shall be accompanied by a motion to seal, which explains why the document should be sealed.

(2) Unless the Court otherwise permits, if a party or non-party has good reason to believe that a document that such party or non-party proposes to file contains material that another party or non-party would maintain is confidential, the document shall not be filed until such other party or non-party has been notified and afforded an opportunity to file a motion to seal.

(3) If only a portion of a document contains confidential information, the party or non-party requesting sealing shall file both an unredacted version of the document and a redacted version that excises the confidential information.

(4) The motion to seal shall not be filed electronically, but shall be filed by hand or by mail, together with the documents or materials which are the subject of the motion.

(c) Filing of Sealed Documents in Civil Cases. Upon receipt of a motion to seal in a civil case, the clerk shall docket the motion but not the documents which are the subject of the motion and shall immediately transmit the motion and documents to the chambers of the judge to whom the case has been assigned. If the Court grants the motion to seal and unless otherwise ordered by the Court, the sealed documents shall be retained by the clerk in a secure location until further order of the Court. If the Court denies the motion to seal, the motion shall be docketed and filed in accordance with these Local Rules, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.

(d) Filing of Sealed Documents in Criminal Cases. Upon receipt of a motion to seal in a criminal case, the clerk shall immediately transmit the motion and the documents which are the subject of the motion to the chambers of the judge to whom the case has been assigned. If the Court grants the motion to seal, the motion to seal, the order granting the motion to seal, and the sealed documents shall be placed in an envelope which shall be

sealed and to which a copy of the Court's order shall be affixed. The envelope shall then be retained by the clerk in a secure location until further order of the Court. If the Court denies the motion to seal, the motion shall be docketed and filed in accordance with these Local Rules, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.

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

LR Gen 109 BANKRUPTCY

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

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

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

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

(b) Filings in Bankruptcy Cases. The bankruptcy clerk shall maintain all files in bankruptcy cases referred by the District Court. Except with respect to appeals, cases in which the reference has been withdrawn, or other matters pending before the District Court, all documents filed in such cases shall be filed with the bankruptcy clerk.

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

(d) Reports and Recommendations by Bankruptcy Judge.

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

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

(3) **Responses and Replies**. A response to an objection shall be served and filed within 14 days after the objection is served. The objecting party may serve and file a reply to the response within 14 days thereafter. Any response and /or reply shall comply with LR Cv 7. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in opposition to an objection to a bankruptcy judge's proposed findings of fact and rulings of law.

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

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

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

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

(B) Docket sheet;

(C) Appeal cover sheet;

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

(E) Statement(s) of issues on appeal; and

(F) Any written decision(s) and a transcript of any oral decision(s) by the bankruptcy judge stating the reasons for the judgment, order or decree

(2) **Motion for Leave to Appeal.** When a motion for leave to appeal is filed with the bankruptcy clerk, the bankruptcy clerk shall, in accordance with Bankruptcy Rule 8004(c), promptly transmit a copy of the motion to the District Court clerk, together with copies of the notice of appeal if not previously transmitted, the judgment, order or decree that is the subject of the proposed appeal, and any memorandum of counsel submitted in support of the motion.

(3) **Requests for Certification**. Any request by a party for the certification of an appeal directly to the Court of Appeals filed in the District Court pursuant to 28 U.S.C. 158(d)(2) and Bankruptcy Rule 8006 shall be in the form of a motion complying with LR Cv 7.

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

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

(6) **Form of and Schedule for Filing Briefs**. Unless otherwise ordered by the District Court or provided in these rules, the form and schedule for filing appellate briefs and memoranda shall be governed by Bankruptcy Rule 8014 and 8015, except that:

(A) all briefs and memoranda shall conform to the applicable requirements of LR Cv 7; and

(B) with respect to documents that are conventionally filed, two copies of any brief or memorandum shall be provided to the district judge to whom the appeal or motion for leave to appeal is assigned.

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

(g) **Stays Pending Appeal to the District Court.** When a motion is made in the District Court in accordance with Bankruptcy Rule 8007(b) to stay a judgment, order or decree of a bankruptcy judge or for any other relief pending appeal, the movant shall file the following with its motion:

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

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

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

(4) a memorandum of law setting forth the reasons why a stay should be granted and the legal authorities supporting the motion for a stay.

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

(h) **Local Bankruptcy Rules.**

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

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

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

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

LR Gen 111 PHOTOGRAPHING; RECORDING; BROADCASTING

(a) **General Prohibition.** Except to the extent expressly authorized by the Court, no person shall photograph, record, broadcast, or otherwise transmit any proceeding, event or activity in or from any interior portion of the United States Courthouse or that portion of the John O. Pastore Building that is occupied by the Court. The Court may permit photographing, recording or broadcasting of ceremonial proceedings upon such terms and conditions as the Court may specify.

(b) **Note-Taking.** Nothing in subsection (a) of this Rule shall prevent any person from taking notes in the courtroom during a proceeding in Court, provided that such note-taking is not disruptive of Court proceedings. No authorization is necessary for note-taking by any persons seated inside the bar of the Court or located outside of the courtroom.

LR Gen 202 ELIGIBILITY AND PROCEDURE FOR ADMISSION

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

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

(2) Either:

(A) Have completed the course of instruction on Federal Practice and Procedure given by this Court's Board of Bar Admissions, or

(B) Have at least 5 years of experience in practicing before federal courts and certify that he or she has read and understands these Local Rules;

and

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

(b) Procedure for Admission.

(1) Application for Admission. An individual applying for admission pursuant to LR Gen 202(a)(2)(A) shall file with the Clerk a completed application form, together with a current certificate from the Rhode Island Supreme Court that the applicant is a member in good standing of the Bar of that Court.

An individual applying for admission pursuant to LR Gen 202(a)(2)(B) shall file with the Clerk a completed application form accompanied by a current certificate from the Rhode Island Supreme Court that the applicant is a member in good standing of the Bar of that Court, together with a current certificate from a United States district court that the applicant is a member in good standing of the Bar of that court.

(2) Admission Fee. An individual applying for admission also shall pay the admission fee fixed by the Court.

(3) Review of Application. In the case of an application pursuant to LR Gen 202(a)(2)(A), the Clerk shall examine the application, the court certificate and the records indicating that the applicant has completed the course of instruction given by the Board of Bar Admissions. If the Clerk finds that those documents and records indicate that the applicant satisfies the prerequisite for admission, the Clerk shall notify the applicant and the Chairman of the Board of Bar Admissions and place the applicant on the list for admission. If the Clerk finds that the documents and records indicate that the applicant does not satisfy the prerequisites for admission, the Clerk shall notify the applicant and the Chief

Judge of this Court. Said notification shall specify the reasons for this determination.

In the case of an application pursuant to LR Gen 202(a)(2)(B) the application shall be reviewed by the Chair of the Board of Bar Admissions who shall recommend to the Chief Judge whether the application should be approved or rejected. The final decision shall be made by the Chief Judge who shall direct the Clerk to notify the applicant of the decision.

(4) **Admission Ceremony**. Admission to the Bar of this Court is effected by the granting of a motion made by the Chairman of the Board of Bar Admissions or his designee at an admission ceremony presided over by the Court. In the case of an individual admitted pursuant to LR Gen 202(a)(2)(B), admission is effected upon approval by the Chief Judge of the application for admission.

In order to be admitted, an applicant shall make the following oath or affirmation:

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

Upon making the prescribed oath or affirmation, the applicant shall be a member of the Bar of this Court.

(c) Board of Bar Admissions and Course of Instruction.

(1) Board of Bar Admissions.

(A) Establishment of Board. There shall be a Board of Bar Admissions which shall administer a course of instruction on federal practice and practice before this Court, in particular.

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

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

(2) **Course of Instruction**. The course of instruction shall cover those subjects determined by the Court, in consultation with the Board of Bar Admissions, and shall include instruction on these Local Rules. Applicants for admission shall be required to attend all sessions unless excused by the Court or by the Chair of the Board of Bar Admissions, for good cause shown.

LR Gen 204 *PRO HAC VICE* COUNSEL

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

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

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

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

(c) **Limit on Number**. Unless otherwise permitted by the Court for good cause shown, no more than 3 *pro hac vice* counsel may be admitted to represent any party in a case.

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

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

(e) **Local Counsel**.

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

(2) Local counsel shall:

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

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

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

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

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

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

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

(f) Admission and Revocation.

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

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

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

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

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

LR Gen 205 *PRO SE* LITIGANTS

(a) Eligibility to Appear *Pro Se*.

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

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

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

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

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

(d) Notification

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

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

LR Gen 215 REINSTATEMENT OF MEMBERSHIP

(a) Application for Reinstatement.

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

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

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

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

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

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

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

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

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

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

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

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

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

LR Gen 302 EXEMPTIONS; EXCEPTIONS; PRO SE LITIGANTS

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

(b) **One-Time Exemption.** An attorney who is not a Filing User may conventionally file documents on behalf of a client in an ECF case without leave of the Court for 21 days from the filing of the first document by the attorney. However, within that 21-day period, the attorney must register as a Filing User, or seek an exemption under (a) above.

(c) **Attorneys in Removal Cases.** An attorney who is not a member of the bar of this Court but who is permitted to appear and practice in this Court pursuant to the provisions of LR Gen 201(b)(3) may, but is not required to, register as a Filing User and file documents electronically using ECF.

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

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

LR Gen 303 SPECIAL FILING REQUIREMENTS AND EXCEPTIONS

(a) Civil Case Opening Documents.

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

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

(b) Miscellaneous Case Opening Documents. Miscellaneous case opening documents shall be filed conventionally along with the prescribed filing fee.

(c) Limit on Size of Documents. No documents shall be filed that are larger than 2.5 megabytes. In cases where a single document is larger than 2.5 MB, the filer shall break the document into files smaller than 2.5 MB before filing.

(d) Other Documents

(1) The following documents must be conventionally filed and will not appear in the electronic case file:

(A) Motions to file documents under seal and documents filed under seal in criminal cases as set forth in LR Gen 102(d);

(B) Records of administrative review proceedings other than social security cases;

(C) The state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings;

(D) The state court record in Notice of Removal actions;

(E) *Ex parte* motions and applications; and

(F) Consent to Proceed Before a Magistrate Judge.

(2) The following documents must be conventionally filed, but will be scanned into the electronic case file by the Clerk's Office:

(A) Motions to file documents under seal in civil cases as set forth in LR Gen 102(c);

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

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

(D) Affidavits for search and arrest warrants and related papers;

(E) Fed.R.Crim.P. 20 and Fed.R.Crim.P. 5 papers received from another court;

(F) Any pleading or document in a criminal case containing the signature of a defendant, such as a waiver of indictment or plea agreement;

(G) Petitions for violations of supervised release; and

(H) Appearance Bonds.

(3) The following documents must be filed in a Scanned PDF format using ECF and may not be filed in an Electronically Converted PDF format:

(A) Rule 4 executed service of process documents; and

(B) Affidavits in support of motions or objections with original signatures.

LR Cv 72 AUTHORITY OF MAGISTRATE JUDGES IN CIVIL CASES

(a) Authority and Duties. A full-time or recalled magistrate judge shall perform any duties assigned by the Court or by a district judge and, in doing so, may exercise all powers conferred upon full-time magistrate judges pursuant to 28 U.S.C. § 636.

(b) Vacating Referrals. A district judge who has referred any matter to a magistrate judge may, in his or her discretion, vacate the reference at any time.

(c) Objections to Rulings on Nondispositive Matters.

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

(2) Content of Objections. An objection to a magistrate judge's order or ruling in a nondispositive matter shall set forth the basis of the objection and be accompanied by a memorandum of law which complies with LR Cv 7.

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

(d) Objections to Reports and Recommendations.

(1) Time for Objections; Failure to File. Any objection to a Report and Recommendation by a magistrate judge shall be filed and served within 14 days after such Report and Recommendation is served on the objecting party. The objecting party shall also order a transcript of any evidentiary hearing(s) before the magistrate judge within the same 14-day period. Failure to file specific objections and order the transcript in a timely manner constitutes waiver of the right to review by the district judge and the right to appeal the Court's decision.

(2) Content of Objections. An objection to a magistrate judge's Report and Recommendation shall be accompanied by a memorandum of law specifying the findings and/or recommendations to which objection is made and the basis for the objection. The memorandum shall comply with LR Cv 7.

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

or required by the Court, nothing further shall be filed in support of or in opposition to an objection to a magistrate judge's Report and Recommendation. Any response and/or reply shall comply with LR Cv 7.

LR Cr 17 SUBPOENAS

(a) Subpoena *Duces Tecum*

(1) Subpoenas for the Production Before Trial.

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

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

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

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

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

LR Cr 57.2 AUTHORITY OF MAGISTRATE JUDGES IN CRIMINAL CASES

(a) Authority and Duties. A full-time or recalled magistrate judge shall perform any duties assigned by the Court or by a district judge and, in doing so, may exercise all powers conferred upon full-time magistrate judges pursuant to 28 U.S.C. § 636.

(b) Vacating Referrals. A district judge who has referred any matter to a magistrate judge may, in his or her discretion, vacate the reference at any time.

(c) Objections to Rulings on Nondispositive Matters.

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

(2) Content of Objections. An objection to a magistrate judge's order or ruling in a nondispositive matter shall set forth the basis of the objection and be accompanied by a memorandum of law which complies with LR Cr 47.

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

(d) Objections to Reports and Recommendations.

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

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

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