

**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 LR Gen 113 and by agreement of the Judges of this Court, Dana Horton, Eric Mack, Tamera Rocha, and Kathryn Sabatini are appointed to the Local Rules Review Committee (LRRC); Michael Daly, Matthew Oliverio, and Stanley Pupecki are reappointed to another term as members of the LRRC; and Matthew Oliverio and Michael Daly are appointed as co-chairs of the LRRC.

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

<u>Name</u>	<u>Term Expires</u>
C. Russell Bengtson, Esq.	November 30, 2016
Terrence P. Donnelly, AUSA	November 30, 2016
Raymond A. Marcaccio, Esq.	November 30, 2016
Stacey P. Nakasian, Esq.	November 30, 2016
Steven M. Richard, Esq.	November 30, 2016
Raymond M. Ripple, Esq.	November 30, 2016
CharCretia V. DiBartolo, Esq.	November 30, 2017
Robert D. Fine, Esq.	November 30, 2017
Olin Thompson, Esq.	November 30, 2017
Neal J. McNamara, Esq.	November 30, 2017
Justin T. Shay, Esq.	November 30, 2017
George J. West, Esq.	November 30, 2017
Michael Daly, Esq.	November 30, 2018
Dana Horton, Esq.	November 30, 2018
Eric Mack, Esq.	November 30, 2018
Matthew Oliverio, Esq.	November 30, 2018
Stanley Pupecki, Esq.	November 30, 2018
Tamera Rocha, Esq.	November 30, 2018
Kathryn Sabatini, Esq.	November 30, 2018

Michael Simoncelli, *ex officio* reporter n/a

IT IS SO ORDERED.

By the Court:

Date: November 30, 2015

/s/ William E. Smith, Chief Judge

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

**LOCAL RULES REVIEW COMMITTEE
March 16, 2016**

The Local Rules Review Committee (“LRRC”) met on March 16, 2016, at 12:30 PM in the Jury Assembly Room of the United States Courthouse. Matthew Oliverio and Michael Daly co-chaired the meeting. The following LRRC members were present: CharCretia DiBartolo, Robert Fine, Dana Horton, Eric Mack, Ray Marcaccio, Neal McNamara, Stacey Nakasian, Stanley Pupecki, Tamera Rocha, Ray Ripple, Kathryn Sabatini, and Justin Shay. The following Court personnel were present: David DiMarzio, Frank Perry, and Michael Simoncelli (LRRC Reporter). Co-chair Matthew Oliverio called the meeting to order at 12:35 PM.

David DiMarzio began the meeting by thanking the members of the LRRC for their service to the Court and the bar on behalf of Judge Smith, who could not attend the meeting. Co-chair Matthew Oliverio then asked Michael Simoncelli, the LRRC Reporter, to summarize the proposed amendments for this cycle and any holdovers from the previous cycle. Mr. Simoncelli started with the Court-proposed amendments:

LR Gen 102: The proposed amendment to LR Gen 102 would require parties to file sealed documents electronically in civil and criminal cases. In addition, the proposal removes extraneous and out-of-date information related to how the Clerk’s Office handles incoming motions to seal and related documents.

LR Gen 202: The proposed amendment to LR Gen 202(a)(2)(B) would allow attorneys to become a member of the bar without taking the bar lecture series if they have a combination of five years of federal practice and federal law clerk experience. The current rule does not recognize federal law clerk experience as “experience in practicing before federal courts.”

LR Gen 303: In connection with the proposal to LR Gen 102, the proposed change to LR Gen 303 deletes the requirement from (c) that sealed documents be filed conventionally.

LR Gen 309: Beginning on December 1, 2016, the requirement that three days be added to deadlines after service will no longer apply to documents served electronically under Fed. R. Civ. P. 6(d) and Fed.R. Crim. P. 45(c). The proposed amendment removes a similar provision from LR Gen 309.

LR Cv 54: Under the Fed.R. Civ. P. 54(d)(1), “Unless a federal statute, these rules, or court order provides otherwise, costs . . . should be allowed to the prevailing party.” The proposed amendment to (c) removes the discrepancy between our local rule and Fed. R. Civ. P. 54 to reflect the discretionary nature of the award of costs.

LR Cr 44: The proposed amendment to LR Cr 44 makes a minor change to reflect that CJA panel attorneys now submit their vouchers for payment through eVoucher, and not on paper forms.

Federal Rules Changes: In addition to the proposed rule changes discussed above, there are a number of proposed changes to the Federal Rules of Civil Procedure and Criminal Procedure set to take effect on December 1, 2016 (pending Supreme Court approval and if Congress chooses not to act on these proposed amendments). The Court asked the LRRC to consider reviewing these pending changes to see if they affect the Local Rules.

David DiMarzio added that there were a few additional local rules changes under review, and that the Court may forward those proposed amendments to the LRRC for consideration at a later date.

Next, Mr. Simoncelli discussed the proposal that the LRRC tabled during the previous cycle:

Ghostwriting: During the 2011-12 cycle, Girard Visconti and Marc DeSisto proposed 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 elected to table that suggestion three times, pending a Rhode Island Supreme Court decision addressing the issue. On June 8, 2015, the Rhode Island Supreme Court issued an order on “Limited-Scope Representation in Rhode Island, Drafting Assistance to *Pro Se* Litigants,” which spelled out their policy on the ghostwriting of pleadings on behalf of a *pro se* litigant. The Supreme Court opened this policy to public comment until January 15, 2016, and as of the date of this memo, they have not issued any subsequent orders regarding ghostwriting.

Finally, Mr. Simoncelli added that the Court put out a call for suggested amendments to the Local Rules in February, and that no suggested rule changes were received from the bar.

Mr. Oliverio noted that in addition to the proposed amendments submitted by the Court and the holdover from the previous session, members of the LRRC were free to offer their own amendments during this session and the upcoming subcommittee meetings. He went on to outline a proposal to change the LRRC’s reporting period from every year to every two years. Co-chair Michael Daly added that he planned to propose an amendment to LR Cv 55 (motions for entry of default and default judgment), which would remove the certified mail service requirement.

Next, Mr. Oliverio gave an update on the work of the ESI subcommittee. Stacey Nakasian added that it was unclear at this point whether the subcommittee’s final product would require any action by the LRRC. Specifically, the structure of their proposal—for example, whether they elected to propose a set of guidelines or offer local rule amendments—would

ultimately determine the proper venue for considering any local proposals governing ESI discovery.

Mr. Oliverio closed the meeting by asking the LRRC subcommittees to meet and confer on any proposed amendments during April, and submit their reports to the co-chairs one week in advance of the May meeting of the full LRRC.

The meeting adjourned at 1:20 PM.

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

**LOCAL RULES REVIEW COMMITTEE
May 18, 2016**

The Local Rules Review Committee (“LRRC”) met on May 18, 2016, at 4:00 PM in the Jury Assembly Room of the United States Courthouse. Matthew Oliverio and Michael Daly co-chaired the meeting. The following LRRC members were present: Russell Bengtson, CharCretia DiBartolo, Robert Fine, Dana Horton, Stacey Nakasian, Steven Richard, Ray Ripple, Tamera Rocha, Kathryn Sabatini, and Justin Shay. The following Court personnel were present: David DiMarzio and Michael Simoncelli (LRRC Reporter).

Co-chair Matthew Oliverio called the meeting to order at 4:05 PM, and explained that the purpose of the meeting was to hear the reports of the various subcommittees of the LRRC. He asked Justin Shay, co-chair of the General Rules Subcommittee, to provide his subcommittee’s report first. Mr. Shay said that the General Rules Subcommittee recommended approval of the proposed amendments to LR Gen 103 (Courtroom Practice), LR Gen 303 (Special Filing Requirements), and LR Gen 309 (Service of Documents by Electronic Means). Mr. Shay asked if the Clerk’s Office was aware of any effect that the “sensitive exhibit” provision of LR Gen 103 could have on bankruptcy appeals to the district court. Michael Simoncelli said that he would look into the question, and report back to the LRRC.

The General Rules Subcommittee also recommended approval of an edited version of the proposed amendment to LR Gen 102 (Sealed Documents). The edited version of LR Gen 102 approved by the subcommittee made minor wording changes to (b)(1) and (b)(3). In addition, LRRC members Michael Daly and Stacey Nakasian each raised questions about the Clerk’s Office procedures for handling electronically filed sealed documents when the Court denies the underlying motion to seal. Michael Simoncelli explained that LR Gen 102 only provides the basics for filing sealed documents, and that specific filing procedures would be covered in the instructional materials that the Clerk’s Office would make available to attorneys. David DiMarzio added that the Clerk’s Office would report back to the LRRC on the specific questions raised on sealed document filing procedures.

The General Rules Subcommittee also recommended approval of the proposed amendment to LR Gen 202 (Eligibility and Procedure for Admission) recognizing federal law clerk experience as “federal court practice” for the purpose of bar admission without taking the Court’s bar lecture series. After discussion, the full LRRC recommended edits to clarify the amendment.

Mr. Oliverio added that the proposal to change the local rules reporting cycle from one year to two years was reviewed and rejected by the General Rules Subcommittee.

The LRRC approved the proposed amendments to LR Gen 102, LR Gen 103, LR Gen 303, LR Gen 309 as recommended by the General Rules Subcommittee, and the version of LR Gen 202 modified by the full Committee.

Mr. Oliverio next asked Russell Bengtson to give the report of the Civil Rules Subcommittee. Mr. Bengtson explained that the Civil Rules Subcommittee approved two proposed changes to the Local Rules. First, they approved an edited version of the Court-proposed amendment to LR Cv 54 regarding taxation of costs by the Clerk. The Subcommittee's edited version of the proposed amendment simply points the practitioner to the applicable provision of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 54(d)(1).

Mr. Bengtson added that the Civil Rules Subcommittee also approved a proposed amendment to LR Cv 55 regarding motions for entry of default and default judgment. Michael Daly explained that this proposal was originally made in 2011 and approved by the LRRC, but was rejected by the Court. The proposal would remove the requirement that motion for entry of default be served by certified and regular mail. During the LRRC's discussion of the proposal, edits were made by Robert Fine and Kathryn Sabatini to clarify language in the proposal.

The LRRC approved the proposed amendment to LR Cv 54 as recommended by the Civil Rules Subcommittee, and the version of LR Cv 55 modified by the full Committee.

Co-Chair Michael Daly explained that the Criminal Rules Subcommittee Chair George West was unable to attend the meeting, and that he would provide the subcommittee's report in his place. The Criminal Rules Subcommittee had one proposal to consider, a minor amendment to LR Cr 44, and they recommended approval of the amendment. The LRRC approved the proposed amendment to LR Cr 44 as recommended by the Criminal Rules Subcommittee.

Next, Mr. Oliverio turned to Steven Richard to give an update on the ESI subcommittee. Mr. Richard explained that the ESI subcommittee was in the process of preparing a survey of ESI rules, protocols, and guidance in other federal district courts to present to the Judges through the Federal Bench-Bar Committee, which could potentially result in a proposed change or changes to the Local Rules. He reported, for example, that many districts require parties to file a 26(f) report before the Rule 16 conference, and that our local rules do not have such a requirement.

Mr. Oliverio closed the meeting by thanking the LRRC for its work on the proposed amendment to the Local Rules, and explained that a final report reflecting the LRRC's actions would be circulated by email for approval in advance of the June 30th report deadline.

The meeting adjourned at 4:55 PM

August 3, 2016

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), we hereby submit the enclosed Annual Report of the LRRC. 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 a vote of the LRRC via email.

The LRRC began its work with a call for suggested changes to the Local Rules from the Bar and public during the month of February. During this month-long suggestion period, the LRRC did not receive any suggested changes from the Bar or the public. The LRRC later met on March 16, 2016, to consider six Court-proposed amendments and one holdover proposal from the previous local rules review cycle. At that meeting, the full LRRC referred these proposals to the General Rules, Civil Rules, and Criminal Rules Subcommittees for review and report in advance of the meeting of the full LRRC on May 18, 2016.

At the May 18th meeting, the LRRC reviewed the work of the General Rules, Civil Rules, and Criminal Rules Subcommittees. The full LRRC ultimately recommended adoption of seven amendments, which include six Court-proposed amendments and one amendment proposed by a LRRC member. Following the May 18th meeting, the LRRC adopted two additional Court-proposed amendments to LR Gen 111 and LR Gen 112 regarding the use of electronic devices in the courthouse by email. Of the nine total amendments recommended by the LRRC, most were technical or procedural amendments, but the proposed amendments to LR Gen 102 (Sealed Documents) and LR Cv 55 (Default and Default Judgments) are substantive in nature, and will affect practice if adopted by the Court.

The LRRC also 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 plans to reconsider this suggestion once the Rhode Island Supreme Court issues a final ghostwriting policy.¹ In addition, the General Rules Subcommittee rejected a proposal to shift the LRRC's reporting period under LR Gen 113 from annually to every two years.

All of the LRRC's actions on the proposed rule amendments, along with explanations on the modification 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,

Matthew Oliverio
Michael Daly
Co-Chairs, LRRC

Enclosure

cc: David DiMarzio
Frank Perry
Michael Simoncelli

¹ The Rhode Island Supreme Court issued a decision in three related ghostwriting cases on June 8, 2015. (See, *FIA Card Services, NA v. Pichette*, No. 2012-272-Appeal.) In that decision, they put forth a policy regarding the scope and nature of assistance that attorneys may provide to *pro se* litigants. The Supreme Court invited public comment on the policy earlier this year, but has not issued a final ghostwriting policy as of this date.

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

PROPOSED AMENDMENTS TO LOCAL RULES

August 3, 2016

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 102	<p>LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION</p> <p>*****</p> <p>(b) Sealed Documents Generally.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(e) 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</p>	<p>The General Rules Subcommittee recommended adoption of the proposed amendment with the following changes to (b)(1) and (b)(3) of the rule:</p> <p>1. Filing of Sealed Documents. Documents may be sealed by order of the Court only upon the filing of a motion to seal. The motion to seal, a separate memorandum stating the basis for the sealing as required by LR Cv 7 and LR Cr 47, and the document(s) subject to the motion to seal must be filed electronically and will remain provisionally under seal until the Court rules on the motion. Documents submitted by a party under seal, provisionally or otherwise, must be stamped or labeled by the party on the cover page "FILED UNDER SEAL."</p> <p>If the Court denies the motion to seal, the document(s) subject to the motion to seal will not be accepted for filing in the case.</p> <p>*****</p> <p>3. Limited Sealed Filings and Redactions. Rather than automatically requesting the sealing of an entire motion or other filing, parties should consider whether redaction would be sufficient. argument relating to sealed</p>	<p>PROPOSED CHANGE ACCEPTED AS MODIFIED BY THE GENERAL RULES SUBCOMMITTEE.</p>	

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p>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 order denying the motion to seal shall be docketed, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.</p> <p>(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 and unless otherwise ordered by the Court, the motion to seal, the order granting the motion to seal, and 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 to seal and the order denying the motion to seal shall be docketed, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.</p> <p><u>1. Filing of Sealed Documents. Documents may be sealed by order of the Court only upon the filing of a motion to seal. The motion to seal, a separate memorandum stating the basis for the sealing as required by LR Cv 7 and LR Cr 47, and the document(s) subject to the motion to seal must be filed electronically and will remain provisionally under seal until the Court rules on the motion. Documents submitted by a party under seal, provisionally or otherwise, must be stamped or labeled by the party on the cover “FILED UNDER SEAL.”</u></p>	<p>materials may be contained in a separate supplemental motion or filing, which may then be sealed in accordance with the procedures in (b)(1). If only a portion of a document contains confidential information, the party requesting sealing pursuant to (b)(1) shall file both an unredacted version of the document and a redacted version that excises the confidential information.</p>		

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p><u>If the Court denies the motion to seal, the document(s) subject to the motion to seal will not be accepted for filing in the case.</u></p> <p><u>2. Service of Motions to Seal.</u></p> <p><u>A. Civil Cases. A motion to seal in a civil case may be served electronically if the party has consented to electronic filing pursuant to LR Gen 304(c) and LR Gen 309(b). Parties who are ineligible to file and receive documents electronically or exempt from electronic filing must be served conventionally pursuant to LR Cv 5.1(b).</u></p> <p><u>B. Criminal Cases. A motion to seal in a criminal case must be conventionally served on all parties in the case pursuant to LR Cv 5.1(b).</u></p> <p><u>3. Limiting Sealed Filings and Redactions. Rather than automatically requesting the sealing of an entire motion or other filing, parties should consider whether argument relating to sealed materials may be contained in a separate supplemental motion or filing, which may then be sealed in accordance with the procedures in (b)(1). If only a portion of a document contains confidential information, the party requesting sealing shall file both an unredacted version of the document and a redacted version that excises the confidential information.</u></p> <p><u>(e)(c)Unsealing of Documents.</u> Documents sealed by the Court may be unsealed at any time upon motion of a party or non-party or by the Court <i>sua sponte</i>, provided that the parties first are given notice and an opportunity to be heard.</p>			

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 103	<p>LR Gen 103 COURTROOM PRACTICE</p> <p>*****</p> <p>(d) Exhibits.</p> <p>(1) Custody. Unless otherwise ordered by the Court, the Clerk shall maintain custody of all exhibits marked for identification and/or admitted into evidence in any proceeding <u>except for sensitive exhibits. Sensitive exhibits, including but not limited to, narcotics and other controlled substances, firearms, ammunition, explosive devices, jewelry, liquor, poisonous or dangerous chemicals, money or articles of high monetary value, counterfeit currency, and biological hazards shall be retained by the party offering the exhibit prior to, throughout, and after the trial or proceeding.</u></p> <p>(2) Preservation. When necessary in order to complete the record, the Court shall permit a party to photograph or otherwise copy a chalk, or print or otherwise reproduce any electronic images and markings thereon, or to preserve any other item shown to the fact-finder.</p> <p>(3)(2) Disposition. Unless otherwise ordered by the Court, within 30 days after the appeal is concluded or the time for appeal has expired <u>the final disposition of the case, exhibits in the custody of the Clerk may must be removed from the Clerk's office by the party that presented the exhibit. Exhibits not so removed may will be destroyed or otherwise disposed of by the Clerk.</u></p> <p>*****</p>	<p>The General Rules Subcommittee recommended that since the proposed amendment affected all practitioners, it should be discussed by the full LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED.</p>	

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 111	<p>LR Gen 111 PHOTOGRAPHING; RECORDING; BROADCASTING</p> <p>(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.</p> <p>(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. *[see Comment, end of Rule]</p>		PROPOSED CHANGED ACCEPTED.	
LR Gen 112	<p>LR Gen 112 USE OF ELECTRONIC DEVICES</p> <p>(a) General Prohibition on Electronic Devices. Except as provided in subsection (b) (c) of this rule or expressly authorized by the Court, no person shall bring into the Courthouse or that portion of the John O. Pastore Building that is occupied by the Court any <u>electronic device of any kind that has the capability</u> <u>capable</u> of sending or receiving communications, making sound or video recordings, or making, recording or transmitting photographs or videos.*[see Comment, end of Rule]</p> <p>(b) <u>Photographing, Recording, and Broadcasting.</u> <u>Except to the extent expressly authorized by the Court, no person shall photograph, record, broadcast, or otherwise transmit any proceeding,</u></p>		<p>PROPOSED CHANGE ACCEPTED WITH THE FOLLOWING REVISION TO LR Gen 112(c)(1)(C).</p> <p>(C) Unauthorized use of electronic devices may result in <u>the user being required to relinquish the device to the custody of the United States Marshal until released by a judicial officer</u> and/or imposition of sanctions.</p>	

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p><u>event, or activity held in the Courthouse or portion of the John O. Pastore Building occupied by the Court. The Court may permit photographing, recording or broadcasting of ceremonial proceedings upon such terms and conditions as the Court may specify.</u></p> <p>(b)(c) <u>Electronic Devices. Exceptions.</u> Electronic devices, including but not limited to cellular or smart phones, laptops, and tablets, may be brought into <u>and used within the Courthouse or that portion of the John O. Pastore Building that is occupied by the Court only by attorneys or those having express authorization individuals authorized pursuant to this subsection, and only upon the following conditions:</u></p> <p><u>(1) Use of Electronic Devices by Attorneys.</u> <u>Unless the Court otherwise orders, attorneys may use electronic devices in the Courthouse and portion of the John O. Pastore Building occupied by the Court, including courtrooms and chambers, upon the following conditions:</u></p> <p style="padding-left: 40px;"><u>(A) Use of electronic devices shall not be disruptive of Court proceedings;</u></p> <p style="padding-left: 40px;"><u>(B) Use of electronic devices does not conflict with (b) or any other provision of the Local Rules, Court order, or statute;</u></p> <p style="padding-left: 40px;"><u>(C) Unauthorized use of electronic devices may result in confiscation of the device and/or imposition of sanctions.</u></p> <p><u>(2) Use of Electronic Devices by Media.</u> <u>Unless the Court otherwise orders, members of the media who have been authorized to bring</u></p>			

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p><u>and use electronic devices in the Courthouse and portion of the John O. Pastore Building occupied by the Court, may use those devices under the conditions set forth in (b) and (c)(1) in the courtrooms of those judicial officers who have approved such usage. The Clerk will maintain lists of authorized individuals and those judicial officers who have approved such usage.</u></p> <p>(1) Unless the use of the electronic device is expressly authorized by the presiding judicial officer, before entering any courtroom, chambers or Grand Jury room, anyone carrying an electronic device shall at the direction of the presiding judicial officer either:</p> <p style="padding-left: 40px;">(A) turn off the device completely and keep the device turned off during all times in the courtroom, chambers or Grand Jury room; or</p> <p style="padding-left: 40px;">(B) check it with the courtroom clerk or court security officer at that location.</p> <p>(2) Upon entering the building, any person carrying an electronic device shall acknowledge and agree that, upon violation of the conditions set forth in paragraph (1) above and/or of any other limitations placed on the use of such instruments, said device may be confiscated.</p>			
LR Gen 113	Matthew T. Oliverio suggested that the LRRC consider an amendment to LR Gen 113 to shift the LRRC's reporting period from yearly to every two years.	The General Rules Subcommittee did not recommend adoption of the proposed change.	PROPOSED CHANGE REJECTED.	

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 202	<p>LR Gen 202 ELIGIBILITY AND PROCEDURE FOR ADMISSION</p> <p>(a) Requirements for Admission. In order to be eligible for membership in the Bar of this Court, an attorney must:</p> <p>(1) Be a member in good standing of the Bar of the Supreme Court of the State of Rhode Island; and</p> <p>(2) Either:</p> <p>(A) Have completed the course of instruction on Federal Practice and Procedure given by this Court’s Board of Bar Admissions, or</p> <p>(B) Have at least 5 years of experience in practicing before federal courts <u>practice experience, or a combination of 5 years of federal practice and federal law clerk experience,</u> and certify that he or she has read and understands these Local Rules;</p> <p>and</p> <p>(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.</p> <p>*****</p>	The General Rules Subcommittee recommended adoption of the proposed change by the LRRC.	<p>PROPOSED CHANGE ACCEPTED WITH THE FOLLOWING REVISIONS.</p> <p>(B) Have at least 5 years of experience in practicing before federal courts <u>practice experience, or a combination of federal practice and federal law clerk experience that totals at least five years,</u> and certify that he or she has read and understands these Local Rules;</p>	

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 309	<p>LR Gen 309 SERVICE OF DOCUMENTS BY ELECTRONIC MEANS</p> <p>*****</p> <p>(e) — Time. Service by electronic means shall be treated the same as service by mail for the purpose of adding 3 days to the prescribed period to respond.</p> <p>****</p>	<p>The General Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED.</p>	

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

Civil Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Cv 54	<p style="text-align: center;">LR Cv 54 COSTS</p> <p style="text-align: center;">*****</p> <p>(c) Taxation by Clerk. On or after 14 days following the filing of a bill of costs, the Clerk shall <u>may</u> tax those costs which appear to be properly claimed. <u>The Clerk and</u> shall notify all parties of the costs allowed.</p> <p style="text-align: center;">*****</p>	<p>The Civil Rules Subcommittee recommended adoption of the proposed amendment with the following revision to section (c):</p> <p>(c) Taxation by Clerk. <u>The taxation of costs shall be in accordance with Fed. R. Civ. P. 54(d)(1).</u> The Clerk shall notify all parties of the costs allowed.</p>	<p>PROPOSED CHANGE ACCEPTED AS MODIFIED BY THE CIVIL RULES SUBCOMMITTEE.</p>	
LR Cv 55	<p>The Civil Rules Subcommittee suggested LR Cv 55 be amended to simplify the process of obtaining a default and default judgment under the Local Rules. The Civil Rules Subcommittee revisited a proposed amendment originally adopted by the LRRC during the 2010-11 local rules review cycle.</p>	<p><u>LR CV 55 MOTIONS FOR DEFAULT AND DEFAULT JUDGMENT</u></p> <p>A motion for entry of default or entry of a default judgment made against a party not represented by counsel shall be accompanied by a certification that:</p> <p>(a) Notice of the motion was given to the party against whom a default or default judgment is sought by both regular mail, postage prepaid, and by certified or registered mail, return receipt requested. A copy of the return receipt shall be appended to the certification;</p> <p><u>(a) Default: The clerk shall enter a default upon an application by the plaintiff that conforms to the requirements of Fed. R. Civ. P. 55(a).</u></p> <p>(b) To the best of the movant's knowledge, the address set forth in such certification is the last known address of that party; and</p> <p><u>(b) Default judgment: Not less than 14 days after filing of a motion for entry of default judgment made against a party not represented by counsel, the moving plaintiff shall file with the court a certification that:</u></p> <p><u>1. The party against whom a default</u></p>	<p>PROPOSED AMENDMENT ACCEPTED WITH THE FOLLOWING REVISIONS:</p> <p>(a) Default: The clerk shall enter a default upon an application by the plaintiff <u>a party</u> that conforms to the requirements of Fed. R. Civ. P. 55(a).</p> <p>(b) Default judgment: Not less than 14 days after filing of a motion for entry of default judgment made against a party not represented by counsel, the moving plaintiff <u>party</u> shall file with the court a certification that:</p> <p>1. The party against whom a default judgment is sought is not in the military service of the United States as defined in <u>by</u> the Servicemembers Civil Relief Act of 2003, as amended; and;</p> <p>2. That <u>Notice of the motion was served on</u> <u>sent to</u> the party against whom the judgment is sought by first class mail and certified mail, return receipt requested, at the address where the party was served with process, and the party's</p>	

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

Civil Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
		<p><u>judgment is sought is not in the military service of the United States as defined in the by the Servicemembers Civil Relief Act of 2003, as amended; and;</u></p> <p><u>2. That notice of the motion was served on the party against whom the judgment is sought by first class mail and certified mail, return receipt requested, at the address where the party was served with process, and the party’s last known address, if different. The certificate shall include the return receipt, or, if unavailable, a statement of the measures taken to attempt service and verify receipt by the defaulted party.</u></p> <p>e) The party against whom a default or default judgment is sought is not in the military service of the United States as defined in the Servicemembers Civil Relief Act of 2003, as amended.</p>	<p>last known address, if different. The certificate shall include the return receipt, or, if unavailable, a statement of the measures taken to attempt service and verify receipt by the defaulted party.</p>	
<p>Suggestion from the Bar</p>	<p>During the 2011-12 cycle, Girard Visconti, Esq. and Marc DeSisto, Esq. proposed that the Court adopt a rule requiring <i>pro se</i> litigants to certify that an attorney has not drafted the documents that they filed with the Court. The Civil Rules Subcommittee elected to table that suggestion three times, pending a Rhode Island Supreme Court decision addressing the issue. On June 8, 2015, the Rhode Island Supreme Court issued an order on “Limited-Scope Representation in Rhode Island, Drafting Assistance to <i>Pro Se</i> Litigants,” which spelled out the Supreme Court’s policy on the ghostwriting of pleadings by a member of the bar on behalf of a <i>pro se</i> litigant. The Supreme Court opened this policy to public comment until January 15, 2016, and have not issued any subsequent orders regarding ghostwriting.</p>		<p>The Rhode Island Supreme Court issued a decision in three related ghostwriting cases on June 8, 2015. (See, <i>FIA Card Services, NA v. Pichette</i>, No. 2012-272-Appeal.) In that decision, they put forth a policy regarding the scope and nature of assistance that attorneys may provide to <i>pro se</i> litigants. The Supreme Court invited public comment on the policy, and has not issued a final policy as of the date of this report. In light of this, the LRRC tabled the suggestion for reconsideration during the 2016-17 local rules review cycle.</p>	

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

Criminal Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Cr 44	<p>LR Cr 44 PROCEEDINGS INVOLVING AN INDIGENT DEFENDANT</p> <p>*****</p> <p>(b) CJA Attorneys—Fees and Expenses. An attorney appointed to represent an indigent defendant under the Criminal Justice Act shall complete and file a voucher for fees and expenses on the appropriate forms promptly after completing the services rendered and no later than 45 days after disposition of the case.</p> <p>*****</p>	<p>The Criminal Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED.</p>	

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



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 103, LR Gen 111, LR Gen 112, LR Gen 202, and LR Gen 309.

Civil Rules: LR Cv 54 and LR Cv 55.

Criminal Rules: LR Cr 44.

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 October 31, 2016, via e-mail to Local_Rules@rid.uscourts.gov or by submission to the Clerk's Office.

SEPTEMBER 30, 2016

DAVID A. DiMARZIO
CLERK OF COURT

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.~~
- (e) **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 order denying the motion to seal shall be docketed, 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 and unless otherwise ordered by the Court, the motion to seal, the order granting the motion to seal, and 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 to seal and the order denying the motion to seal shall be docketed, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.~~

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

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

2. Service of Motions to Seal.

A. Civil Cases. A motion to seal in a civil case may be served electronically if the party has consented to electronic filing pursuant to LR Gen 304(c) and LR Gen 309(b). Parties who are ineligible to file and receive documents electronically or exempt from electronic filing must be served conventionally pursuant to LR Cv 5.1(b).

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

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

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

LR Gen 103 COURTROOM PRACTICE

- (a) **Addressing the Court.** Counsel shall stand at the podium when addressing the Court and when examining and cross-examining witnesses unless the Court expressly excuses counsel from standing.
- (b) **Registering Objections.** When registering an objection, counsel shall state the legal grounds for the objection (e.g., leading, hearsay, etc.) and/or the Rule of Evidence upon which counsel relies (e.g., 404(b)) but shall not argue or make any further comment unless requested by the Court.
- (c) **Witnesses.**
- (1) **Scheduling.** Counsel shall schedule witnesses in a manner that ensures that there will be no delays in trial.
 - (2) **Examination.** No witness may be examined by more than one attorney representing a party unless the Court otherwise permits.
 - (3) **Attorneys as Witnesses.** An attorney shall not testify in a trial or evidentiary hearing in a case in which that attorney participates as counsel, except to the extent allowed by the Standards of Professional Conduct set forth in LR Gen 208 and permitted by the Court.
- (d) **Exhibits.**
- (1) **Custody.** Unless otherwise ordered by the Court, the Clerk shall maintain custody of all exhibits marked for identification and/or admitted into evidence in any proceeding except for sensitive exhibits. Sensitive exhibits, including but not limited to, narcotics and other controlled substances, firearms, ammunition, explosive devices, jewelry, liquor, poisonous or dangerous chemicals, money or articles of high monetary value, counterfeit currency, and biological hazards shall be retained by the party offering the exhibit prior to, throughout, and after the trial or proceeding.
 - ~~(2)~~ **Preservation.** ~~When necessary in order to complete the record, the Court shall permit a party to photograph or otherwise copy a chalk, or print or otherwise reproduce any electronic images and markings thereon, or to preserve any other item shown to the fact finder.~~
 - ~~(3)~~**(2) Disposition.** Unless otherwise ordered by the Court, within 30 days after the appeal is concluded or the time for appeal has expired ~~the final disposition of the case, exhibits in the custody of the Clerk may~~ must be removed ~~from the Clerk's office~~ by the party that presented the exhibit. Exhibits not so removed ~~may~~ will be destroyed or otherwise disposed of by the Clerk.

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. ***[see Comment, end of Rule]**

***COMMENT**

Pursuant to the General Order dated January 31, 2014, authorized members of the media may use electronic devices in the courtrooms of the judicial officers who have approved a standing exemption to LR Gen 111 and LR Gen 112. Please consult the General Order dated January 31, 2014, and related materials available on the Court's website.

LR Gen 112 USE OF ELECTRONIC DEVICES

- (a) **General Prohibition on Electronic Devices.** Except as provided in subsection ~~(b)~~ (c) of this rule or expressly authorized by the Court, no person shall bring into the Courthouse or ~~that~~ portion of the John O. Pastore Building ~~that is~~ occupied by the Court any electronic device of any kind that has the capability capable of sending or receiving communications, making sound or video recordings, or making, recording or transmitting photographs or videos.* ~~[see Comment, end of Rule]~~
- (b) **Photographing, Recording, and Broadcasting.** Except to the extent expressly authorized by the Court, no person shall photograph, record, broadcast, or otherwise transmit any proceeding, event, or activity held in the Courthouse or portion of the John O. Pastore Building occupied by the Court. The Court may permit photographing, recording or broadcasting of ceremonial proceedings upon such terms and conditions as the Court may specify.
- ~~(b)~~(c) **Electronic Devices. Exceptions.** Electronic devices, including but not limited to cellular or smart phones, laptops, and tablets, may be brought into and used within the Courthouse or ~~that~~ portion of the John O. Pastore Building ~~that is~~ occupied by the Court only by ~~attorneys or those having express authorization~~ individuals authorized pursuant to this subsection. and only upon the following conditions:
- (1) **Use of Electronic Devices by Attorneys.** Unless the Court otherwise orders, attorneys may use electronic devices in the Courthouse and portion of the John O. Pastore Building occupied by the Court, including courtrooms and chambers, upon the following conditions:
- (A) Use of electronic devices shall not be disruptive of Court proceedings;
- (B) Use of electronic devices does not conflict with (b) or any other provision of the Local Rules, Court order, or statute;
- (C) Unauthorized use of electronic devices may result in the user being required to relinquish the device to the custody of the United States Marshal until released by a judicial officer and/or imposition of sanctions.
- (2) **Use of Electronic Devices by Media.** Unless the Court otherwise orders, members of the media who have been authorized to bring and use electronic devices in the Courthouse and portion of the John O. Pastore Building occupied by the Court, may use those devices under the conditions set forth in (b) and (c)(1) in the courtrooms of those judicial officers who have approved such usage. The Clerk will maintain lists of authorized individuals and those judicial officers who have approved such usage.
- ~~(1) Unless the use of the electronic device is expressly authorized by the presiding judicial officer, before entering any courtroom, chambers or Grand Jury room, anyone carrying an electronic device shall at the direction of the presiding judicial officer either:~~

~~(A) turn off the device completely and keep the device turned off during all times in the courtroom, chambers or Grand Jury room; or~~

~~(B) check it with the courtroom clerk or court security officer at that location.~~

~~(2) Upon entering the building, any person carrying an electronic device shall acknowledge and agree that, upon violation of the conditions set forth in paragraph (1) above and/or of any other limitations placed on the use of such instruments, said device may be confiscated.~~

***COMMENT**

~~Pursuant to the General Order dated January 31, 2014, authorized members of the media may use electronic devices in the courtrooms of the judicial officers who have approved a standing exemption to LR Gen 111 and LR Gen 112. Please consult the General Order dated January 31, 2014, and related materials available on the Court's website.~~

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~~ practice experience, or a combination of federal practice and federal law clerk experience that totals at least 5 years, 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 309 SERVICE OF DOCUMENTS BY ELECTRONIC MEANS

- (a) **Notice of Electronic Filing.** Whenever a pleading or other document is filed electronically, the ECF system will automatically generate and send a NEF to the Filing User and registered users of record. The user filing the document should retain a paper or digital copy of the NEF, which shall serve as the Court's date-stamp and proof of filing.
- (b) **NEF as Service.** Transmission of the NEF shall constitute service of the filed document and shall be deemed to satisfy the requirements of Fed. R. Civ. P. 5(b)(2)(E), Fed. R. Civ. P. 77(d) and Fed. R. Crim. P. 49(b).
- (c) **Certificates of Service on Electronically Filed Documents.** All documents filed using the ECF system shall include a certificate of service stating that the document has been filed electronically and that it is available for viewing and downloading from the ECF system. The certificate of service must identify the manner in which the service on each party was accomplished.
- (d) **Exemptions.** Attorneys and *pro se* litigants who are not Filing Users must be conventionally served with any electronically filed documents in accordance with the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.
- ~~(e) **Time.** Service by electronic means shall be treated the same as service by mail for the purpose of adding 3 days to the prescribed period to respond.~~

LR Cv 54 COSTS

- (a) **Timing of Request.** Within 14 days after entry of judgment, a party seeking an award of costs shall file and serve on all other parties a bill of costs. Failure to file a bill of costs within that time shall constitute a waiver of any claim for costs unless the Court otherwise orders, for good cause shown.
- (b) **Form of Request.**
- (1) A bill of costs shall be prepared on forms provided by the Clerk's Office and shall specify each item of costs claimed.
 - (2) A bill of costs shall be supported by a memorandum of law and an affidavit that:
 - (A) the amounts listed in the bill of costs are correct; and
 - (B) all services reflected in the bill of costs were actually performed and were necessary to the presentation of the applicant's case; and
 - (C) all disbursements reflected in the bill of costs represent obligations actually incurred and necessary to the presentation of the applicant's case; and
 - (D) all costs are properly claimed and allowable.
- (c) **Taxation by Clerk.** ~~On or after 14 days following the filing of a bill of costs, the Clerk shall tax those costs which appear to be properly claimed.~~ The taxation of costs shall be in accordance with Fed. R. Civ. P. 54(d)(1). ~~The Clerk and~~ shall notify all parties of the costs allowed.
- (d) **Motion to Review the Clerk's Action.** The taxation of costs by the Clerk shall be final unless modified by the Court. Any challenge to the costs taxed by the Clerk shall be in the form of a motion, which motion shall be served and filed within 7 days after notification pursuant to subsection (c) of this Rule, and shall be supported by a memorandum of law stating the reason for the challenge and the authorities upon which the moving party relies. Within 7 days of the filing of the motion, any party objecting to the motion may file a response.
- (e) **Resolution of Motion.** Within 14 days after a motion to review the Clerk's action is filed, all interested parties shall meet and confer in an effort to resolve the motion. The meeting shall be initiated by the moving party, who shall notify the Court promptly as to whether the issues have been resolved. If all issues have been resolved, the parties shall promptly submit a proposed order. If all issues have not been resolved, the Court will make a final determination with respect to the taxation of costs.

LR Cv 55 ~~MOTIONS FOR DEFAULT AND DEFAULT JUDGMENT~~

~~A motion for entry of default or entry of a default judgment made against a party not represented by counsel shall be accompanied by a certification that:~~

- ~~(a) — Notice of the motion was given to the party against whom a default or default judgment is sought by both regular mail, postage prepaid, and by certified or registered mail, return receipt requested. A copy of the return receipt shall be appended to the certification;~~
- ~~(a) Default: The Clerk shall enter a default upon an application by a party that conforms to the requirements of Fed. R. Civ. P. 55(a).~~
- ~~(b) — To the best of the movant's knowledge, the address set forth in such certification is the last known address of that party; and~~
- ~~(b) Default judgment: Not less than 14 days after filing of a motion for entry of default judgment made against a party not represented by counsel, the moving party shall file with the Court a certification that:~~
 - ~~1. The party against whom a default judgment is sought is not in the military service of the United States as defined by the Servicemembers Civil Relief Act of 2003, as amended; and;~~
 - ~~2. Notice of the motion was sent to the party against whom the judgment is sought by first class mail and certified mail, return receipt requested, at the address where the party was served with process, and the party's last known address, if different. The certificate shall include the return receipt, or, if unavailable, a statement of the measures taken to attempt service and verify receipt by the defaulted party.~~
- ~~(c) — The party against whom a default or default judgment is sought is not in the military service of the United States as defined in the Servicemembers Civil Relief Act of 2003, as amended.~~

LR Cr 44 PROCEEDINGS INVOLVING AN INDIGENT DEFENDANT

(a) Appointment of Counsel by the Court.

- (1) If, based on a financial affidavit of a defendant, the Court determines that the defendant is financially unable to retain private counsel, the Court shall appoint the Federal Defender or an attorney on the Court's Criminal Justice Act Panel (CJA Attorney) to represent that defendant.
- (2) If the Federal Defender is unable to represent the defendant due to a conflict of interest or for any other reason, the Federal Defender shall request that a CJA Attorney be appointed to represent the defendant.
- (3) If the Court determines that a defendant has some assets from which to pay attorneys' fees, the Court may, at any time, order the defendant to pay all or any portion of any attorneys' fees incurred.

(b) CJA Attorneys—Fees and Expenses. An attorney appointed to represent an indigent defendant under the Criminal Justice Act shall complete and file a voucher for fees and expenses ~~on the appropriate forms~~ promptly after completing the services rendered and no later than 45 days after disposition of the case.

(c) Continuing Duty of Representation. Immediately after sentencing, counsel shall:

- (1) inform the defendant of any right that the defendant may have to appeal his conviction and/or sentence; and
- (2) consult with the defendant to determine whether the defendant desires to appeal; and, if so, take whatever steps may be necessary to file a notice of appeal and protect any appellate rights that the defendant may have unless and until other appellate counsel is appointed by the Court of Appeals.

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

PROPOSED AMENDMENTS TO LOCAL RULES

August 3, 2016

Amended October 19, 2016¹

¹ The Final Report of the Local Rules Review Committee was originally submitted to the Court on August 3, 2016. On October 19, 2016, the LRRC amended the report to insert an additional proposed amendment to LR Gen 303 that was approved by the LRRC at its final meeting on May 18, 2016, but was not included in the LRRC's first report. (See, Meeting Minutes of the Local Rules Review Committee, May 18, 2016, Pg. 2.) The additional proposed amendment appears on page 9 of this amended report.

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 102	<p>LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION</p> <p style="text-align: center;">*****</p> <p>(b) Sealed Documents Generally.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(e) 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</p>	<p>The General Rules Subcommittee recommended adoption of the proposed amendment with the following changes to the revised sections (b)(1) and (b)(3) of the rule:</p> <p>1. Filing of Sealed Documents. Documents may be sealed by order of the Court only upon the filing of a motion to seal. The motion to seal, a separate memorandum stating the basis for the sealing as required by LR Cv 7 and LR Cr 47, and the document(s) subject to the motion to seal must be filed electronically and will remain provisionally under seal until the Court rules on the motion. Documents submitted by a party under seal, provisionally or otherwise, must be stamped or labeled by the party on the cover page "FILED UNDER SEAL."</p> <p>If the Court denies the motion to seal, the document(s) subject to the motion to seal will not be accepted for filing in the case.</p> <p style="text-align: center;">*****</p> <p>3. Limited Sealed Filings and Redactions. Rather than automatically requesting the sealing of an entire motion or other filing, parties should consider whether redaction would be sufficient.</p>	<p>PROPOSED CHANGE ACCEPTED AS MODIFIED BY THE GENERAL RULES SUBCOMMITTEE.</p>	

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p>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 order denying the motion to seal shall be docketed, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.</p> <p>(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 and unless otherwise ordered by the Court, the motion to seal, the order granting the motion to seal, and 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 to seal and the order denying the motion to seal shall be docketed, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.</p> <p><u>1. Filing of Sealed Documents. Documents may be sealed by order of the Court only upon the filing of a motion to seal. The motion to seal, a separate memorandum stating the basis for the sealing as required by LR Cv 7 and LR Cr 47, and the document(s) subject to the motion to seal must be filed electronically and will remain provisionally under seal until the Court rules on the motion. Documents submitted by a party under seal, provisionally or otherwise, must be stamped or labeled by the party on the cover "FILED UNDER</u></p>	<p>argument relating to sealed materials may be contained in a separate supplemental motion or filing, which may then be sealed in accordance with the procedures in (b)(1). If only a portion of a document contains confidential information, the party requesting sealing pursuant to (b)(1) shall file both an unredacted version of the document and a redacted version that excises the confidential information.</p>		

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p><u>SEAL.”</u></p> <p><u>If the Court denies the motion to seal, the document(s) subject to the motion to seal will not be accepted for filing in the case.</u></p> <p><u>2. Service of Motions to Seal.</u></p> <p><u>A. Civil Cases. A motion to seal in a civil case may be served electronically if the party has consented to electronic filing pursuant to LR Gen 304(c) and LR Gen 309(b). Parties who are ineligible to file and receive documents electronically or exempt from electronic filing must be served conventionally pursuant to LR Cv 5.1(b).</u></p> <p><u>B. Criminal Cases. A motion to seal in a criminal case must be conventionally served on all parties in the case pursuant to LR Cv 5.1(b).</u></p> <p><u>3. Limiting Sealed Filings and Redactions. Rather than automatically requesting the sealing of an entire motion or other filing, parties should consider whether argument relating to sealed materials may be contained in a separate supplemental motion or filing, which may then be sealed in accordance with the procedures in (b)(1). If only a portion of a document contains confidential information, the party requesting sealing shall file both an unredacted version of the document and a redacted version that excises the confidential information.</u></p> <p><u>(e)(c)Unsealing of Documents.</u> Documents sealed by the Court may be unsealed at any time upon motion of a party or non-party or by the Court <i>sua sponte</i>, provided that the parties first are given notice and an opportunity to be heard.</p>			

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 103	<p>LR Gen 103 COURTROOM PRACTICE</p> <p>*****</p> <p>(d) Exhibits.</p> <p>(1) Custody. Unless otherwise ordered by the Court, the Clerk shall maintain custody of all exhibits marked for identification and/or admitted into evidence in any proceeding <u>except for sensitive exhibits. Sensitive exhibits, including but not limited to, narcotics and other controlled substances, firearms, ammunition, explosive devices, jewelry, liquor, poisonous or dangerous chemicals, money or articles of high monetary value, counterfeit currency, and biological hazards shall be retained by the party offering the exhibit prior to, throughout, and after the trial or proceeding.</u></p> <p>(2) Preservation. When necessary in order to complete the record, the Court shall permit a party to photograph or otherwise copy a chalk, or print or otherwise reproduce any electronic images and markings thereon, or to preserve any other item shown to the fact-finder.</p> <p>(3)(2) Disposition. Unless otherwise ordered by the Court, within 30 days after the appeal is concluded or the time for appeal has expired <u>the final disposition of the case, exhibits in the custody of the Clerk may must be removed from the Clerk's office by the party that presented the exhibit. Exhibits not so removed may will be destroyed or otherwise disposed of by the Clerk.</u></p> <p>*****</p>	<p>The General Rules Subcommittee recommended that since the proposed amendment affected all practitioners, it should be discussed by the full LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED.</p>	

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 111	<p>LR Gen 111 PHOTOGRAPHING; RECORDING; BROADCASTING</p> <p>(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.</p> <p>(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. *[see Comment, end of Rule]</p>		PROPOSED CHANGED ACCEPTED.	
LR Gen 112	<p>LR Gen 112 USE OF ELECTRONIC DEVICES</p> <p>(a) General Prohibition on Electronic Devices. Except as provided in subsection (b) (c) of this rule or expressly authorized by the Court, no person shall bring into the Courthouse or that portion of the John O. Pastore Building that is occupied by the Court any <u>electronic device of any kind that has the capability</u> <u>capable</u> of sending or receiving communications, making sound or video recordings, or making, recording or transmitting photographs or videos.*[see Comment, end of Rule]</p> <p>(b) <u>Photographing, Recording, and Broadcasting.</u> <u>Except to the extent expressly authorized by the Court, no person shall photograph, record, broadcast, or otherwise transmit any proceeding,</u></p>		<p>PROPOSED CHANGE ACCEPTED WITH THE FOLLOWING REVISION TO LR Gen 112(c)(1)(C).</p> <p>(C) Unauthorized use of electronic devices may result in <u>the user being required to relinquish the device to the custody of the United States Marshal until released by a judicial officer</u> and/or imposition of sanctions.</p>	

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p><u>event, or activity held in the Courthouse or portion of the John O. Pastore Building occupied by the Court. The Court may permit photographing, recording or broadcasting of ceremonial proceedings upon such terms and conditions as the Court may specify.</u></p> <p>(b)(c) <u>Electronic Devices. Exceptions.</u> Electronic devices, including but not limited to cellular or smart phones, laptops, and tablets, may be brought into <u>and used within</u> the Courthouse or that portion of the John O. Pastore Building that is occupied by the Court only by attorneys or those having express authorization <u>individuals authorized pursuant to this subsection, and only upon the following conditions:</u></p> <p><u>(1) Use of Electronic Devices by Attorneys.</u> <u>Unless the Court otherwise orders, attorneys may use electronic devices in the Courthouse and portion of the John O. Pastore Building occupied by the Court, including courtrooms and chambers, upon the following conditions:</u></p> <p style="padding-left: 40px;"><u>(A) Use of electronic devices shall not be disruptive of Court proceedings;</u></p> <p style="padding-left: 40px;"><u>(B) Use of electronic devices does not conflict with (b) or any other provision of the Local Rules, Court order, or statute;</u></p> <p style="padding-left: 40px;"><u>(C) Unauthorized use of electronic devices may result in confiscation of the device and/or imposition of sanctions.</u></p> <p><u>(2) Use of Electronic Devices by Media.</u> <u>Unless the Court otherwise orders, members of the media who have been authorized to bring</u></p>			

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p><u>and use electronic devices in the Courthouse and portion of the John O. Pastore Building occupied by the Court, may use those devices under the conditions set forth in (b) and (c)(1) in the courtrooms of those judicial officers who have approved such usage. The Clerk will maintain lists of authorized individuals and those judicial officers who have approved such usage.</u></p> <p>(1) Unless the use of the electronic device is expressly authorized by the presiding judicial officer, before entering any courtroom, chambers or Grand Jury room, anyone carrying an electronic device shall at the direction of the presiding judicial officer either:</p> <p style="padding-left: 40px;">(A) turn off the device completely and keep the device turned off during all times in the courtroom, chambers or Grand Jury room; or</p> <p style="padding-left: 40px;">(B) check it with the courtroom clerk or court security officer at that location.</p> <p>(2) Upon entering the building, any person carrying an electronic device shall acknowledge and agree that, upon violation of the conditions set forth in paragraph (1) above and/or of any other limitations placed on the use of such instruments, said device may be confiscated.</p>			
LR Gen 113	Matthew T. Oliverio suggested that the LRRC consider an amendment to LR Gen 113 to shift the LRRC's reporting period from yearly to every two years.	The General Rules Subcommittee did not recommend adoption of the proposed change.	PROPOSED CHANGE REJECTED.	

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 202	<p>LR Gen 202 ELIGIBILITY AND PROCEDURE FOR ADMISSION</p> <p>(a) Requirements for Admission. In order to be eligible for membership in the Bar of this Court, an attorney must:</p> <p>(1) Be a member in good standing of the Bar of the Supreme Court of the State of Rhode Island; and</p> <p>(2) Either:</p> <p>(A) Have completed the course of instruction on Federal Practice and Procedure given by this Court’s Board of Bar Admissions, or</p> <p>(B) Have at least 5 years of experience in practicing before federal courts <u>practice experience, or a combination of 5 years of federal practice and federal law clerk experience,</u> and certify that he or she has read and understands these Local Rules;</p> <p>and</p> <p>(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.</p> <p>*****</p>	The General Rules Subcommittee recommended adoption of the proposed change by the LRRC.	<p>PROPOSED CHANGE ACCEPTED WITH THE FOLLOWING REVISIONS.</p> <p>(B) Have at least 5 years of experience in practicing before federal courts <u>practice experience, or a combination of federal practice and federal law clerk experience that totals at least five years,</u> and certify that he or she has read and understands these Local Rules;</p>	

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 303	<p>LR Gen 303 SPECIAL FILING REQUIREMENTS *****</p> <p>(c) Other Documents to be Conventionally Filed. The following documents must be conventionally filed:</p> <p>(1) Motions to file documents under seal and documents filed under seal;</p> <p>(2)<u>(1)</u> Records of administrative review proceedings other than social security cases;</p> <p>(3)<u>(2)</u> The state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings;</p> <p>(4)<u>(3)</u> <i>Ex parte</i> motions and applications;</p> <p>(5)<u>(4)</u> Consent to Proceed Before a Magistrate Judge;</p> <p>(6)<u>(5)</u> All pleadings and documents filed by prisoner <i>pro se</i> litigants and non-prisoner <i>pro se</i> litigants not granted permission to file documents electronically;</p> <p>(7)<u>(6)</u> The charging document in a criminal case, such as the complaint, indictment and information;</p> <p>(8)<u>(7)</u> Affidavits for search and arrest warrants and related papers;</p> <p>(9)<u>(8)</u> Fed. R. Crim. P. 20 and Fed. R. Crim. P. 5 papers received from another court;</p> <p>(10)<u>(9)</u> Any pleading or document in a criminal case containing the signature of a defendant, such as a waiver of indictment or plea agreement; and</p> <p>(11)<u>(10)</u> Appearance Bonds.</p>	The General Rules Subcommittee recommended adoption of the proposed change by the LRRC.	PROPOSED CHANGE ACCEPTED.	(Note: The proposed amendment to LR Gen 303 is contingent on the adoption of the proposed amendment to LR Gen 102. If the Court chooses not to adopt the proposed amendment to LR Gen 102, the proposed amendment to LR Gen 303 will be withdrawn.)

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 309	<p>LR Gen 309 SERVICE OF DOCUMENTS BY ELECTRONIC MEANS</p> <p>*****</p> <p>(e) — Time. Service by electronic means shall be treated the same as service by mail for the purpose of adding 3 days to the prescribed period to respond.</p> <p>****</p>	<p>The General Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED.</p>	

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

Civil Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Cv 54	<p style="text-align: center;">LR Cv 54 COSTS</p> <p style="text-align: center;">*****</p> <p>(c) Taxation by Clerk. On or after 14 days following the filing of a bill of costs, the Clerk shall <u>may</u> tax those costs which appear to be properly claimed. <u>The Clerk and</u> shall notify all parties of the costs allowed.</p> <p style="text-align: center;">*****</p>	<p>The Civil Rules Subcommittee recommended adoption of the proposed amendment with the following revision to section (c):</p> <p>(c) Taxation by Clerk. <u>The taxation of costs shall be in accordance with Fed. R. Civ. P. 54(d)(1).</u> The Clerk shall notify all parties of the costs allowed.</p>	<p style="text-align: center;">PROPOSED CHANGE ACCEPTED AS MODIFIED BY THE CIVIL RULES SUBCOMMITTEE.</p>	
LR Cv 55	<p>The Civil Rules Subcommittee suggested LR Cv 55 be amended to simplify the process of obtaining a default and default judgment under the Local Rules. The Civil Rules Subcommittee revisited a proposed amendment originally adopted by the LRRC during the 2010-11 local rules review cycle.</p>	<p style="text-align: center;"><u>LR CV 55 MOTIONS FOR DEFAULT AND DEFAULT JUDGMENT</u></p> <p>A motion for entry of default or entry of a default judgment made against a party not represented by counsel shall be accompanied by a certification that:</p> <p>(a) Notice of the motion was given to the party against whom a default or default judgment is sought by both regular mail, postage prepaid, and by certified or registered mail, return receipt requested. A copy of the return receipt shall be appended to the certification;</p> <p>(a) Default: The clerk shall enter a default upon an application by the plaintiff that conforms to the requirements of Fed. R. Civ. P. 55(a).</p> <p>(b) To the best of the movant's knowledge, the address set forth in such certification is the last known address of that party; and</p> <p>(b) Default judgment: Not less than 14 days after filing of a motion for entry of default judgment made against a party not represented by counsel, the moving plaintiff shall file with the court a certification that:</p> <p style="text-align: center;"><u>1. The party against whom a default</u></p>	<p style="text-align: center;">PROPOSED AMENDMENT ACCEPTED WITH THE FOLLOWING REVISIONS:</p> <p>(a) Default: The clerk shall enter a default upon an application by the plaintiff <u>a party</u> that conforms to the requirements of Fed. R. Civ. P. 55(a).</p> <p>(b) Default judgment: Not less than 14 days after filing of a motion for entry of default judgment made against a party not represented by counsel, the moving plaintiff <u>party</u> shall file with the court a certification that:</p> <p style="padding-left: 20px;">1. The party against whom a default judgment is sought is not in the military service of the United States as defined in <u>by</u> the Servicemembers Civil Relief Act of 2003, as amended; and;</p> <p style="padding-left: 20px;">2. That <u>Notice of the motion was served on</u> sent <u>to</u> the party against whom the judgment is sought by first class mail and certified mail, return receipt requested, at the address where the party was served with process, and the party's</p>	

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

Civil Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
		<p><u>judgment is sought is not in the military service of the United States as defined in the by the Servicemembers Civil Relief Act of 2003, as amended; and;</u></p> <p><u>2. That notice of the motion was served on the party against whom the judgment is sought by first class mail and certified mail, return receipt requested, at the address where the party was served with process, and the party’s last known address, if different. The certificate shall include the return receipt, or, if unavailable, a statement of the measures taken to attempt service and verify receipt by the defaulted party.</u></p> <p>e) The party against whom a default or default judgment is sought is not in the military service of the United States as defined in the Servicemembers Civil Relief Act of 2003, as amended.</p>	<p>last known address, if different. The certificate shall include the return receipt, or, if unavailable, a statement of the measures taken to attempt service and verify receipt by the defaulted party.</p>	
<p>Suggestion from the Bar</p>	<p>During the 2011-12 cycle, Girard Visconti, Esq. and Marc DeSisto, Esq. proposed that the Court adopt a rule requiring <i>pro se</i> litigants to certify that an attorney has not drafted the documents that they filed with the Court. The Civil Rules Subcommittee elected to table that suggestion three times, pending a Rhode Island Supreme Court decision addressing the issue. On June 8, 2015, the Rhode Island Supreme Court issued an order on “Limited-Scope Representation in Rhode Island, Drafting Assistance to <i>Pro Se</i> Litigants,” which spelled out the Supreme Court’s policy on the ghostwriting of pleadings by a member of the bar on behalf of a <i>pro se</i> litigant. The Supreme Court opened this policy to public comment until January 15, 2016, and have not issued any subsequent orders regarding ghostwriting.</p>		<p>The Rhode Island Supreme Court issued a decision in three related ghostwriting cases on June 8, 2015. (See, <i>FIA Card Services, NA v. Pichette</i>, No. 2012-272-Appeal.) In that decision, they put forth a policy regarding the scope and nature of assistance that attorneys may provide to <i>pro se</i> litigants. The Supreme Court invited public comment on the policy, and has not issued a final policy as of the date of this report. In light of this, the LRRC tabled the suggestion for reconsideration during the 2016-17 local rules review cycle.</p>	

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

Criminal Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Cr 44	<p>LR Cr 44 PROCEEDINGS INVOLVING AN INDIGENT DEFENDANT</p> <p>*****</p> <p>(b) CJA Attorneys—Fees and Expenses. An attorney appointed to represent an indigent defendant under the Criminal Justice Act shall complete and file a voucher for fees and expenses on the appropriate forms promptly after completing the services rendered and no later than 45 days after disposition of the case.</p> <p>*****</p>	<p>The Criminal Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED.</p>	

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



UNITED STATES DISTRICT COURT
District of Rhode Island

**AMENDED 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 a proposed amendment to the Court's Local Rules is being considered for adoption.

On September 30, 2016, the Court invited public comment on the following proposed amendments to the Local Rules: LR Gen 102, LR Gen 103, LR Gen 111, LR Gen 112, LR Gen 202, LR Gen 309, LR Cv 54, LR Cv 55, and LR Cr 44.

In addition to the above-referenced proposed amendments, the Court also invites public comment on a proposed amendment to LR Gen 303.

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.

Due to the addition of LR Gen 303 to the group of proposed amendments already open for public comment, the deadline for public comment on all of the proposed amendments to the Local Rules has been extended to November 10, 2016. Any comments must be submitted in writing to the Clerk's Office, or by e-mail to Local_Rules@rid.uscourts.gov.

OCTOBER 21, 2016

DAVID A. DiMARZIO
CLERK OF COURT

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.~~
- ~~(e) **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 order denying the motion to seal shall be docketed, 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 and unless otherwise ordered by the Court, the motion to seal, the order granting the motion to seal, and 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 to seal and the order denying the motion to seal shall be docketed, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.~~

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

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

2. Service of Motions to Seal.

A. Civil Cases. A motion to seal in a civil case may be served electronically if the party has consented to electronic filing pursuant to LR Gen 304(c) and LR Gen 309(b). Parties who are ineligible to file and receive documents electronically or exempt from electronic filing must be served conventionally pursuant to LR Cv 5.1(b).

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

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

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

LR Gen 103 COURTROOM PRACTICE

- (a) **Addressing the Court.** Counsel shall stand at the podium when addressing the Court and when examining and cross-examining witnesses unless the Court expressly excuses counsel from standing.
- (b) **Registering Objections.** When registering an objection, counsel shall state the legal grounds for the objection (e.g., leading, hearsay, etc.) and/or the Rule of Evidence upon which counsel relies (e.g., 404(b)) but shall not argue or make any further comment unless requested by the Court.
- (c) **Witnesses.**
- (1) **Scheduling.** Counsel shall schedule witnesses in a manner that ensures that there will be no delays in trial.
 - (2) **Examination.** No witness may be examined by more than one attorney representing a party unless the Court otherwise permits.
 - (3) **Attorneys as Witnesses.** An attorney shall not testify in a trial or evidentiary hearing in a case in which that attorney participates as counsel, except to the extent allowed by the Standards of Professional Conduct set forth in LR Gen 208 and permitted by the Court.
- (d) **Exhibits.**
- (1) **Custody.** Unless otherwise ordered by the Court, the Clerk shall maintain custody of all exhibits marked for identification and/or admitted into evidence in any proceeding except for sensitive exhibits. Sensitive exhibits, including but not limited to, narcotics and other controlled substances, firearms, ammunition, explosive devices, jewelry, liquor, poisonous or dangerous chemicals, money or articles of high monetary value, counterfeit currency, and biological hazards shall be retained by the party offering the exhibit prior to, throughout, and after the trial or proceeding.
 - ~~(2)~~ **Preservation.** ~~When necessary in order to complete the record, the Court shall permit a party to photograph or otherwise copy a chalk, or print or otherwise reproduce any electronic images and markings thereon, or to preserve any other item shown to the fact finder.~~
 - ~~(3)~~**(2) Disposition.** Unless otherwise ordered by the Court, within 30 days after the appeal is concluded or the time for appeal has expired ~~the final disposition of the case, exhibits in the custody of the Clerk may~~ must be removed ~~from the Clerk's office~~ by the party that presented the exhibit. Exhibits not so removed ~~may~~ will be destroyed or otherwise disposed of by the Clerk.

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. ***[see Comment, end of Rule]**~~

***COMMENT**

~~Pursuant to the General Order dated January 31, 2014, authorized members of the media may use electronic devices in the courtrooms of the judicial officers who have approved a standing exemption to LR Gen 111 and LR Gen 112. Please consult the General Order dated January 31, 2014, and related materials available on the Court's website.~~

LR Gen 112 USE OF ELECTRONIC DEVICES

- (a) **General Prohibition on Electronic Devices.** Except as provided in subsection ~~(b)~~ (c) of this rule or expressly authorized by the Court, no person shall bring into the Courthouse or ~~that~~ portion of the John O. Pastore Building ~~that is~~ occupied by the Court any electronic device of any kind that has the capability capable of sending or receiving communications, making sound or video recordings, or making, recording or transmitting photographs or videos.* ~~[see Comment, end of Rule]~~
- (b) **Photographing, Recording, and Broadcasting.** Except to the extent expressly authorized by the Court, no person shall photograph, record, broadcast, or otherwise transmit any proceeding, event, or activity held in the Courthouse or portion of the John O. Pastore Building occupied by the Court. The Court may permit photographing, recording or broadcasting of ceremonial proceedings upon such terms and conditions as the Court may specify.
- ~~(b)~~(c) **Electronic Devices. Exceptions.** Electronic devices, including but not limited to cellular or smart phones, laptops, and tablets, may be brought into and used within the Courthouse or ~~that~~ portion of the John O. Pastore Building ~~that is~~ occupied by the Court only by ~~attorneys or those having express authorization~~ individuals authorized pursuant to this subsection. and only upon the following conditions:
- (1) **Use of Electronic Devices by Attorneys.** Unless the Court otherwise orders, attorneys may use electronic devices in the Courthouse and portion of the John O. Pastore Building occupied by the Court, including courtrooms and chambers, upon the following conditions:
- (A) Use of electronic devices shall not be disruptive of Court proceedings;
- (B) Use of electronic devices does not conflict with (b) or any other provision of the Local Rules, Court order, or statute;
- (C) Unauthorized use of electronic devices may result in the user being required to relinquish the device to the custody of the United States Marshal until released by a judicial officer and/or imposition of sanctions.
- (2) **Use of Electronic Devices by Media.** Unless the Court otherwise orders, members of the media who have been authorized to bring and use electronic devices in the Courthouse and portion of the John O. Pastore Building occupied by the Court, may use those devices under the conditions set forth in (b) and (c)(1) in the courtrooms of those judicial officers who have approved such usage. The Clerk will maintain lists of authorized individuals and those judicial officers who have approved such usage.
- ~~(1) Unless the use of the electronic device is expressly authorized by the presiding judicial officer, before entering any courtroom, chambers or Grand Jury room, anyone carrying an electronic device shall at the direction of the presiding judicial officer either:~~

~~(A) turn off the device completely and keep the device turned off during all times in the courtroom, chambers or Grand Jury room; or~~

~~(B) check it with the courtroom clerk or court security officer at that location.~~

~~(2) Upon entering the building, any person carrying an electronic device shall acknowledge and agree that, upon violation of the conditions set forth in paragraph (1) above and/or of any other limitations placed on the use of such instruments, said device may be confiscated.~~

***COMMENT**

~~Pursuant to the General Order dated January 31, 2014, authorized members of the media may use electronic devices in the courtrooms of the judicial officers who have approved a standing exemption to LR Gen 111 and LR Gen 112. Please consult the General Order dated January 31, 2014, and related materials available on the Court's website.~~

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~~ practice experience, or a combination of federal practice and federal law clerk experience that totals at least 5 years, 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 303 SPECIAL FILING REQUIREMENTS

(a) **Civil Case Opening Documents.**

- (1) **Complaints and Notices of Removal.** Absent an exemption under LR Gen 302, complaints or notices of removal, together with the civil cover sheet and a summons for each defendant to be served, shall be filed electronically, and the required filing fee shall be paid at the time of filing. The Clerk's Office will issue a summons for each defendant to be served to the filer.
- (2) **Other Civil Case Initiating Documents.** Civil case initiating documents not mentioned in (a)(1), or to be filed under seal, shall be filed conventionally, together with the civil cover sheet, a summons for each defendant to be served, and the required filing fee. The Clerk's Office will issue a summons for each defendant to be served to the filer.

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

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

- ~~(1)~~ ~~Motions to file documents under seal and documents filed under seal;~~
- ~~(2)~~(1) Records of administrative review proceedings other than social security cases;
- ~~(3)~~(2) The state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings;
- ~~(4)~~(3) *Ex parte* motions and applications;
- ~~(5)~~(4) Consent to Proceed Before a Magistrate Judge;
- ~~(6)~~(5) All pleadings and documents filed by prisoner *pro se* litigants and non-prisoner *pro se* litigants not granted permission to file documents electronically;
- ~~(7)~~(6) The charging document in a criminal case, such as the complaint, indictment and information;
- ~~(8)~~(7) Affidavits for search and arrest warrants and related papers;
- ~~(9)~~(8) Fed. R. Crim. P. 20 and Fed. R. Crim. P. 5 papers received from another court;
- ~~(10)~~(9) Any pleading or document in a criminal case containing the signature of a defendant, such as a waiver of indictment or plea agreement; and
- ~~(11)~~(10) Appearance Bonds.

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

Unless otherwise required by statute, rule, or court order, documents that require an original signature(s) other than that of the Filing User must be submitted in a scanned PDF format, and the Filing User must maintain the document with the original signature in accordance with LR Gen 307.

LR Gen 309 SERVICE OF DOCUMENTS BY ELECTRONIC MEANS

- (a) **Notice of Electronic Filing.** Whenever a pleading or other document is filed electronically, the ECF system will automatically generate and send a NEF to the Filing User and registered users of record. The user filing the document should retain a paper or digital copy of the NEF, which shall serve as the Court's date-stamp and proof of filing.
- (b) **NEF as Service.** Transmission of the NEF shall constitute service of the filed document and shall be deemed to satisfy the requirements of Fed. R. Civ. P. 5(b)(2)(E), Fed. R. Civ. P. 77(d) and Fed. R. Crim. P. 49(b).
- (c) **Certificates of Service on Electronically Filed Documents.** All documents filed using the ECF system shall include a certificate of service stating that the document has been filed electronically and that it is available for viewing and downloading from the ECF system. The certificate of service must identify the manner in which the service on each party was accomplished.
- (d) **Exemptions.** Attorneys and *pro se* litigants who are not Filing Users must be conventionally served with any electronically filed documents in accordance with the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.
- ~~(e) **Time.** Service by electronic means shall be treated the same as service by mail for the purpose of adding 3 days to the prescribed period to respond.~~

LR Cv 54 COSTS

- (a) **Timing of Request.** Within 14 days after entry of judgment, a party seeking an award of costs shall file and serve on all other parties a bill of costs. Failure to file a bill of costs within that time shall constitute a waiver of any claim for costs unless the Court otherwise orders, for good cause shown.
- (b) **Form of Request.**
- (1) A bill of costs shall be prepared on forms provided by the Clerk's Office and shall specify each item of costs claimed.
 - (2) A bill of costs shall be supported by a memorandum of law and an affidavit that:
 - (A) the amounts listed in the bill of costs are correct; and
 - (B) all services reflected in the bill of costs were actually performed and were necessary to the presentation of the applicant's case; and
 - (C) all disbursements reflected in the bill of costs represent obligations actually incurred and necessary to the presentation of the applicant's case; and
 - (D) all costs are properly claimed and allowable.
- (c) **Taxation by Clerk.** ~~On or after 14 days following the filing of a bill of costs, the Clerk shall tax those costs which appear to be properly claimed.~~ The taxation of costs shall be in accordance with Fed. R. Civ. P. 54(d)(1). ~~The Clerk and~~ shall notify all parties of the costs allowed.
- (d) **Motion to Review the Clerk's Action.** The taxation of costs by the Clerk shall be final unless modified by the Court. Any challenge to the costs taxed by the Clerk shall be in the form of a motion, which motion shall be served and filed within 7 days after notification pursuant to subsection (c) of this Rule, and shall be supported by a memorandum of law stating the reason for the challenge and the authorities upon which the moving party relies. Within 7 days of the filing of the motion, any party objecting to the motion may file a response.
- (e) **Resolution of Motion.** Within 14 days after a motion to review the Clerk's action is filed, all interested parties shall meet and confer in an effort to resolve the motion. The meeting shall be initiated by the moving party, who shall notify the Court promptly as to whether the issues have been resolved. If all issues have been resolved, the parties shall promptly submit a proposed order. If all issues have not been resolved, the Court will make a final determination with respect to the taxation of costs.

LR Cv 55 ~~MOTIONS FOR DEFAULT AND DEFAULT JUDGMENT~~

~~A motion for entry of default or entry of a default judgment made against a party not represented by counsel shall be accompanied by a certification that:~~

- ~~(a) — Notice of the motion was given to the party against whom a default or default judgment is sought by both regular mail, postage prepaid, and by certified or registered mail, return receipt requested. A copy of the return receipt shall be appended to the certification;~~
- ~~(a) Default: The Clerk shall enter a default upon an application by a party that conforms to the requirements of Fed. R. Civ. P. 55(a).~~
- ~~(b) — To the best of the movant's knowledge, the address set forth in such certification is the last known address of that party; and~~
- ~~(b) Default judgment: Not less than 14 days after filing of a motion for entry of default judgment made against a party not represented by counsel, the moving party shall file with the Court a certification that:~~
 - ~~1. The party against whom a default judgment is sought is not in the military service of the United States as defined by the Servicemembers Civil Relief Act of 2003, as amended; and;~~
 - ~~2. Notice of the motion was sent to the party against whom the judgment is sought by first class mail and certified mail, return receipt requested, at the address where the party was served with process, and the party's last known address, if different. The certificate shall include the return receipt, or, if unavailable, a statement of the measures taken to attempt service and verify receipt by the defaulted party.~~
- ~~(c) — The party against whom a default or default judgment is sought is not in the military service of the United States as defined in the Servicemembers Civil Relief Act of 2003, as amended.~~

LR Cr 44 PROCEEDINGS INVOLVING AN INDIGENT DEFENDANT

(a) Appointment of Counsel by the Court.

- (1) If, based on a financial affidavit of a defendant, the Court determines that the defendant is financially unable to retain private counsel, the Court shall appoint the Federal Defender or an attorney on the Court's Criminal Justice Act Panel (CJA Attorney) to represent that defendant.
- (2) If the Federal Defender is unable to represent the defendant due to a conflict of interest or for any other reason, the Federal Defender shall request that a CJA Attorney be appointed to represent the defendant.
- (3) If the Court determines that a defendant has some assets from which to pay attorneys' fees, the Court may, at any time, order the defendant to pay all or any portion of any attorneys' fees incurred.

(b) CJA Attorneys—Fees and Expenses. An attorney appointed to represent an indigent defendant under the Criminal Justice Act shall complete and file a voucher for fees and expenses ~~on the appropriate forms~~ promptly after completing the services rendered and no later than 45 days after disposition of the case.

(c) Continuing Duty of Representation. Immediately after sentencing, counsel shall:

- (1) inform the defendant of any right that the defendant may have to appeal his conviction and/or sentence; and
- (2) consult with the defendant to determine whether the defendant desires to appeal; and, if so, take whatever steps may be necessary to file a notice of appeal and protect any appellate rights that the defendant may have unless and until other appellate counsel is appointed by the Court of Appeals.

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

AMENDMENTS TO LOCAL RULES

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 102	<p>LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION</p> <p>*****</p> <p>(b) Sealed Documents Generally.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(e) 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</p>	<p>The General Rules Subcommittee recommended adoption of the proposed amendment with the following changes to the revised sections (b)(1) and (b)(3) of the rule:</p> <p>(1) Filing of Sealed Documents. Documents may be sealed by order of the Court only upon the filing of a motion to seal. The motion to seal, a separate memorandum stating the basis for the sealing as required by LR Cv 7 and LR Cr 47, and the document(s) subject to the motion to seal must be filed electronically and will remain provisionally under seal until the Court rules on the motion. Documents submitted by a party under seal, provisionally or otherwise, must be stamped or labeled by the party on the cover page "FILED UNDER SEAL."</p> <p>If the Court denies the motion to seal, the document(s) subject to the motion to seal will not be accepted for filing in the case.</p> <p>*****</p> <p>(3) Limited Sealed Filings and Redactions. Rather than automatically requesting the sealing of an entire motion or other filing, parties should consider whether redaction would be sufficient.</p>	<p>PROPOSED CHANGE ACCEPTED AS MODIFIED BY THE GENERAL RULES SUBCOMMITTEE.</p>	<p>COURT APPROVED CHANGE WITH THE FOLLOWING CHANGE TO (b)(3).</p> <p>(3) Limited Sealed Filings and Redactions. Rather than automatically requesting the sealing of an entire motion or other filing, parties should <u>shall</u> consider whether redaction would be sufficient. If only a portion of a document contains confidential information, the party requesting sealing pursuant to (b)(1) shall file both an unredacted version of the document and a redacted version that excises the confidential information.</p>

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p>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 order denying the motion to seal shall be docketed, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.</p> <p>(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 and unless otherwise ordered by the Court, the motion to seal, the order granting the motion to seal, and 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 to seal and the order denying the motion to seal shall be docketed, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.</p> <p><u>1. Filing of Sealed Documents. Documents may be sealed by order of the Court only upon the filing of a motion to seal. The motion to seal, a separate memorandum stating the basis for the sealing as required by LR Cv 7 and LR Cr 47, and the document(s) subject to the motion to seal must be filed electronically and will remain provisionally under seal until the Court rules on the motion. Documents submitted by a party under seal, provisionally or otherwise, must be stamped or labeled by the party on the cover "FILED UNDER</u></p>	<p>argument relating to sealed materials may be contained in a separate supplemental motion or filing, which may then be sealed in accordance with the procedures in (b)(1). If only a portion of a document contains confidential information, the party requesting sealing pursuant to (b)(1) shall file both an unredacted version of the document and a redacted version that excises the confidential information.</p>		

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p><u>SEAL.”</u></p> <p><u>If the Court denies the motion to seal, the document(s) subject to the motion to seal will not be accepted for filing in the case.</u></p> <p><u>2. Service of Motions to Seal.</u></p> <p><u>A. Civil Cases. A motion to seal in a civil case may be served electronically if the party has consented to electronic filing pursuant to LR Gen 304(c) and LR Gen 309(b). Parties who are ineligible to file and receive documents electronically or exempt from electronic filing must be served conventionally pursuant to LR Cv 5.1(b).</u></p> <p><u>B. Criminal Cases. A motion to seal in a criminal case must be conventionally served on all parties in the case pursuant to LR Cv 5.1(b).</u></p> <p><u>3. Limiting Sealed Filings and Redactions. Rather than automatically requesting the sealing of an entire motion or other filing, parties should consider whether argument relating to sealed materials may be contained in a separate supplemental motion or filing, which may then be sealed in accordance with the procedures in (b)(1). If only a portion of a document contains confidential information, the party requesting sealing shall file both an unredacted version of the document and a redacted version that excises the confidential information.</u></p> <p><u>(e)(c)Unsealing of Documents.</u> Documents sealed by the Court may be unsealed at any time upon motion of a party or non-party or by the Court <i>sua sponte</i>, provided that the parties first are given notice and an opportunity to be heard.</p>			

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 103	<p>LR Gen 103 COURTROOM PRACTICE</p> <p>*****</p> <p>(d) Exhibits.</p> <p>(1) Custody. Unless otherwise ordered by the Court, the Clerk shall maintain custody of all exhibits marked for identification and/or admitted into evidence in any proceeding <u>except for sensitive exhibits. Sensitive exhibits, including but not limited to, narcotics and other controlled substances, firearms, ammunition, explosive devices, jewelry, liquor, poisonous or dangerous chemicals, money or articles of high monetary value, counterfeit currency, and biological hazards shall be retained by the party offering the exhibit prior to, throughout, and after the trial or proceeding.</u></p> <p>(2) Preservation. When necessary in order to complete the record, the Court shall permit a party to photograph or otherwise copy a chalk, or print or otherwise reproduce any electronic images and markings thereon, or to preserve any other item shown to the fact-finder.</p> <p>(3)(2) Disposition. Unless otherwise ordered by the Court, within 30 days after the appeal is concluded or the time for appeal has expired <u>the final disposition of the case, exhibits in the custody of the Clerk may must be removed from the Clerk's office by the party that presented the exhibit. Exhibits not so removed may will be destroyed or otherwise disposed of by the Clerk.</u></p> <p>*****</p>	<p>The General Rules Subcommittee recommended that since the proposed amendment affected all practitioners, it should be discussed by the full LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED.</p>	<p>COURT APPROVED CHANGE.</p>

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 111	<p>LR Gen 111 PHOTOGRAPHING; RECORDING; BROADCASTING</p> <p>(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.</p> <p>(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. *[see Comment, end of Rule]</p>		PROPOSED CHANGED ACCEPTED.	COURT APPROVED CHANGE.
LR Gen 112	<p>LR Gen 112 USE OF ELECTRONIC DEVICES</p> <p>(a) General Prohibition on Electronic Devices. Except as provided in subsection (b) (c) of this rule or expressly authorized by the Court, no person shall bring into the Courthouse or that portion of the John O. Pastore Building that is occupied by the Court any <u>electronic device of any kind that has the capability</u> <u>capable</u> of sending or receiving communications, making sound or video recordings, or making, recording or transmitting photographs or videos. *[see Comment, end of Rule]</p> <p>(b) Photographing, Recording, and Broadcasting. <u>Except to the extent expressly authorized by the Court, no person shall photograph, record, broadcast, or otherwise transmit any proceeding,</u></p>		<p>PROPOSED CHANGE ACCEPTED WITH THE FOLLOWING REVISION TO LR Gen 112(c)(1)(C).</p> <p>(C) Unauthorized use of electronic devices may result in <u>the user being required to relinquish the device to the custody of the United States Marshal until released by a judicial officer</u> and/or imposition of sanctions.</p>	COURT APPROVED CHANGE.

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p><u>event, or activity held in the Courthouse or portion of the John O. Pastore Building occupied by the Court. The Court may permit photographing, recording or broadcasting of ceremonial proceedings upon such terms and conditions as the Court may specify.</u></p> <p>(b)(c) <u>Electronic Devices. Exceptions.</u> Electronic devices, including but not limited to cellular or smart phones, laptops, and tablets, may be brought into <u>and used within the Courthouse or that portion of the John O. Pastore Building that is occupied by the Court only by attorneys or those having express authorization individuals authorized pursuant to this subsection, and only upon the following conditions:</u></p> <p><u>(1) Use of Electronic Devices by Attorneys.</u> <u>Unless the Court otherwise orders, attorneys may use electronic devices in the Courthouse and portion of the John O. Pastore Building occupied by the Court, including courtrooms and chambers, upon the following conditions:</u></p> <p style="padding-left: 40px;"><u>(A) Use of electronic devices shall not be disruptive of Court proceedings;</u></p> <p style="padding-left: 40px;"><u>(B) Use of electronic devices does not conflict with (b) or any other provision of the Local Rules, Court order, or statute;</u></p> <p style="padding-left: 40px;"><u>(C) Unauthorized use of electronic devices may result in confiscation of the device and/or imposition of sanctions.</u></p> <p><u>(2) Use of Electronic Devices by Media.</u> <u>Unless the Court otherwise orders, members of the media who have been authorized to bring</u></p>			

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p><u>and use electronic devices in the Courthouse and portion of the John O. Pastore Building occupied by the Court, may use those devices under the conditions set forth in (b) and (c)(1) in the courtrooms of those judicial officers who have approved such usage. The Clerk will maintain lists of authorized individuals and those judicial officers who have approved such usage.</u></p> <p>(1) Unless the use of the electronic device is expressly authorized by the presiding judicial officer, before entering any courtroom, chambers or Grand Jury room, anyone carrying an electronic device shall at the direction of the presiding judicial officer either:</p> <p style="padding-left: 40px;">(A) turn off the device completely and keep the device turned off during all times in the courtroom, chambers or Grand Jury room; or</p> <p style="padding-left: 40px;">(B) check it with the courtroom clerk or court security officer at that location.</p> <p>(2) Upon entering the building, any person carrying an electronic device shall acknowledge and agree that, upon violation of the conditions set forth in paragraph (1) above and/or of any other limitations placed on the use of such instruments, said device may be confiscated.</p>			
LR Gen 113	Matthew T. Oliverio suggested that the LRRC consider an amendment to LR Gen 113 to shift the LRRC's reporting period from yearly to every two years.	The General Rules Subcommittee did not recommend adoption of the proposed change.	PROPOSED CHANGE REJECTED.	COURT APPROVED CHANGE.

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 202	<p>LR Gen 202 ELIGIBILITY AND PROCEDURE FOR ADMISSION</p> <p>(a) Requirements for Admission. In order to be eligible for membership in the Bar of this Court, an attorney must:</p> <p>(1) Be a member in good standing of the Bar of the Supreme Court of the State of Rhode Island; and</p> <p>(2) Either:</p> <p>(A) Have completed the course of instruction on Federal Practice and Procedure given by this Court’s Board of Bar Admissions, or</p> <p>(B) Have at least 5 years of experience in practicing before federal courts <u>practice experience, or a combination of 5 years of federal practice and federal law clerk experience,</u> and certify that he or she has read and understands these Local Rules;</p> <p>and</p> <p>(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.</p> <p>*****</p>	The General Rules Subcommittee recommended adoption of the proposed change by the LRRC.	<p>PROPOSED CHANGE ACCEPTED WITH THE FOLLOWING REVISIONS.</p> <p>(B) Have at least 5 years of experience in practicing before federal courts <u>practice experience, or a combination of federal practice and federal law clerk experience that totals at least five years,</u> and certify that he or she has read and understands these Local Rules;</p>	COURT APPROVED CHANGE.

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 303	<p>LR Gen 303 SPECIAL FILING REQUIREMENTS¹</p> <p style="text-align: center;">*****</p> <p>(c) Other Documents to be Conventionally Filed. The following documents must be conventionally filed:</p> <p>(1) — Motions to file documents under seal and documents filed under seal;</p> <p>(2)<u>(1)</u> Records of administrative review proceedings other than social security cases;</p> <p>(3)<u>(2)</u> The state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings;</p> <p>(4)<u>(3)</u> <i>Ex parte</i> motions and applications;</p> <p>(5)<u>(4)</u> Consent to Proceed Before a Magistrate Judge;</p> <p>(6)<u>(5)</u> All pleadings and documents filed by prisoner <i>pro se</i> litigants and non-prisoner <i>pro se</i> litigants not granted permission to file documents electronically;</p> <p>(7)<u>(6)</u> The charging document in a criminal case, such as the complaint, indictment and information;</p> <p>(8)<u>(7)</u> Affidavits for search and arrest warrants and related papers;</p> <p>(9)<u>(8)</u> Fed. R. Crim. P. 20 and Fed. R. Crim. P. 5 papers received from another court;</p>	The General Rules Subcommittee recommended adoption of the proposed change by the LRRC.	PROPOSED CHANGE ACCEPTED.	COURT APPROVED CHANGE.

¹ The Local Rules Review Committee originally submitted its final report on August 3, 2016. The LRRC later amended the report on October 19, 2016, to include an additional proposed amendment to LR Gen 303 that was approved by the LRRC at its final meeting on May 18, 2016, but was not included in the LRRC’s original final report. (See, Meeting Minutes of the LRRC, May 18, 2016, Pg. 2.)

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

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p>(10)(9) Any pleading or document in a criminal case containing the signature of a defendant, such as a waiver of indictment or plea agreement; and</p> <p>(11)(10) Appearance Bonds.</p>			
LR Gen 309	<p>LR Gen 309 SERVICE OF DOCUMENTS BY ELECTRONIC MEANS</p> <p>*****</p> <p>(e) — Time. Service by electronic means shall be treated the same as service by mail for the purpose of adding 3 days to the prescribed period to respond.</p> <p>****</p>	The General Rules Subcommittee recommended adoption of the proposed change by the LRRC.	PROPOSED CHANGE ACCEPTED.	COURT APPROVED CHANGE.

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

Civil Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Cv 54	<p style="text-align: center;">LR Cv 54 COSTS</p> <p style="text-align: center;">*****</p> <p>(c) Taxation by Clerk. On or after 14 days following the filing of a bill of costs, the Clerk shall <u>may</u> tax those costs which appear to be properly claimed. <u>The Clerk and</u> shall notify all parties of the costs allowed.</p> <p style="text-align: center;">*****</p>	<p>The Civil Rules Subcommittee recommended adoption of the proposed amendment with the following revision to section (c):</p> <p>(c) Taxation by Clerk. <u>The taxation of costs shall be in accordance with Fed. R. Civ. P. 54(d)(1).</u> The Clerk shall notify all parties of the costs allowed.</p>	<p>PROPOSED CHANGE ACCEPTED AS MODIFIED BY THE CIVIL RULES SUBCOMMITTEE.</p>	<p>COURT APPROVED CHANGE.</p>
LR Cv 55	<p>The Civil Rules Subcommittee suggested LR Cv 55 be amended to simplify the process of obtaining a default and default judgment under the Local Rules. The Civil Rules Subcommittee revisited a proposed amendment originally adopted by the LRRC during the 2010-11 local rules review cycle.</p>	<p><u>LR CV 55 MOTIONS FOR DEFAULT AND DEFAULT JUDGMENT</u></p> <p>A motion for entry of default or entry of a default judgment made against a party not represented by counsel shall be accompanied by a certification that:</p> <p>(a) Notice of the motion was given to the party against whom a default or default judgment is sought by both regular mail, postage prepaid, and by certified or registered mail, return receipt requested. A copy of the return receipt shall be appended to the certification;</p> <p>(a) Default: The clerk shall enter a default upon an application by the plaintiff that conforms to the requirements of Fed. R. Civ. P. 55(a).</p> <p>(b) To the best of the movant's knowledge, the address set forth in such certification is the last known address of that party; and</p> <p>(b) Default judgment: Not less than 14 days after filing of a motion for entry of default judgment made against a party not represented by counsel, the moving plaintiff shall file with the court a certification that:</p> <p>1. The party against whom a default</p>	<p>PROPOSED AMENDMENT ACCEPTED WITH THE FOLLOWING REVISIONS:</p> <p>(a) Default: The clerk shall enter a default upon an application by the plaintiff <u>a party</u> that conforms to the requirements of Fed. R. Civ. P. 55(a).</p> <p>(b) Default judgment: Not less than 14 days after filing of a motion for entry of default judgment made against a party not represented by counsel, the moving plaintiff <u>party</u> shall file with the court a certification that:</p> <p>1. The party against whom a default judgment is sought is not in the military service of the United States as defined in <u>by</u> the Servicemembers Civil Relief Act of 2003, as amended; and</p> <p>2. That <u>Notice</u> of the motion was served on <u>sent</u> to the party against whom the judgment is sought by first class mail and certified mail, return receipt requested, at the address where the party was served with process, and the party's</p>	<p>COURT APPROVED CHANGE.</p>

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

Civil Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
		<p><u>judgment is sought is not in the military service of the United States as defined in the by the Servicemembers Civil Relief Act of 2003, as amended; and</u></p> <p><u>2. That notice of the motion was served on the party against whom the judgment is sought by first class mail and certified mail, return receipt requested, at the address where the party was served with process, and the party’s last known address, if different. The certificate shall include the return receipt, or, if unavailable, a statement of the measures taken to attempt service and verify receipt by the defaulted party.</u></p> <p>e) The party against whom a default or default judgment is sought is not in the military service of the United States as defined in the Servicemembers Civil Relief Act of 2003, as amended.</p>	<p>last known address, if different. The certificate shall include the return receipt, or, if unavailable, a statement of the measures taken to attempt service and verify receipt by the defaulted party.</p>	
<p>Suggestion from the Bar</p>	<p>During the 2011-12 cycle, Girard Visconti, Esq. and Marc DeSisto, Esq. proposed that the Court adopt a rule requiring <i>pro se</i> litigants to certify that an attorney has not drafted the documents that they filed with the Court. The Civil Rules Subcommittee elected to table that suggestion three times, pending a Rhode Island Supreme Court decision addressing the issue. On June 8, 2015, the Rhode Island Supreme Court issued an order on “Limited-Scope Representation in Rhode Island, Drafting Assistance to <i>Pro Se</i> Litigants,” which spelled out the Supreme Court’s policy on the ghostwriting of pleadings by a member of the bar on behalf of a <i>pro se</i> litigant. The Supreme Court opened this policy to public comment until January 15, 2016, and have not issued any subsequent orders regarding ghostwriting.</p>		<p>The Rhode Island Supreme Court issued a decision in three related ghostwriting cases on June 8, 2015. (See, <i>FIA Card Services, NA v. Pichette</i>, No. 2012-272-Appeal.) In that decision, they put forth a policy regarding the scope and nature of assistance that attorneys may provide to <i>pro se</i> litigants. The Supreme Court invited public comment on the policy, and has not issued a final policy as of the date of this report. In light of this, the LRRC tabled the suggestion for reconsideration during the 2016-17 local rules review cycle.</p>	<p>N/A</p>

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

Criminal Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Cr 44	<p>LR Cr 44 PROCEEDINGS INVOLVING AN INDIGENT DEFENDANT</p> <p>*****</p> <p>(b) CJA Attorneys—Fees and Expenses. An attorney appointed to represent an indigent defendant under the Criminal Justice Act shall complete and file a voucher for fees and expenses on the appropriate forms promptly after completing the services rendered and no later than 45 days after disposition of the case.</p> <p>*****</p>	<p>The Criminal Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED.</p>	<p>COURT APPROVED CHANGE.</p>

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



128 DORRANCE STREET, SUITE 400
PROVIDENCE, RI 02903
401.831.7171 (t)
401.831.7175 (f)
www.riaclu.org

COMMENTS ON LOCAL RULES OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND October 2016

The ACLU of Rhode Island appreciates the opportunity to comment on the proposed amendments to the U.S. District Court’s current Local Rules. Because we believe two of the proposed revisions to the rules may create unintended ambiguities, we urge that they be clarified.

1. LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION

The Court proposes to amend this section in relatively minor ways, but the deletion of certain language raises ambiguities about the proposal’s intent. Specifically, the current rule makes clear that both motions to seal documents and denials of such motions are to be docketed. The revisions to LR Gen 102 no longer contain such language, leaving it unclear whether such docketing will take place. In the interests of transparency, the ACLU of Rhode Island supports the current provisions, and urges the Court to revise these amendments to mirror the docketing requirements contained in the current rule.

We would also urge a minor amendment to LR Gen 102(b)(3), which provides that “[r]ather than automatically requesting the sealing of an entire motion or other filing, parties *should* consider whether redaction would be sufficient.” (emphasis added) We request that the word “should” be changed to “shall” to make clear that, as the next sentence in this subsection suggests, that filing an entire document under seal when only portions of it

contain confidential information is not appropriate. We believe this is an important safeguard in preventing unnecessary secrecy in the filing of court documents.

2. LR Gen 111 PHOTOGRAPHING; RECORDING; BROADCASTING

and LR Gen 112 USE OF ELECTRONIC DEVICES

The Court's proposed amendments would eliminate LR Gen 111 and merge it, in part, into LR Gen 112. We again wish to raise concerns about some ambiguities that these changes may be unintentionally creating.

First, current LR Gen 111(b) has a specific provision making clear that members of the public have a right to take notes in the courtroom providing they are not disruptive. This is a provision that the ACLU strongly supported and was pleased to see incorporated into the rules a few years ago. However, because LR Gen 112 focuses solely on electronic device use, the elimination of LR Gen 111(b) places in doubt whether members of the public will continue to be able to exercise the right to take notes. We urge that some version of LR Gen 111(b) be retained in the rules to avoid any confusion or misunderstandings.

Separately, we note that in revising these two sections of the rules, the amendments appear to implicitly withdraw a General Order of the Court, dated January 31, 2014, that provided additional guidelines for use of electronic devices by members of the media. That Order referenced a "Request for the Use of Electronic Devices Form," establishing a process for the Court to approve a media member's general ability to use such devices in the courtroom. The revised LR Gen 112(c)(2) makes reference to "members of the media who have been authorized to bring and use electronic devices in the Courthouse," but with the elimination of the 2014 General Order, no procedure for obtaining such authorization appears

to be publicly in place. In order to address this, we would suggest that the paragraph numbered “1” in the 2014 General Order be included in the rules.

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.

Submitted by Steven Brown, Executive Director

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND
Federal Building and U.S. Courthouse
One Exchange Terrace
Providence, RI 02903

DAVID A. DiMARZIO
Clerk of Court

November 28, 2016

Tel: (401) 752-7220
Fax: (401) 752-7246

Steven Brown, Esquire
Executive Director
American Civil Liberties Union
128 Dorrance Street, Suite 400
Providence, RI 02903

RE: Proposed Amendment to the Local Rules

Dear Mr. Brown:

On behalf of the Judges of this Court, I would like to thank you for your comments on the proposed amendments to the Court's Local Rules. We welcome these comments on proposed amendments since it allows us to consider the perspective of the bar and the public before amendments are incorporated into the Local Rules. More specifically, I wanted to respond to the concerns that you raised in the letter that you emailed to the Court on October 11, 2016, about three of the proposed amendments offered for public comment.

LR Gen 102

On the proposed amendment to LR Gen 102, you first raised a concern about the removal of the word "docketed" from the revised version of the rule. Under the existing version of LR Gen 102, last amended on December 1, 2015, the word "docketed" appears because documents related to a motion to seal are submitted to the Clerk's Office conventionally. Under the proposed amendment to LR Gen 102, motions to seal, sealed documents, and orders relating to the motion to seal will be filed electronically through the Court's CM/ECF system, and in line with LR Gen 305(a), will be docketed at the time of their electronic filing. With CM/ECF, the filing of a document and docketing of a document are simultaneous. When a motion to seal is electronically filed by a party, or the Court enters an order related to a motion to seal in CM/ECF, it appears on the case docket.



Letter to Steven Brown

November 28, 2016

Page 2

On your second point, regarding a word change in LR Gen 102(b)(3), the Court agrees that the word "should" should be changed to "shall" with respect to the filing of redacted pleadings. The Court's intent in regard to this revised section of LR Gen 102 is for parties to file redacted versions of pleadings whenever possible instead of seeking to seal pleadings completely.

LR Gen 111 & LR Gen 112

You also raised two objections to the changes to LR Gen 111 and LR Gen 112, which relate to the broadcasting and recording of court proceedings, and the use of electronic devices in the Courthouse. One of the proposed changes is the removal of the note-taking provision in LR Gen 111(b). Before the 2014 revision of this rule, the Court's Local Rules required the public to seek permission from the presiding judge before taking notes during a Court proceeding. At the time, the District of Rhode Island was the only court in the First Circuit to have such a requirement regarding note-taking by the public, and the Court agreed to remove the advance authorization requirement to reflect actual practice in the Court: our Judges no longer required advance authorization for public note-taking, and had adopted what appears to be the accepted practice in both federal and state courts.

Furthermore, the Court believes that this expression of the public's right to take notes during a court proceeding is better located in a policy document on the Court's website instead of in the Local Rules. We have found that most visitors to the Courthouse do not consult the Local Rules before attending court proceedings, and that including a statement that the public can take notes during court proceedings is better located on an accessible portion of the Court's website.

On a related note, you point out that the proposed amendments to LR Gen 111 and LR Gen 112 "implicitly withdraw" the Court's General Order regarding the use of electronic devices by the media in the Courthouse. If the Court adopts the proposed amendments to LR Gen 111 and LR Gen 112, an updated version of the 2014 General Order allowing authorized media members to bring electronic devices into the Courthouse will be issued in light of these



Letter to Steven Brown

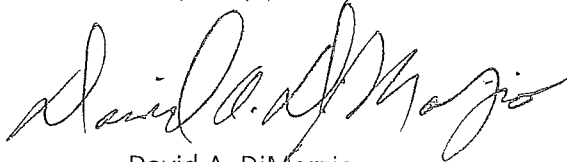
November 28, 2016

Page 3

changes, and will be cross-referenced in the new version of the Local Rules effective December 1, 2016.

As always, the Court thanks you for the time that you have taken to carefully review the proposed amendments to the Local Rules, and for your suggestions on improving the Court's Local Rules.

Very truly yours,

A handwritten signature in cursive script, appearing to read "David A. DiMarzio".

David A. DiMarzio
Clerk of Court

cc: Chief Judge Smith



**UNITED STATES DISTRICT COURT
LOCAL RULES REVIEW COMMITTEE**

Subcommittees

Comment E-Mail Address: local_rules@rid.uscourts.gov

Criminal Rules Subcommittee

<i>Chair</i> – George West	(401) 861-9042	gjwest@georgejwestlaw.com
Terrence Donnelly	(401) 709-5000	terrence.donnelly@usdoj.gov
Olin Thompson	(401) 528-4281	olin_thompson@fd.org

General Rules Subcommittee

<i>Chair</i> – Justin Shay	(401) 331-5700	jshay@cm-law.com
CharCretia DiBartolo	(401) 751-0842	cdibartolo@hinshawlaw.com
Matthew T. Oliverio	(401) 861-2900	mto@om-rilaw.com
Raymond Marcaccio	(401) 861-2900	ram@om-rilaw.com
Stanley Pupecki	(401) 272-8800	spupecki@hotmail.com
Steven Richard	(401) 454-1020	srichard@nixonpeabody.com
Tamera Rocha	(401) 556-1806	tamerarochaesq@gmail.com
Kathryn Sabatini	(401) 680-5333	Ksabatini@providenceri.com

Civil Rules Subcommittee

<i>Chair</i> - C. Russell Bengtson	(401) 331-7272	rbengtson@benjestlaw.com
Michael J. Daly	(401) 588-5113	mdaly@pierceatwood.com
Robert Fine	(401) 453-6400	rfine@crfillp.com
Dana Horton	(401) 709-3352	dhorton@rc.com
Eric Mack	(401) 824-2432	EMack@littler.com
Neal McNamara	(401) 454-1000	nmcnamara@nixonpeabody.com
Stacey Nakasian	(401) 455-0700	snakasian@duffysweeney.com
Raymond Ripple	(401) 272-6620	raymond.ripple@lockelord.com

Court Contacts

David DiMarzio	(401) 752-7220	david_dimarzio@rid.uscourts.gov
Frank Perry	(401) 752-7222	frank_perry@rid.uscourts.gov
Michael Simoncelli	(401) 752-7221	michael_simoncelli@rid.uscourts.gov