

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

GENERAL ORDER
APPOINTMENT OF THE LOCAL RULES REVIEW COMMITTEE

Pursuant to LR Gen 113 and by agreement of the Judges of this Court, Timothy Baldwin, Dulce Donovan, Ryan Gainor, Sandra Hebert, Melissa Larsen, and Krystle Tadesse are appointed to the Local Rules Review Committee (LRRC). Michael Daly and Kathryn Sabatini 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 below.

<u>Name</u>	<u>Term Expires</u>
CharCretia DiBartolo, Esq.	November 30, 2017
Robert Fine, Esq.	November 30, 2017
Olin Thompson, Esq.	November 30, 2017
Neal McNamara, Esq.	November 30, 2017
Justin Shay, Esq.	November 30, 2017
George 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
Timothy Baldwin, Esq.	November 30, 2019
Dulce Donovan, AUSA	November 30, 2019
Ryan Gainor, Esq.	November 30, 2019
Sandra Hebert, AUSA	November 30, 2019
Melissa Larsen, Esq.	November 30, 2019
Krystle Tadesse, Esq.	November 30, 2019
Michael Simoncelli, <i>ex officio</i> reporter	n/a

IT IS SO ORDERED.

By the Court:

Date: November 29, 2016

/s/ William E. Smith, Chief Judge



February 1, 2017

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

Dear Federal Practitioners:

We write to you as the co-chairs of the Local Rules Review Committee created pursuant to LR Gen 113(b)(1) of the Local Rules of the United States District Court for the District of Rhode Island. Each year, the Committee must review the Local Rules, and recommend proposed amendments to the Court. The Committee is then required to report to the Court on any changes to the Local Rules, and this year's report is due on or before June 30, 2017.

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

We ask that all suggestions be provided in writing to the Clerk of Court in the format described below by February 28, 2017. Suggestions may be submitted electronically via email to Local_Rules@rid.uscourts.gov, or by mail to the United States District Court, Attn: Local Rules, One Exchange Terrace, Providence, RI 02903.

In order for the Committee to review your suggestions, we ask that any suggestions provide the following information:

- If you are suggesting that the Court amend a rule, please identify the rule, provide the text of the amendment, and state the reason(s) for the suggested change.
- If you are suggesting that a new rule be added to the Local Rules, provide the text of the new rule, describe where you believe the new rule should be inserted, and state the reason(s) for the new rule.
- If you are suggesting that the Court eliminate an existing rule, provide the text of the rule you are suggesting be eliminated, and state the reason(s) for the suggested change.

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

Best Regards,

Michael Daly, Esq.

Kathryn M. Sabatini, Esq.

Co-Chairs, Local Rules Review Committee

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

LOCAL RULES REVIEW COMMITTEE

March 28, 2017

The Local Rules Review Committee (“LRRC”) met on March 28, 2017, at 12:00 PM in the Jury Assembly Room of the United States Courthouse. Michael Daly and Kathryn Sabatini co-chaired the meeting. The following LRRC members were present: Tim Baldwin, CharCretia DiBartolo, Dulce Donovan, Ryan Gainor, Sandra Hebert, Dana Horton, Melissa Larsen, Eric Mack, Matthew Oliverio, Stanley Pupecki, Tamera Rocha, Justin Shay, Krystle Tadesse, and George West. Frank Perry and Michael Simoncelli (LRRC Reporter) attended on behalf of the United States District Court. Co-chair Michael Daly called the meeting to order at 12:05 PM.

Mr. Daly introduced Chief Judge Smith. Judge Smith thanked the members of the LRRC for their service to the Court and the bar, and then left to let the LRRC begin its discussion of the Court-proposed amendments, holdovers from the previous session, and suggestions received from the bar. Mr. Daly then asked Michael Simoncelli, the LRRC Reporter, to summarize the proposed amendments for this cycle, any holdovers from the previous cycle, and suggestions received from the bar. Mr. Simoncelli started with the Court-proposed amendments:

LR Gen 104 (Removal and Copying of Documents): The proposed amendment removes LR Gen 104 from the Local Rules. This rule stems from the pre-CM/ECF era when the Clerk’s Office maintained paper case files, but with the overwhelming majority of case files available through PACER remotely or terminals in the Courthouse, the rule is unnecessary.

LR Gen 105 (Assignment of Cases): The proposed amendments to LR Gen 105 incorporate the Court’s November 23, 2016 general order that created a case draw for presiding judge assignment for Social Security cases that includes both district and magistrate judges.

LR Gen 112 (Use of Electronic Devices): The proposed amendment to LR Gen 112(c)(2) removes the phrase “in the courtrooms of those judicial officers who have approved such usage” from the section governing the use of electronic devices in the courthouse by the media. On December 1, 2017, all of the district and magistrate judges will have approved electronic device usage by members of the media in their courtrooms.

LR Gen 302 (Exemptions, Exceptions, Pro Se Litigants): The proposed amendments to LR Gen 302 remove sections (b) and (c). Section (b) provides attorneys with a 21-day grace period to conventionally file documents before requiring them to register as CM/ECF filing users, and (c) makes electronic filing optional for attorneys appearing in actions removed from state court. Now that attorneys are provided with ECF login credentials upon admission to the bar (or

through the bar renewal process), and electronic filing has become commonplace in both the federal and state systems, these two sections are no longer needed.

LR Gen 303 (Special Filing Requirements): There are two proposed changes to LR Gen 303. The proposed change to (b) would require attorneys to file miscellaneous case opening documents and pay the required filing fee electronically. The second change would remove (c)(9) from the rule, and allow attorneys in criminal cases to file waivers of indictment and plea agreements electronically instead of conventionally.

LR Gen 304 (Eligibility, Registration, Passwords): The proposed change to LR Gen 304(a) relates to the proposed changes to LR Gen 302. The revision to (a) would require attorneys admitted to practice under LR Gen 201(b) (attorneys in transferred cases, attorneys in removal cases, pro hac vice attorneys, etc.) to register as CM/ECF filing users.

LR Cv 5 (Form and Filing of Documents): The proposed change to LR Cv 5(b) removes the word “local” from the rule and the related comment to reflect the Court’s use of the national version of the JS-44 civil cover sheet.

LR Cv 7 (Motions, Objections and Replies): The proposed changes to LR Cv 7 overhaul the rule relating to the filing of motions, responses, and replies. There are three proposed changes to the rule: (1) removal of the requirement that a separate, standalone memorandum of law be filed (it would be optional under the revised rule); (2) removal of sections related to page limits and requests to exceed page limits; and (3) a new provision to delegate authority to the Clerk to rule on certain types of procedural motions.

LR Cv 15 (Motions to Amend): The proposed change to LR Cv 15(a) would require parties to file a full and complete copy of their amended filing along with a motion to amend. This change would ensure that when a motion to amend is granted, the Clerk’s Office will have a complete and signed version of the amended pleading to docket.

LR Cv 41.1 (Administrative Closure of Cases Subject to Bankruptcy Stay): The proposed change delete the rule. The current rule permits the Court to “administratively close” any pending civil cases stayed by bankruptcy court proceedings. The rule is no longer necessary due to changes in the statistical reporting rules for these types of cases to the Administrative Office for the United States Courts.

LR Cv 54.2 (Juror Costs): The proposed change removes. The rule is only a placeholder for a rule concerning juror costs, and contains nothing but a cross-reference to LR Cv 39.4(b).

LR Cv 73 (Consent to Order of Reference): The proposed change would remove the 30-day deadline governing the return of Consent to Magistrate Judge Jurisdiction forms in civil cases. The Clerk’s Office recently streamlined the procedures related to the mailing and processing of these forms, and the deadline for return would be set in the notice to counsel when the consent forms are issued.

LR Cr 47 (Motions, Objections, and Replies): The proposed changes to LR Cr 47 mirror the changes to the companion civil rule, LR Cv 7. In addition, the proposed amendments to this rule would bring it into line with LR Cv 7 by allowing parties to file replies without leave of Court and sur-replies with leave of Court.

LR Cr 57.1 (Applications for Post-Conviction Relief): The proposed change would remove (b), which permits the Clerk's Office to reject deficient filings made in cases filed pursuant to 28 U.S.C. § 2254 or 28 U.S.C. § 2255 without the approval of a district or magistrate judge. The current Clerk's Office practice is to send all questionable or deficient filings to a magistrate judge for review and potential return, and this section should be removed to reflect Clerk's Office procedures.

Mr. Simoncelli added that the Clerk's Office was working on additional amendments that would be forwarded to the LRRC at a later point in the cycle. In addition, he noted that if the LRRC adopted the proposed amendments to LR Cv 7 and LR Cr 47, amendments to 7 other rules would be needed to remove language requiring a "supporting memorandum."

Mr. Simoncelli also provided an update on a holdover amendment from the 2015-16 cycle. Since the 2011-12 cycle, the Civil Rules Subcommittee has tabled a suggestion for a rule requiring *pro se* litigants to certify that an attorney has not drafted the documents that they filed with the Court, pending action by the Rhode Island Supreme Court. 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 the Supreme Court's preliminary policy on the ghostwriting, and the Supreme Court opened this policy to public comment until January 15, 2016. Mr. Simoncelli added that the Clerk of the Supreme Court said that Court planned to revisit the issue again this spring, and he recommended that the suggestion be tabled until the 2017-2018 cycle.

Mr. Simoncelli next explained the one suggested change received from the bar. The suggestion was submitted by James Nagelberg of Hinckley Allen, and proposed a modification to LR Gen 102(b)(3) (Documents Containing Confidential Information). The proposed change would require a party filing an unredacted document under seal to file the redacted version within 7 days after the sealed, unredacted version.

Mr. Daly noted that in addition to the proposed amendments submitted by the Court and the suggestion from the bar, members of the LRRC were free to offer their own amendments during this session and the upcoming subcommittee meetings. Mr. Daly 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. Mr. Daly stated that this schedule would provide the LRRC with sufficient time to submit its final report by June 30, 2017.

The meeting adjourned at 12:45 PM

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

LOCAL RULES REVIEW COMMITTEE

May 16, 2017

The Local Rules Review Committee (“LRRC”) met on May 16, 2017, at 12:00 PM in the Jury Assembly Room of the United States Courthouse. Michael Daly and Kathryn Sabatini co-chaired the meeting. The following LRRC members were present: Tim Baldwin, Robert Fine, Ryan Gainor, Sandra Hebert, Melissa Larsen, Eric Mack, Matthew Oliverio, Stanley Pupecki, Tamera Rocha, Justin Shay, Krystle Tadesse, and Olin Thompson. Nora Tyer-Witek, Frank Perry and Michael Simoncelli (LRRC Reporter) attended on behalf of the United States District Court. Co-chair Michael Daly called the meeting to order at 12:05 PM.

Mr. Daly began the meeting by explaining that the purpose of the meeting is for the LRRC to discuss the subcommittee reports on the proposed amendments, and to make a final decision of which proposed amendments to refer to the Court for consideration. Mr. Daly asked Justin Shay, chair of the General Rules Subcommittee (GRS), to give his subcommittee’s report.

General Rules Subcommittee

Mr. Shay started by explained that the GRS approved the following proposed amendments without change: LR Gen 104, LR Gen 112, LR Gen 302, and LR Gen 304. The full LRRC recommended that these proposed amendments be forwarded to the Court for consideration.

Mr. Shay then turned to the proposed amendments that the GRS modified. In regard to the proposed amendment to LR Gen 105, Mr. Shay explained that the purpose of the amendment is to allow the Court to assign certain civil case types to a magistrate judge as presiding judge. The GRS recommended that this proposed amendment be modified to specify the civil case types eligible for such assignment. The full LRRC discussed this revision, and decided to retain the language in the original proposed amendment, but include a cross-reference that would point attorneys to the Court’s website for information about case assignment to magistrate judges.

Mr. Shay next discussed the proposed amendments to LR Gen 303, which covers the types of filings that must be filed conventionally. He pointed out that the GRS approved the proposed amendment to LR Gen 303(b) that would require parties to file case opening documents in miscellaneous cases electronically. However, the GRS deferred to the Criminal Rules Subcommittee on the amendment to LR Gen 303(c)(9) regarding the filing of plea agreements and waivers of indictment since the proposal affected criminal practitioners exclusively. Olin Thompson indicated that the members of the Criminal Rules Subcommittee

did not have any objection to the proposed amendment to LR Gen 303(c)(9). The full LRRC recommended that the proposed amendment to LR Gen 303 be forwarded to the Court for consideration.

Mr. Shay also summarized three suggestions from the bar. The first suggestion, regarding the ghostwriting of pleadings on behalf of *pro se* filers, had been tabled during previous cycles due to pending cases at the Rhode Island Supreme Court. The GRS recommended that the proposal be reconsidered after the Rhode Island Supreme Court issued a final policy on ghosting writing of pleadings in line with its June 8, 2015 decision in *FIA Card Services, NA v. Pichette*.¹ Mr. Shay also discussed two other suggested changes from the bar during the February suggestion period: (1) a proposal to modify LR Gen 102(b)(3) regarding the filing of redacted documents; and (2) a request for a new rule regarding the confidentiality of medical records obtained through discovery. The GRS recommended that these proposals be rejected, but that the attorneys who submitted the proposals be invited to add additional support for their proposal and resubmit them during the next local rules review cycle. The full LRRC agreed with the GRS actions on the suggestions from the bar.

Civil Rules Subcommittee

Mr. Daly next asked Eric Mack, chair of the Civil Rules Subcommittee (CVRS), to provide the LRRC with his subcommittee's report.

Mr. Mack first explained that the CVRS recommended adoption of the following proposed amendments without change: LR Cv 5, LR Cv 41.1, LR Cv 54.2, and LR Cv 73. The full LRRC recommended that these proposed amendments be forwarded to the Court for consideration.

Mr. Mack next discussed the proposed amendments where the CVRS modified the proposed amendment submitted by the Court, starting with the proposed amendment to LR Cv 7. Mr. Mack noted that the CVRS recommended adoption of most of the proposed changes to the rule, but proposed modifications to the following sections: LR Cv 7(a)(2)(B), LR Cv 7(a)(4), and LR Cv 7(b).

In LR Cv 7(a)(2)(B), Mr. Mack explained that the proposed amendment removed the requirement that all motions contain a separate memorandum of law. The CVRS recommended additional language to clarify that if a party wished to file a separate memorandum of law with their motion, it should be an attachment to the underlying motion—not a separate docket entry.

¹ The Rhode Island Supreme Court issued its final policy on “Limited Scope Representation in Rhode Island” and provisionally amended the Rules of Professional Conduct to reflect this policy on May 23, 2017 after the final meeting of the LRRC was held.

The full LRRC recommended that this modification be incorporated into the proposed amendment to LR Cv 7, and forwarded to the Court for consideration.

Next, Mr. Mack stated that the CVRS modified LR Cv 7(a)(4) to make clear that while replies are permitted under the rule, they are not required. The full LRRC recommended that this modification be incorporated into the proposed amendment to LR Cv 7, and forwarded to the Court for consideration.

Mr. Mack then turned to LR Cv 7(b). Mr. Mack gave a summary of the section, and noted that it permitted the Clerk of Court to act on certain types of procedural motions. The CVRS approved the proposal with two modifications: (1) a requirement that parties meet-and confer to determine whether any procedural motion is joint, assented to, or will be objected to; and (2) a listing of the types of procedural motions subject to the rule. The full LRRC modified this proposal to LR Cv 7(b) to require the moving party to only contact the other parties to determine whether the procedural motion is joint, assented-to, or objected. In addition, they modified the proposal to include a cross-reference that would point attorneys to a place on the Court's website where attorney could obtain a list of the procedural motions that could be ruled on by the Clerk, instead of inserting it into the body of the rule.

Mr. Mack next explained that the CVRS modified the proposal to LR Cv 15 regarding motions to amend to clarify that if a motion to amend was granted, the Clerk's Office would re-docket the amended pleading. The full LRRC made a wording change to the CVRS modification, and recommended that the proposed amendment be forwarded to the Court for consideration.

Criminal Rules Subcommittee

Mr. Daly next turned to Michael Simoncelli, the LRRC Reporter, to provide the Criminal Rules Subcommittee (CRRS) report on behalf of George West, the Criminal Rules Subcommittee chair. Mr. Simoncelli reported that the CRRS approved the amendments to LR Cr 6, LR Cr 47, and LR Cr 57.1. The full LRRC recommended that these proposed amendments be forwarded to the Court for consideration with one modification: that the proposal to LR Cr 47 be modified to match the amended proposal to LR Cv 7 previously approved by the LRRC.

Other Amendments

Mr. Simoncelli then discussed some additional amendments that were forwarded directly to the LRRC for consideration after the subcommittee meetings in April: LR Gen 102 (Sealed Documents) and LR Cv 67 (Funds Deposited into Court Registry). In addition, due to the removal of the "supporting memorandum" requirement in LR Cv 7 and LR Cr 47, he proposed that similar "supporting memorandum" language be removed from LR Gen 102, LR Gen 109,

LR Cv 9, LR Cv 54, LR Cv 56, LR Cv 72, and LR Cr 57.2. The full LRRC recommended that these proposed amendments be approved and forwarded to the Court for consideration.

Mr. Simoncelli stated that he would circulate a draft of the LRRC's final report to the members of the LRRC by email in advance of the June 30th reporting deadline. Mr. Daly concluded the meeting by thanking the members of the LRRC for their work this year.

The meeting adjourned at 12:45 PM

June 30, 2017

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 received two suggested changes from the Bar. The LRRC later met on March 28, 2017, to consider twenty-one Court-proposed amendments, two suggestions from the bar, 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 16, 2017. (The Court forwarded two additional proposed amendments after the March 28th meeting, and these proposals were also referred to the respective subcommittees of the LRRC.)

At the May 16th meeting, the LRRC reviewed the work of the General Rules, Civil Rules, and Criminal Rules Subcommittees. The full LRRC ultimately recommended adoption of twenty-three amendments to the Local Rules.¹ Of the 23 total amendments recommended by the LRRC, the committee adopted modified versions of the Court-proposed amendments to LR Gen 105, LR Cv 7, LR Cv 15, and LR Cr 47. Most of the amendments recommended for adoption

¹ Seven of the proposed amendments are contingent on the Court's adoption of the change to LR Cv 7 and LR Cr 47 removing the requirement that parties file a separate supporting memorandum with any motion. If the Court adopts that amendment to LR Cv 7 and LR Cr 47, the "supporting memoranda" requirement will also be removed from: LR Gen 102, LR Gen 109, LR Cv 9, LR Cv 54, LR Cv 56, LR Cv 72, and LR Cr 57.2.

are technical or procedural amendments, but the proposed amendments to LR Cv 7 and LR Cr 47 (Motion Practice) and LR Gen 102 (Documents Containing Confidential Information) 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 during the next cycle now that the Rhode Island Supreme Court has issued a final policy on limited scope representations.² In addition, the LRRC rejected two suggestions submitted by members of the Bar: (1) a proposal to modify LR Gen 102(b)(3) regarding the filing of redacted documents; and (2) a request for a new rule regarding the confidentiality of medical records obtained through discovery. The LRRC did, however, invite those individuals to resubmit their proposals for reconsideration during the next local rules review cycle.

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,

Michael Daly
Kathryn Sabatini
Co-Chairs, LRRC

Enclosure

cc: Nora Tyer-Witek
Frank Perry
Michael Simoncelli

² The Rhode Island Supreme Court issued its final policy on "Limited Scope Representation in Rhode Island" and provisionally amended the Rules of Professional Conduct to reflect this policy on May 23, 2017.

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

PROPOSED AMENDMENTS TO LOCAL RULES

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 102	<p align="center">LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION</p> <p align="center">*****</p> <p>(b) Sealed Documents.</p> <p align="center">*****</p> <p><u>(4) Exceptions.</u></p> <p><u>(a) Sealed Cases.</u> Parties do not need to file a separate motion to seal for pleadings or documents filed in cases that are sealed pursuant to statute, Court order, or local rule, provided that the document be stamped or labeled by the party on the cover page “FILED UNDER SEAL.” Sealed cases would include, but are not limited to, grand jury proceedings, pen register requests, wire and video interceptions, and <i>qui tam</i> actions.</p> <p><u>(b) Ex parte Filings.</u> Parties do not need to file a separate motion to seal for pleadings or documents filed <i>ex parte</i>, provided that the document be stamped or labeled by the party on the cover page “FILED EX PARTE.”</p> <p align="center">*****</p>	<p>This proposal was referred to the LRRC after the General Rules Subcommittee met, and was discussed by the full LRRC at its May 16, 2017 meeting.</p>	<p>PROPOSED CHANGE ACCEPTED.</p>	
LR Gen 102	<p align="center">LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION</p> <p align="center">*****</p> <p>(b) Sealed Documents.</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 A motion to seal in accordance with LR Cv 7 and LR Cr 47, 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</p>		<p>PROPOSED CHANGE ACCEPTED. THE CHANGE, HOWEVER, IS CONTINGENT ON THE COURT’S ACCEPTANCE OF THE AMENDMENTS TO LR CV 7 AND LR CR 47.</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>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>			
LR Gen 104	<p>LR Gen 104 — REMOVAL AND COPYING OF DOCUMENTS</p> <p>(a) Removal of Documents. Unless otherwise ordered by the Court, case files or documents filed with the Clerk as part of the record in a case shall not be removed from the Clerk's office except:</p> <p style="padding-left: 40px;">(1) by a judicial officer or Court employee using the documents for an official purpose; or</p> <p style="padding-left: 40px;">(2) by counsel or a member of the public examining the documents under the Clerk's supervision at a place designated by the Clerk for that purpose.</p> <p>(b) Copies. Upon the request of any person, the Clerk, to the extent reasonable under the circumstances, shall provide copies of any public document filed in a case. The Clerk may charge a fee consistent with the District Court Miscellaneous Fee Schedule pursuant to 28 U.S.C. §1914.</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.

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 105	<p>LR Gen 105 ASSIGNMENT OF CASES</p> <p>(a) New Cases.</p> <p>(1) In General. Except as otherwise provided in paragraph (a)(2) and (a)(4) of this Rule, <u>the Clerk shall randomly assign each new case</u> shall be randomly assigned to a district judge and a magistrate judge in a manner that evenly distributes the cases among them by type of classification as provided under LR Cv 5(b) or LR Cr 57(b).</p> <p>(2) Related Cases. A civil or criminal case which the cover sheet indicates, or which the Clerk believes may be related to a case previously filed in this Court, shall be provisionally assigned to the judge to whom the related case was assigned. If the judge to whom the case is provisionally assigned determines that the case is not closely related, the judge shall return the case to the eClerk for random assignment as provided in paragraph (a)(1) of this Rule.</p> <p>(3) Re-filed Cases. A civil or criminal case that appears to involve substantially the same parties and issues as a case or proceeding that previously was brought in this Court and dismissed or otherwise terminated shall be provisionally assigned to the judge who originally was assigned the prior case or proceeding, or if already assigned, shall be transferred to the judge who originally was assigned the prior case or proceeding.</p> <p><u>(4) Assignment of Civil Cases to Magistrate Judges.</u> <u>The Clerk shall randomly assign certain types of civil cases identified by the Court among district judges and full-time magistrate judges. If a magistrate judge is randomly assigned such a civil case as the presiding judge, they shall conduct all</u></p>	<p>The General Rules Subcommittee recommended adoption of the proposed change by the LRRC, with the following revision to (a)(4):</p> <p>(4) Assignment of Civil Cases to Magistrate Judges. The Clerk shall randomly assign certain types of civil cases identified by the Court by <u>General Order (see www.rid.uscourts.gov)</u> among district judges and full-time</p>	<p>The LRRC agreed to accept the change as originally proposed, with the recommendation that a comment be added to the rule indicating where counsel could find a list of the types of civil cases eligible for direct assignment to a Magistrate Judge.</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>proceedings, including a jury or non-jury trial, and order the entry of judgment in the case. Such assignments are subject to the provisions of Fed. R. Civ. P. 73 and LR Cv 73, and require consent of the parties. Any case for which all parties do not consent will be reassigned pursuant to (a)(1).</u></p> <p>*****</p>	<p>magistrate judges. If a magistrate judge is randomly assigned such a civil case as the presiding judge, they shall conduct all proceedings, including a jury or non-jury trial, and order the entry of judgment in the case. Such assignments are subject to the provisions of Fed. R. Civ. P. 73 and LR Cv 73, and require consent of the parties. Any case for which all parties do not consent will be reassigned pursuant to (a)(1).</p>		
LR Gen 109	<p>LR Gen 109 BANKRUPTCY</p> <p>*****</p> <p>(c) Reports and Recommendations by Bankruptcy Judge.</p> <p>*****</p> <p>(2) Content of Objections. Any objection to the proposed findings of fact and/or rulings of law shall be accompanied by (A) a memorandum of law specifying the proposed findings and/or rulings to which objection is made and the basis for the objection(s), and (B) be accompanied by a transcript of any evidentiary hearing(s) before the bankruptcy judge. The memorandum <u>objection</u> shall comply with LR Cv 7.</p> <p>*****</p> <p>(f) Stays Pending Appeal to the District Court. When a motion is made in the District Court in accordance with Bankruptcy Rule 8007(b) to stay a judgment, order or decree of a bankruptcy judge or for</p>		<p>PROPOSED CHANGE ACCEPTED. THE CHANGE, HOWEVER, IS CONTINGENT ON THE COURT'S ACCEPTANCE OF THE AMENDMENTS TO LR CV 7 AND LR CR 47.</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>any other relief pending appeal, the movant shall <u>set forth the reasons why a stay should be granted and the legal authorities supporting the stay</u>, and file the following with its motion:</p> <p>(1) a copy of the judgment, order or decree that the movant seeks to have stayed;</p> <p>(2) a copy of the bankruptcy judge’s order denying the movant’s motion to stay;</p> <p>(3) any written decision(s) and/or transcript(s) of any oral decision(s) of the bankruptcy judge stating the reasons for the orders referred to in paragraphs (1) and (2) of this subsection; and</p> <p>(4) a memorandum of law setting forth the reasons why a stay should be granted and the legal authorities supporting the motion for a stay.</p> <p style="text-align: center;">*****</p>			
LR Gen 112	<p>LR Gen 112 USE OF ELECTRONIC DEVICES</p> <p>(a) General Prohibition on Electronic Devices. Except as provided in subsection (c) of this rule or expressly authorized by the Court, no person shall bring into the Courthouse or portion of the John O. Pastore Building occupied by the Court any electronic device capable of sending or receiving communications, making sound or video recordings, or making, recording or transmitting photographs or videos. *[see Comment, end of Rule]</p> <p style="text-align: center;">*****</p> <p>(c) Exceptions.</p> <p style="text-align: center;">*****</p> <p>(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</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.

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>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 a lists of authorized individuals and those judicial officers who have approved such usage <u>authorized pursuant to this subsection.</u></p> <p>*COMMENT Pursuant to the General Order dated December 1, 2016, 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 112. Please consult the General Order dated December 1, 2016, and related materials available on the Court's website.</p>			
LR Gen 302	<p>LR Gen 302 EXEMPTIONS; EXCEPTIONS; AND PRO SE LITIGANTS</p> <p>(a) Attorney Exemption/Exceptions. If filing electronically would create an undue hardship for an attorney, the attorney may request an exemption from the Clerk of Court and permission to file documents conventionally. The request must be made in writing, and must contain a detailed explanation of the reason(s) for the request. The Clerk may grant an exemption on such terms and conditions as are appropriate and reasonable.* [see Comment, end of Rule]</p> <p>(b) One Time Exemption. An attorney who is not a Filing User may conventionally file documents on behalf of a client in an ECF case without leave of the Court for 21 days from the filing of the first document by the attorney. However, within that 21 day period, the attorney must register as a Filing User, or seek an exemption under (a) above.</p>	The General Rules Subcommittee recommended adoption of the proposed change by the LRRC.	PROPOSED CHANGE ACCEPTED	

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General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p>(e) Attorneys in Removal Cases. An attorney who is not a member of the bar of this Court but who is permitted to appear and practice in this Court pursuant to the provisions of LR Gen 201(b)(3) may, but is not required to, register as a Filing User and file documents electronically using ECF.</p> <p>(d)(h) Pro Se Litigants. A non-incarcerated <i>pro se</i> litigant in a pending case may apply to the Court for permission to file and receive documents electronically on a form prescribed by the Clerk’s Office. If the Court grants a <i>pro se</i> litigant permission to file documents electronically, that permission is limited to the case specified, and the Court may withdraw that permission at any time during the pendency of a case.</p> <p>In the absence of a court order authorizing electronic filing, all <i>pro se</i> litigants shall conventionally file and serve all documents in accordance with the provisions of the Federal Rules of Civil Procedure and Criminal Procedure and the Local Rules of this Court, and all electronically filed documents must be conventionally served on the <i>pro se</i> litigant.</p> <p>*COMMENT</p> <p>Prior to requesting an exemption, attorneys should seek assistance from the Clerk’s Office. The Court offers ECF training sessions as well as computer based training modules for attorneys and their staff. Also, the Clerk’s Office has a workstation available at the Courthouse for any Filing User who needs assistance with electronic filing. ECF training and support information can be obtained from the Clerk’s Office and found on the Court’s web site at: www.rid.uscourts.gov.</p> <p>obtained from the Clerk’s Office and found on the Court’s web site at: www.rid.uscourts.gov.</p>			

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General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 303	<p>LR Gen 303 SPECIAL FILING REQUIREMENTS</p> <p>*****</p> <p>(b) Miscellaneous Case Opening Documents. Miscellaneous case opening documents shall be filed conventionally along with the prescribed filing fee. Absent an exemption under LR Gen 302, miscellaneous case opening documents shall be filed electronically, and the required filing fee shall be paid at the time of filing.</p> <p>(c) Other Documents to be Conventionally Filed.</p> <p>*****</p> <p>(3) Ex parte motions and applications;</p> <p>(4)(3) Consent to Proceed Before a Magistrate Judge;</p> <p>(5)(4) 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>(6)(5) The charging document in a criminal case, such as the complaint, indictment and information;</p> <p>(7)(6) Affidavits for search and arrest warrants and related papers;</p> <p>(8)(7) Fed. R. Crim. P. 20 and Fed. R. Crim. P. 5 papers received from another court;</p> <p>(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>(10)(8) Appearance Bonds.</p> <p>*****</p>	<p>The General Rules Subcommittee recommended adoption of the proposed change to (b) by the LRRC, but requested that the Criminal Rules Subcommittee comment on the change allowing documents containing a defendant's signature to be filed electronically. (See, LR Gen 303(c)(9)). The Criminal Rules Subcommittee recommended adoption of this change to (c)(9).</p>	<p>PROPOSED CHANGE ACCEPTED</p>	

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General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 304	<p>LR Gen 304 ELIGIBILITY, REGISTRATION, PASSWORDS</p> <p style="text-align: center;">*****</p> <p>(a) ECF Login and Password. An attorney admitted to the bar of this Court pursuant to LR Gen 202 will automatically become a Filing User of the Court’s ECF system and will be permitted to file documents electronically using ECF without further authorization. The Filing User will receive notification from the Court of the user login and password after admission.</p> <p>An attorney eligible to appear before the Court pursuant to LR Gen 201(b), <u>and not otherwise prohibited</u> from permitted to file <u>filing</u> documents electronically under the Local Rules, must register as a Filing User of the Court’s ECF system prior to filing any documents electronically. Registration will be on an ECF Registration Form provided by the Clerk. Once ECF registration is completed, the Filing User will receive notification from the Court of the user login and password <u>and be permitted to file documents electronically</u>.</p> <p>(b) Confidentiality of Login and Password. Filing Users agree to protect the security of their passwords and immediately notify the Clerk’s Office if they learn that their password has been compromised. *[see Comment, end of Rule]</p> <p style="text-align: center;">*****</p> <p>*[COMMENT Since failure to comply with this provision could cause serious harm to the administration of justice, attorneys are reminded that, as officers of the Court, they are responsible for ensuring full compliance with this provision.]</p>	<p>The General Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED</p>	

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General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
Suggestion from the Bar	During the 2011-12 cycle, Girard Visconti, Esq. and Marc DeSisto, Esq. proposed that the Court adopt a rule requiring pro se litigants to certify that an attorney has not drafted the documents that they 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 the Supreme Court’s policy on the ghostwriting of pleadings by a member of the bar on behalf of a pro se litigant. The Supreme Court opened this policy to public comment until January 15, 2016, and have not issued any subsequent orders regarding ghostwriting.	The General Rules Subcommittee recommended that the LRRC table the suggestion for reconsideration during the next cycle.	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, and issued a final policy on “limited scope representation” and provisionally amended the Rules of Professional Conduct to reflect the policy on May 23, 2017. In light of this policy change and the provisional amendments to the Rules of Professional Conduct, the LRRC tabled the suggestion for reconsideration during the 2017-18 local rules review cycle.	
Suggestion from the Bar	Attorney James Nagelberg submitted a comment suggesting that the LRRC consider amending LR Gen 102(b)(3) to require that a redacted version of a document filed under seal be filed within 7 days after the filing of the original sealed document.	The General Rules Subcommittee reviewed the proposal, but recommended that this proposed change be referred back to Mr. Nagelberg for resubmission with further information for consideration during the 2017-2018 LRRC cycle.	The LRRC accepted the recommendation of the General Rules Subcommittee.	
Suggestion from the Bar	Attorney John Fulweiler suggested that the LRRC consider adoption of a local rule addressing the confidentiality of medical records obtained through discovery.	The General Rules Subcommittee reviewed the proposal, but recommended that the proposed change be referred back to Mr. Fulweiler for resubmission with further information and the text of a proposed amendment during the 2017-2018 LRRC cycle.	The LRRC accepted the recommendation of the General Rules Subcommittee.	

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Civil Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Cv 5	<p style="text-align: center;">LR Cv 5 FORM AND FILING OF DOCUMENTS</p> <p style="text-align: center;">*****</p> <p>(b) Civil Cover Sheet. Any person filing a complaint in a civil case or any other document that requires a file to be opened shall contemporaneously file a completed local civil cover sheet describing the type of case and identifying any related case previously filed or pending in this Court. The Clerk may reclassify a case if the cover sheet does not accurately describe its type. Cover sheets shall be provided by the Clerk upon request.* [see Comment, end of Rule]</p> <p style="text-align: center;">*****</p> <p>*COMMENT The United States District Court for the District of Rhode Island uses a local version of the JS-44 Civil Cover Sheet, which is available in the “Forms” section of the Court’s website.</p>	<p>The Civil Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p style="text-align: center;">PROPOSED CHANGE ACCEPTED</p>	
LR Cv 7	<p style="text-align: center;">LR Cv 7 MOTIONS, OBJECTIONS AND REPLIES MOTIONS AND OTHER PAPERS</p> <p>(a) Form and Content. Every motion shall bear a title identifying the party filing it and stating the precise nature of the motion. In addition, every motion except a motion to extend time or motion to compel discovery shall contain a short and plain description of the requested relief and shall be accompanied by a separate memorandum of law setting forth the reasons why the relief requested should be granted and any applicable points and</p>	<p>The Civil Rules Subcommittee accepted the change with the following modifications:</p>	<p style="text-align: center;">The LRRC accepted the proposed amendment as modified by the Civil Rules Subcommittee, with the following modifications to (a)(2)(B) and (b). In addition, the LRRC recommended that a comment be added to the rule indicating where counsel could find a list of the types of procedural motions that could be ruled on by a Magistrate Judge or the Clerk.</p>	

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Civil Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p>authorities supporting the motion. A motion to extend time or to compel discovery shall include within the motion a brief statement of reasons why the relief requested should be granted.</p> <p><u>In General</u></p> <p><u>(1) Request for Relief.</u> A request for a court order must be made by motion. A motion must be in writing unless made during a hearing or trial or if the court permits otherwise.</p> <p><u>(2) Contents of a Motion.</u></p> <p><u>(A) Grounds and Relief Sought.</u> All motions must state with particularity the grounds for seeking an order, the relief sought, and the legal argument necessary to support it.</p> <p><u>(B) Accompanying Documents.</u> A separate memorandum of law need not be filed. However, any memorandum of law or other paper necessary to support a motion must be served and filed with the motion.</p> <p><u>(3) Response.</u> Any party may file a response to a motion the contents of which are governed by LR Cv 7(a)(2). The response must be filed within 14 days after service of the motion unless the Court shortens or extends the time.</p> <p><u>(4) Reply to Response.</u> Any reply to a response must be filed within 7 days after service of the response. A reply shall not present matters that do not relate to the response, or reargue or expand upon the</p>	<p><u>(B) Accompanying Documents.</u> A separate memorandum of law need not be filed as a separate docket entry. However, any memorandum of law or other paper necessary to support a motion must be served as an attachment to and filed with the motion.</p> <p><u>(4) Reply to Response.</u> Although the filing of a reply is not required, Any reply to a response must be filed within 7 days after service of the response. A reply shall not present matters that do not relate to the response, or reargue or</p>	<p><u>(B) Accompanying Documents.</u> A separate memorandum of law need not be filed as separate docket entry. However, any if a party chooses to file a memorandum of law, it or other paper necessary to support a motion must be served as an attachment to the motion and not as a separate docket entry.</p>	

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Civil Rules

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	<p><u>arguments made in support of the motion.</u></p> <p>(5) Sur-replies. <u>Sur-replies may only be filed with prior leave of Court.</u></p> <p>(b) Objections and Replies.</p> <p><u>Disposition of a Motion for a Procedural Order.</u> <u>The Court may act on a motion for a procedural order at any time without awaiting a response, and authorizes the Clerk to act on specific types of routine procedural motions. A party adversely affected by the Clerk’s action may file a motion to reconsider, vacate or modify the action which will be submitted to the presiding judge for consideration.</u></p> <p><u>(1) Any party opposing a motion shall file and serve an objection not later than 14 days after service of the motion. Every objection shall be accompanied by a separate memorandum of law setting forth the reasons for the objection and applicable points and authorities supporting the objection.</u></p> <p><u>(2) The movant may file and serve a reply memorandum not later than 7 days after the service of the objection. A reply memorandum shall consist only of a response to an objection and shall not present additional grounds for granting the motion, or reargue or expand upon the arguments made in support of the motion.</u></p> <p><u>(3) No memorandum other than a memorandum in support of a motion, a</u></p>	<p>expand upon the arguments made in support of the motion.</p> <p>(b) Disposition of a Motion for a Procedural Order. <u>The Court may act on a motion for a procedural order at any time without awaiting a response. For all procedural motions, the moving party is required to confer with the non-moving party prior to filing the procedural motion and indicate in the motion whether it has been assented-to, is a joint motion or will be objected to. Procedural motions shall include the following [INSERT LIST]. The Court authorizes the Clerk to act upon these procedural motions. A party adversely affected by the Court or Clerk acting upon a motion before the time period to respond has lapsed, and authorizes the Clerk to act on specific types of routine procedural motions. A party adversely affected by the Clerk’s action may file a motion to reconsider, vacate or modify the action which will be submitted to the presiding judge for consideration.</u></p>	<p>(b) Disposition of a Motion for a Procedural Order. <u>The Court may act on a motion for a procedural order at any time without awaiting a response. For all procedural motions, the moving party is required to confer with contact the non-moving party prior to filing the procedural motion and, where possible, indicate in the motion whether it has been assented-to, is a joint motion or will be objected to. Procedural motions shall include the following [INSERT LIST]. The Court authorizes a Magistrate Judge or the Clerk to act upon these procedural motions. A party adversely affected by the Court or Clerk acting upon a motion before the time period to respond has lapsed may file a motion to reconsider, vacate or modify the action which will be submitted to the presiding judge for consideration.</u></p>	

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Civil Rules

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	<p>memorandum in opposition, and a reply memorandum may be filed without prior leave of the Court.</p> <p>(e) Copies. With respect to documents that are conventionally filed, two copies of every motion, objection and reply and memorandum in support, together with any permitted appendices, shall be filed along with the original. The originals shall be retained in the Court file. The Clerk shall transmit the copies to the chambers of the judge to whom the case has been assigned.</p> <p>(d) Memoranda and Supporting Documents</p> <p>(1) Form of Memoranda. All memoranda of law, as well as all motions, objections and replies, shall conform with the requirements of LR-Cv 5(a) of these Rules. Page margins shall be at least one inch on all sides, and only one side of each page may be used. Each item attached to the memorandum shall be separately identified and labeled.* [see Comment, end of Rule]</p> <p>(2) Page Limits. The judicial officer to whom a case is assigned may establish page limits for any memoranda, appendices or other supporting documents filed in support of or in opposition to any motion. Before filing or objecting to any motion, counsel shall determine what page limits, if any, have been set by such judicial officer.</p> <p>(3) Requests to Modify Page and Format Restrictions.</p> <p>(A) Any request to exceed page</p>			

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Civil Rules

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	<p>limits or to otherwise modify any page and format restrictions for memoranda, appendices and/or exhibits shall be made by motion.</p> <p>(B) Any such motion shall be filed far enough in advance of the due date to permit the Court to rule on it before that time. If the time required to rule on the motion is likely to extend beyond the deadline, the motion shall be accompanied by a motion to extend the deadline.</p> <p>(C) A motion to exceed page limits shall explain why a lengthier memorandum or appendix is required and state the length of the proposed memorandum. The proposed memorandum shall not be submitted with the motion to exceed page limits and shall not be filed unless and until the motion is granted.</p> <p>(c)(4) Record Citations in Administrative Appeals. Any memorandum <u>motion, response or reply</u> filed in a case involving an appeal from the ruling or determination of an administrative tribunal, including but not limited to Social Security disability determinations, shall include all pertinent citations to the administrative record.</p> <p>(d)(e) Need for Evidentiary Hearing. All motions and objections <u>responses</u> shall contain a statement by counsel as to whether oral argument and/or an evidentiary hearing is requested; and, if so, the estimated time that will be required.</p>			

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Civil Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Cv 9	<p style="text-align: center;">LR Cv 9 REQUEST FOR EMERGENCY/EXPEDITED RELIEF OR FOR THREE-JUDGE DISTRICT COURT</p> <p>When a document is filed containing a request for a temporary restraining order, any other form of emergency relief, or the appointment of a three-judge court, such request shall be noted in all capital letters on the first page to the right of, or immediately beneath, the case caption, <u>and</u>. The basis for any such request shall be set forth in a memorandum of law attached to the basis for the request.</p> <p>In addition, the party making the request shall promptly communicate the request to the deputy clerk for the judge to whom the case is assigned.</p>		<p>PROPOSED CHANGE ACCEPTED. THE CHANGE, HOWEVER, IS CONTINGENT ON THE COURT'S ACCEPTANCE OF THE AMENDMENTS TO LR CV 7 AND LR CR 47.</p>	
LR Cv 15	<p>LR Cv 15 MOTIONS TO AMEND</p> <p>Any motion to amend a pleading shall be made promptly after the party seeking to amend first learns the facts that form the basis for the proposed amendment. A motion to amend a pleading shall be <u>filed in accordance with LR Cv 7, explain how the amended pleading differs from the original and why the amendment is necessary, and be accompanied by:</u></p> <p>(a) the a complete and signed copy of the proposed amended pleading; and</p> <p>(b) a supporting memorandum that explains how the amended pleading differs from the original and why the amendment is necessary.</p>	<p>The Civil Rules Subcommittee accepted the proposed amendment, with the following revision:</p> <p>Any motion to amend a pleading shall be made promptly after the party seeking to amend first learns the facts that form the basis for the proposed amendment. A motion to amend a pleading shall be filed in accordance with LR Cv 7, explain how the amended pleading differs from the original and why the amendment is necessary, and be accompanied by a complete and signed copy of the proposed amended pleading. <u>If the motion to amend is granted, the Clerk's Office shall file the proposed amended pleading as a separate docket entry.</u></p>	<p>The LRRC accepted the proposal, with the following modification of the Civil Rules Subcommittee's revision:</p> <p>Any motion to amend a pleading shall be made promptly after the party seeking to amend first learns the facts that form the basis for the proposed amendment. A motion to amend a pleading shall be filed in accordance with LR Cv 7, explain how the amended pleading differs from the original and why the amendment is necessary, and be accompanied by a complete and signed copy of the proposed amended pleading. If the motion to amend is granted, the Clerk's Office shall file the proposed amended pleading as a separate docket entry.</p>	

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Civil Rules

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LR Cv 41.1	<p>LR Cv 41.1 ADMINISTRATIVE CLOSURE OF CASES SUBJECT TO BANKRUPTCY STAY</p> <p>If a petition in bankruptcy that triggers the automatic stay provision of the Bankruptcy Code is filed with respect to any party to a pending civil action, the civil action may be administratively closed as to that party, subject to being reopened at such time as the stay is no longer in effect.</p>	<p>The Civil Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED</p>	
LR Cv 54	<p>LR Cv 54 COSTS</p> <p>*****</p> <p>(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.</p> <p>*****</p>		<p>PROPOSED CHANGE ACCEPTED. THE CHANGE, HOWEVER, IS CONTINGENT ON THE COURT’S ACCEPTANCE OF THE AMENDMENTS TO LR CV 7 AND LR CR 47.</p>	
LR Cv 54.2	<p>LR Cv 54.2 JUROR COSTS See LR Cv 39.4(b) (Payment of Juror Costs in connection with settlement).</p>	<p>The Civil Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED</p>	

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Civil Rules

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LR Cv 56	<p>LR Cv 56 MOTIONS FOR SUMMARY JUDGMENT</p> <p>(a) Statement of Undisputed Facts.</p> <p>(1) In addition to the memorandum of law required by LR Cv 7, A a motion for summary judgment shall be accompanied by a separate Statement of Undisputed Facts that concisely sets forth all facts that the movant contends are undisputed and entitle the movant to judgment as a matter of law.</p> <p>(2) The Statement of Undisputed Facts shall be filed as a separate filing, document with not an attachment to the motion for summary judgment and memorandum. Each “fact” shall be set forth in a separate, numbered paragraph and shall identify the evidence establishing that fact, including the page and line of any document to which reference is made, unless opposing counsel has expressly acknowledged that the fact is undisputed.</p> <p style="text-align: center;">*****</p> <p>(5) If an objecting party files a separate statement of additional undisputed facts and the movant contests any of those facts, the movant shall file a separate statement setting forth what additional facts are disputed, numbered correspondingly to the opposing party's additional undisputed facts, at the same time it files its reply memorandum pursuant to LR Cv 7(b)(2).</p>		<p>PROPOSED CHANGE ACCEPTED. THE CHANGE, HOWEVER, IS CONTINGENT ON THE COURT'S ACCEPTANCE OF THE AMENDMENTS TO LR CV 7 AND LR CR 47.</p>	

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Civil Rules

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LR Cv 67	<p>LR Cv 67 PARTIES' FUNDS DEPOSITED AND WITHDRAWL OF FUNDS WITH CLERK OF COURT</p> <p>(a) Procedure for Deposit Receipt of Funds.</p> <p>(1) Any party who seeks to deposit funds into the Registry of the Court pursuant to Title 28 U.S.C. § 2041 or Fed. R. Civ. P. 67 or other rule or law must first file a motion in the form required by LR Cv 7 and. The motion must be accompanied by a proposed order specifying the amount of funds to be deposited, the name and address of a local financial institution into which the funds are to be deposited, and the type of account desired. The financial institution and the type of account must be approved in advance by the Clerk of Court.</p> <p><u>Court Order Required.</u> No funds shall be sent to the Court or its officers for deposit into the registry of the Court without an order signed by the presiding judge. The party making the deposit shall serve the order permitting the deposit or transfer on the Clerk of Court.</p> <p>(2) The motion and proposed order shall be served on all other parties of record in the case.</p> <p><u>Deposit with the Treasurer of the United States.</u> Unless otherwise ordered, all funds ordered to be paid to the Court or its officers shall be deposited with the Treasurer of the United States in the name and to the credit of this Court pursuant to 28 USC §2041 through the depositories designated by the Treasury to accept such deposit on its behalf.</p>	<p>This proposal was referred to the LRRC after the Civil Rules Subcommittee met, and was discussed by the full LRRC at its May 16, 2017 meeting.</p>	<p>PROPOSED CHANGE ACCEPTED</p>	

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Civil Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p>(3) Upon the granting of the motion, the party shall promptly deliver to the Clerk's Office a check for the amount to be deposited, together with a copy of the signed order.</p> <p><u>(b) Investment of Registry Funds.</u></p> <p><u>(1) Court Registry Investment System (CRIS).</u> Unless otherwise ordered, funds on deposit with the Court ordered to be placed in some form of interest-bearing account in accordance with Fed. R. Civ. P. 67 will be placed in the Court Registry Investment System (CRIS) administered through the Administrative Office of the United States Courts. The Director of the Administrative Office of the United States Courts is designated as custodian for all CRIS funds.</p> <p>Deposits made with the CRIS will be pooled with those on deposit with the Treasury to the credit of other courts in the CRIS and used to purchase Government Account Series securities through the Bureau of Public Debt, which will be held at the Treasury in an account in the name and to the credit of the Director of Administrative Office of the United States Courts.</p> <p><u>(2) Interest-Bearing Funds.</u> A separate account for each case will be established in the CRIS Liquidity Fund titled in the name of the case giving rise to the investment in the fund. Income generated from fund investments will be distributed to each case based upon the ratio each account's principal and earnings has to the aggregate principal and income total in the fund after the CRIS maintenance fee described in (c)</p>			

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	<p><u>has been applied. Reports showing the interest earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in the CRIS and made available to litigants and/or their counsel.</u></p> <p><u>(3) Interpleader Funds.</u> <u>Interpleader funds deposited under 28 U.S.C. §1335 are considered a “Disputed Ownership Fund” (DOF), a taxable entity that requires tax administration. Unless otherwise ordered by the Court, interpleader funds shall be deposited in the DOF established within the CRIS. The custodian shall be responsible for meeting all DOF tax administration requirements, and is authorized and directed to deduct the DOF fee on assets on deposit in the DOF for management of investments and tax administration. The custodian is further authorized and directed to withhold and pay federal taxes due on behalf of the DOF.</u></p> <p><u>For each interpleader case, an account shall be established in the CRIS Disputed Ownership Fund, titled in the name of the case giving rise to the deposit invested in the fund. Income generated from fund investments will be distributed to each case after the DOF fee described in (c) has been applied and tax withholdings have been deducted from the fund. Reports showing the interest earned and the principal amounts contributed in each case will be available through the FedInvest/CMS application for each court participating in the CRIS and made available to litigants and/or their counsel. On appointment of an administrator authorized to incur expenses on behalf of</u></p>			

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	<p><u>the DOF in a case, the case DOF funds should be transferred to another investment account directed by court order.</u></p> <p><u>(c) Maintenance of Interest-Bearing Funds</u></p> <p><u>(1) Non-DOF Maintenance Fees.</u> <u>The custodian is authorized and directed to deduct a fee of an annualized 10 basis points on assets on deposit for all CRIS funds, excluding the case funds held in the DOF, for the management of investments in CRIS. The fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to individual accounts.</u></p> <p><u>(2) DOF Maintenance Fees.</u> <u>The custodian is authorized and directed to deduce the DOF fee of an annualized 20 basis points on assets on deposit in the DOF for management of investments and tax administration. The DOF fee is assessed from interest earning to the pool before a pro rata distribution of earnings is made to individual accounts.</u></p> <p>(2) In cases in which funds are ultimately disbursed to the United States or to agencies or officials thereof, the clerk shall provide to those agencies or officials any relief from the CRIS fee approved by the Director of the Administrative Office on application filed by the United States Attorney or any government counsel.</p> <p><u>(b) Procedure for Withdrawals and Fund Transactions.</u> <u>Any party seeking to withdraw monies from the Registry of the Court must file</u></p>			

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	<p>and serve a motion for the withdrawal of monies from the Registry, together with a proposed order stating the exact amount to be disbursed to each party, and a separate list containing each party's name, address and tax identification number. The proposed order and separate list shall not be electronically filed. All transactions regarding Registry funds shall be made only with the approval of the Court.</p> <p>(e) Deduction of Court Fees.— Any order obtained by a party that directs the Clerk to invest in an interest bearing account or investment funds deposited in the Registry of the Court shall contain wording which directs the Clerk, pursuant to 28 U.S.C. § 1914(b), to deduct a fee in accordance with the schedule set by the Judicial Conference of the United States from the income earned on the funds deposited or invested, whenever such income becomes available for such deduction, and without further order of the Court. Such a provision shall be included in the order regardless of the nature of the case in which the deposit was made.</p> <p><u>(d) Disbursement of Funds.</u></p> <p><u>(1) Disbursement of Interest Bearing Funds.</u> No interest-bearing funds may be paid out of the registry except by order of the Court. The custodian shall disburse all registry principal and income, if applicable, less the registry fee assessment, pursuant to the court's order. Any such order shall set forth the funds in question and name(s) of the payee(s).</p> <p><u>(2) Disbursement of Non-Interest Bearing Funds.</u> No non-interest bearing</p>			

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	<p><u>funds may be paid out of the registry except by order of the Court. Any such order shall set forth the funds in question and name(s) of the payee(s).</u></p>			
LR Cv 72	<p>LR Cv 72 AUTHORITY OF MAGISTRATE JUDGES IN CIVIL CASES</p> <p>*****</p> <p>(c) Objections to Rulings on Nondispositive Matters.</p> <p>*****</p> <p>(2) Content of Objections. An objection to a magistrate judge’s order or ruling in a nondispositive matter shall set forth the basis of the objection and be accompanied by a memorandum of law which complies with LR Cv 7.</p> <p>(d) Objections to Reports and Recommendations.</p> <p>*****</p> <p>(2) Content of Objections. An objection to a magistrate judge’s Report and Recommendation shall be accompanied by a memorandum of law specifying the findings and/or recommendations to which objection is made and the basis for the objection. The memorandum <u>objection</u> shall comply with LR Cv 7.</p> <p>*****</p>		<p>PROPOSED CHANGE ACCEPTED. THE CHANGE, HOWEVER, IS CONTINGENT ON THE COURT’S ACCEPTANCE OF THE AMENDMENTS TO LR CV 7 AND LR CR 47.</p>	

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LR Cv 73	<p>LR Cv 73 CONSENT TO ORDER OF REFERENCE</p> <p>*****</p> <p>(b) Notification of Option to Consent.</p> <p>(1) When a civil action or notice of removal is filed, the Clerk, with the permission of the district judge to whom the case is assigned, shall give written notice to the parties of the option to consent to a trial before, or other disposition of the case by, a magistrate judge and shall provide the parties with a consent form. The notice shall inform the parties that they are free to withhold consent without adverse consequences; that the form is to be returned to the Clerk only if all parties consent; and that if all parties consent, the executed form must be returned within 30 <u>days the time specified in the notice issued by the Clerk.</u></p> <p>*****</p>	<p>The Civil Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED</p>	

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LR Cr 6	<p>LR Cr 6 GRAND JURY MATTERS</p> <p>*****</p> <p>(c) Motions and Pleadings Concerning Grand Jury. All motions and other documents filed with the Clerk relating to grand jury matters (including but not limited to motions to compel, motions to quash, and motions to grant immunity) shall be automatically sealed by the Clerk, whether or not a separate motion to seal is filed. <u>Parties do not need to file a separate motion to seal in regard to these matters, provided that the document be stamped or labeled by the party on the cover page "FILED UNDER SEAL."</u></p> <p>*****</p>	<p>The Criminal Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED</p>	
LR Cr 47	<p>LR Cr 47 MOTIONS, OBJECTIONS AND SUPPORTING DOCUMENTS OTHER PAPERS</p> <p>(a) Form and Content. Every motion shall bear a title identifying the party filing it and stating the precise nature of the motion. In addition, every motion except a motion to extend time or motion to compel discovery shall contain a short and plain description of the requested relief and shall be accompanied by a separate memorandum of law setting forth the reasons why the relief requested should be granted and any applicable points and authorities supporting the motion. A motion to extend time or to compel discovery shall include within the motion a brief statement of reasons why the requested relief should be granted.</p> <p><u>In General.</u></p> <p><u>(1) Request for Relief.</u> A request</p>	<p>The Criminal Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>The LRRC elected to modify LR Cr 47 (a)(2)(B), (a)(4), and (b) so that the final version of the rule matches the companion civil rule, LR Cv 7.</p>	

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	<p>for a court order must be made by motion. A motion must be in writing unless made during a hearing or trial or if the court permits otherwise.</p> <p><u>(2) Contents of a Motion.</u></p> <p><u>(A) Grounds and Relief Sought.</u> <u>All motions must state with particularity the grounds for seeking an order, the relief sought, and the legal argument necessary to support it.</u></p> <p><u>(B) Accompanying Documents.</u> <u>A separate memorandum of law need not be filed. However, any memorandum of law or other paper necessary to support a motion must be served and filed with the motion.</u></p> <p><u>(3) Response.</u> <u>Any party may file a response to a motion the contents of which are governed by LR Cr 47(a)(2). The response must be filed within 14 days after service of the motion unless the Court shortens or extends the time.</u></p> <p><u>(4) Reply to Response.</u> <u>Any reply to a response must be filed within 7 days after service of the response. A reply shall not present matters that do not relate to the response, or reargue or expand upon the arguments made in support of the motion.</u></p> <p><u>(5) Sur-replies.</u> <u>Sur-replies may only be filed with prior leave of Court.</u></p>		<p><u>(B) Accompanying Documents.</u> A separate memorandum of law need not be filed. However, any <u>if a party chooses to file a memorandum of law, it or other paper necessary to support a motion must be served and filed with as an attachment to the motion and not as a separate docket entry.</u></p> <p><u>(4) Reply to Response.</u> <u>Although the filing of a reply is not required, Any reply to a response must be filed within 7 days after service of the response. A reply shall not present matters that do not relate to the response, or reargue or expand upon the arguments made in support of the motion.</u></p>	

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	<p>(b) Objections and Replies.</p> <p><u>Disposition of a Motion for a Procedural Order.</u> The Court may act on a motion for a procedural order at any time without awaiting a response, and authorizes the Clerk to act on specific types of routine procedural motions. A party adversely affected by the Clerk's action may file a motion to reconsider, vacate or modify the action which will be submitted to the presiding judge for consideration.</p> <p>(1) Any party opposing a motion shall file and serve an objection not later than 14 days after service of the motion. Every objection shall be accompanied by a memorandum setting forth the reasons for the objection and any applicable points and authorities supporting the objection.</p> <p>(2) Other than a memorandum in support of a motion and a memorandum in opposition, no memorandum (including a reply memorandum) may be filed without prior leave of the Court.</p> <p>(c) Copies. With respect to documents that are conventionally filed, two copies of every motion, objection and reply and memorandum in support, together with any permitted appendices, shall be filed along with the original. The original shall be retained in the Court file. The Clerk shall transmit the copies to the chambers of the judge to whom the case has been assigned.</p>		<p>(b) <u>Disposition of a Motion for a Procedural Order.</u> The Court may act on a motion for a procedural order at any time without awaiting a response, and authorizes the Clerk to act on specific types of routine procedural motions. For all procedural motions, the moving party is required to contact the non-moving party prior to filing the procedural motion and, where possible, indicate in the motion whether it has been assented to, is a joint motion or will be objected to. The Court authorizes a Magistrate Judge or the Clerk to act upon these procedural motions. A party adversely affected by the Court or Clerk acting upon a motion before the time period to respond has lapsed may file a motion to reconsider, vacate or modify the action which will be submitted to the presiding judge for consideration.</p>	

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	<p>(d) Memoranda and Supporting Documents.</p> <p>(1) Form of Memoranda. All memoranda of law, as well as all motions, objections and replies, shall conform with the requirements of LR Cr 57(a) of these Rules. Page margins shall be at least one inch on all sides, and only one side of each page may be used. Each item attached to the memorandum shall be separately identified and labeled.* [see Comment, end of Rule].</p> <p>(2) Page Limits. The judicial officer to whom a case is assigned may establish page limits for any memoranda, appendices or other supporting documents filed in support of or in opposition to any motion. Before filing or objecting to any motion, counsel shall determine what page limits, if any, have been set by such judicial officer.</p> <p>(3) Requests to Modify Page and Format Restrictions.</p> <p>(A) Any request to exceed page limits or to otherwise modify any page and format restrictions for memoranda, appendices and/or exhibits shall be made by motion.</p> <p>(B) Any such motion shall be filed far enough in advance of the due date to permit the Court to rule on it before that time. If the time required to rule on the motion is likely to extend beyond the deadline, the motion shall be accompanied by a motion to extend</p>			

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	<p>the deadline.</p> <p>(C) A motion to exceed page limits shall state the reasons for the request and the number of pages in the proposed document(s). The proposed document(s) shall not be submitted unless and until the motion to exceed is granted.</p> <p>(c)(e) Need for Evidentiary Hearing. All motions and objections responses shall contain a statement by counsel as to whether oral argument and/or an evidentiary hearing is requested; and, if so, the estimated time that will be required.</p>			
LR Cr 57.1	<p>LR Cr 57.1 APPLICATIONS FOR POST-CONVICTION RELIEF</p> <p>*****</p> <p>(b) Non-conforming Filing. If the petition is not filed on the form referred to in subsection (a) of this rule, or on a substantially similar form, or if it is not properly completed, the Clerk shall promptly notify the petitioner in writing of the deficiency. If the petitioner fails to file a corrected petition within 21 days after such notification, the Clerk shall present the petition to a judicial officer to determine whether the petition should be dismissed.</p> <p>(e)(b) Assignment. Petitions for relief pursuant to 28 U.S.C. § 2255 shall be assigned to the district judge who sentenced the petitioner. If that district judge is unavailable to review the petition, the petition shall be randomly assigned to another district judge. Petitions for relief pursuant to 28</p>	<p>The Criminal Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED</p>	

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	<p>U.S.C. § 2254 shall be randomly assigned.</p> <p>(d)(c) Ineffective Assistance of Counsel Claims. If a petitioner makes a claim of ineffective assistance of counsel based on counsel’s failure to file a direct appeal, the petitioner shall append to his petition a sworn statement regarding the discussions the petitioner had with counsel regarding an appeal, specifically stating:</p> <p>(1) whether counsel asked whether the petitioner wished to appeal; and</p> <p>(2) whether petitioner ever told counsel that he wished to appeal.</p>			
LR Cr 57.2	<p>LR Cr 57.2 AUTHORITY OF MAGISTRATE JUDGES IN CRIMINAL CASES</p> <p>*****</p> <p>(c) Objections to Rulings on Nondispositive Matters.</p> <p>*****</p> <p>(2) Content of Objections. An objection to a magistrate judge’s order or ruling in a nondispositive matter shall set forth the basis of the objection and be accompanied by a memorandum of law which complies with LR Cr 47.</p> <p>*****</p> <p>(d) Objections to Reports and Recommendations.</p>		<p>PROPOSED CHANGE ACCEPTED. THE CHANGE, HOWEVER, IS CONTINGENT ON THE COURT’S ACCEPTANCE OF THE AMENDMENTS TO LR CV 7 AND LR CR 47.</p>	

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	<p style="text-align: center;">*****</p> <p>(2) Content of Objections. An objection to a magistrate judge’s Report and Recommendation shall be accompanied by a memorandum of law specifying the findings and/or recommendations to which objection is made and the basis for the objection. The <u>memorandum objection</u> shall comply with LR Cr 47.</p>			

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February 28, 2017

VIA ELECTRONIC MAIL

Local Rules Review Committee
U.S. District Court for the District of Rhode Island
One Exchange Terrace
Providence, RI 02903
Local_Rules@rid.uscourts.gov

Re: Proposed Amendment to Local Rule 102(b)(3)

Dear Sir or Madam:

The purpose of this correspondence is to propose an amendment to LR Gen 102(b)(3) of the Local Rules of the United States District Court for the District of Rhode Island. The text of this rule is below with the proposed amendment underlined:

(3) **Limiting Sealed Filings and Redactions.** Rather than automatically requesting the sealing of an entire motion or other filing, parties shall consider whether redaction would be sufficient. If only a portion of a document contains confidential information, the party requesting sealing pursuant to (b)(1) shall file both an unredacted version of the document and a redacted version that excises the confidential information. The redacted version of the sealed civil document shall be filed within 7 days after the filing of the original sealed document.

A recent publication has addressed the concern of federal courts with over-redactions in public versions of sealed filings and provides a simple solution based on another district court's practices. *See* William Burgess, "How Fed. Circ. Should Address Plague of Over-Redactions," *Law360* (Dec. 11, 2014) (available at <https://www.law360.com/articles/602004/how-fed-circ-should-address-plague-of-over-redactions>) (attached as **Exhibit A**). As the author observes, "the main source of over-designation of confidential material . . . may be litigants being cautious about other parties' confidential information."

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The author goes on to describe the dilemma parties face when confronted with rules like the current version of LR Gen 102(b)(3) that require parties to file redacted and unredacted versions of memoranda simultaneously: “[U]nless attorneys are willing to share advance draft briefs with their opponents, they have little choice but to comply with the protective order already in place and to redact their opponents’ confidential information with the right degree of caution that will avoid . . . sanctions from the district court from under-redacting in violation of the protective order”

The solution to this problem suggested in the article is reflected in the proposed amendment above. This language is based on Section G(1) of the United States District Court for the District of Delaware’s Revised Administrative Procedures Governing Filing and Service by Electronic Means (revised Oct. 16, 2014) (available at <http://www.ded.uscourts.gov/sites/default/files/cm-ecf/CMECF-DEAdminProc-Final-101614.pdf>) (attached as **Exhibit B**). By providing parties with a mechanism to meet and confer on redactions prior to public filing without prematurely revealing their arguments, the Court may enable greater disclosure in public filings.

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. Nagelberg', with a long horizontal flourish extending to the right.

James J. Nagelberg

Enclosures

EXHIBIT A



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How Fed. Circ. Should Address Plague Of Over-Redactions

Law360, New York (December 11, 2014, 10:27 AM EST) -- Judges and panels of the Federal Circuit frequently express frustration with litigants who over-redact "confidential" material in their briefs. Judge Timothy Dyk has referred to the practice as "an absolute plague."^[1] The court's practice notes state that "[u]nnecessarily designating material in the briefs and appendix as confidential may hinder the court's preparation and issuance of opinions."^[2] A 2011 panel opinion imposing sanctions for excessive confidentiality designations stated that that practice "ignores the requirements of public access, deprives the public of necessary information, and hampers this court's consideration and opinion writing."^[3]



William Burgess

Recent developments suggest that the plague continues unabated. The Federal Circuit has issued several show-cause orders this year and last, including one this past November threatening sanctions in *Gilead Sciences Inc. v. Sigmapharm Laboratories LLC*. The court issued a similar order in 2013^[4] and has at least once issued an opinion under seal in reliance on the parties' confidentiality designations, and ordered the parties to show cause why the opinion should be kept under seal or redacted.^[5]

The Federal Circuit's solution to the plague has been threefold. First, the court has asked counsel at oral argument to defend confidentiality markings in the briefs.^[6] The court's practice notes state that "[c]ounsel must be prepared to justify at oral argument any claim of confidentiality," and practice demonstrates that the court means it.^[7] Second, the court has asked parties — usually at argument — to confer and file new briefs with fewer confidentiality markings and redactions.^[8] Third, the court has threatened and imposed sanctions for over-designation of confidential material as violating Federal Circuit Rule 28 (d).

In *In re Violation of Rule 28(d)* in 2011, the court sanctioned appellants' counsel and issued a 22-page opinion expressing its views on improper confidentiality markings. (The merits of that appeal, by contrast, were resolved in a 15-page opinion issued 3 months earlier).^[9] The sanctions opinion invoked the First Amendment and common law rights of public access to court proceedings and records, and suggested that district courts across the country may be violating those rights and Federal Rule of Civil Procedure 26(c)(1) by entering protective orders that are overly permissive with respect to filing documents under seal.

The Federal Circuit's analysis and observations may be correct, but it has thus far not

cured the plague of excessive confidentiality designations. In my view, a more promising solution would be to amend the Federal Circuit's rules to let litigants confer about redactions after a brief is filed but before material in it is marked confidential. Many district courts have a similar practice, and implementing it at the Federal Circuit would not be difficult—it would require only the addition of 42 words to the court's rules.

The Federal Circuit's rules currently address confidential information in two ways. First, under Rules 11(d) and 17(f), the parties must review the entire record during the first 45 days after the appeal is docketed to determine whether existing protective orders should be modified. Second, under Rule 28(d) for briefs and 27(m) for motions, the parties must file redacted and unredacted pleadings simultaneously at the applicable deadline, with the unredacted brief highlighting confidential material, and the redacted brief describing what has been redacted.

Some objectionable confidentiality designations — such as case citations and legal arguments — are simply wrong, and reflect insufficient attention to the court's rules. *Gilead* and other recent cases indicate, however, that the main source of over-designation of confidential material on appeal may be litigants being cautious about other parties' confidential information. Parties confronted with excessive redactions have frequently responded that they were attempting to respect designations their opponent or a third party made in the trial court or agency and did not want to violate the existing protective order.

In *Gilead*, the appellant stated in a letter that its redactions were "made in a good faith effort to prevent public disclosure of highly confidential ... information that had been so designated by [the appellee] pursuant to a Discovery Confidentiality Order ... entered by the trial court." [10] At the argument where Judge Dyk referred to the "plague" of over-redactions, the attorney at the lectern responded that he had not marked any of his own client's information as confidential — only material designated as such by another party. [11]

If concern for other parties is the main cause of over-designating confidential material on appeal, then the court's rules do not address the problem adequately. Federal Circuit Rules 11(d) and 17(f) require parties to review the entire record before any briefs are filed and to determine whether any modifications to the protective order are necessary. At the beginning of an appeal, however, that exercise is often either wasteful or perfunctory. Parties cannot be certain in advance what confidential information they will need to present on appeal. The line between public and confidential information often turns on the degree of detail that a brief reveals, rather than the general subject matter. Before any briefs are drafted, parties cannot be certain what concerns might arise under the operative protective order, and it is difficult to think productively about those issues in the abstract.

Federal Circuit Rules 28(d) and 27(m) require parties to file redacted and unredacted versions of briefs and motions simultaneously at the deadline. Those rules permit attorneys to confer in a focused way with their own clients during the drafting process about which redactions are truly necessary and which are not. But the rules do not facilitate similar discussions with other parties. Thus, unless attorneys are willing to share advance draft briefs with their opponents, they have little choice but to comply with the protective order already in place and to redact their opponents' confidential information with the right degree of caution that will avoid both sanctions from the district court from under-redacting in violation of the protective order, and sanctions from the Federal Circuit for over-redacting in violation of Federal Circuit Rule 28(d). Rational, risk-averse attorneys will usually over-redact, as over-redactions can be fixed later, but under-redactions cannot.

The solution, I suggest, is to amend the Federal Circuit's rules to borrow a longstanding practice from the district courts: Pleadings containing confidential information may be filed

under seal at the deadline, and redacted and confidential-highlighted versions must be filed seven days later.

The District Court for the District of Delaware states the rule simply in its electronic case filing procedures: After a party files a document under seal, “[a] redacted version of this sealed document must be electronically filed within 7 days.” The Federal Circuit could easily add similar language to its rules and thereby allow litigants to confer with each other about what redactions to specific language in already-filed briefs are truly necessary. Slight, simple additions to the Federal Circuit’s rules along these lines should significantly alleviate the current plague and reduce the need for sanctions and for confrontations over-redactions at oral argument. Parties are much more willing and able to consent to public disclosure in the context of a specific, filed brief than in the abstract at the beginning of an appeal.

In other courts where litigants can file sealed briefs without also filing public versions, litigants already follow similar procedures informally so that they can share redacted versions of sealed briefs with their clients. And the Federal Circuit has already been employing a variant of that rule on an ad hoc basis — though at its own inconvenience — when it confronts parties at argument and asks them to confer and file new briefs with fewer redactions.

In the interest of being specific, I propose that the court amend its Rule 28(d)(1) by making the addition shown below:

(1) Two Sets of Briefs. If a party refers in a brief to material subject to confidentiality mandated by statute or to a judicial or administrative protective order, **the party must file the brief under seal with the court. Within seven days of filing of the sealed brief**, two sets of briefs must be filed ...

The court could make the identical changes to its Rule 27(m) for motions, and substitute “motion papers” for “brief”:

(1) Two Sets of Motion Papers. If a party refers in motion papers to material subject to confidentiality mandated by statute or to a judicial or administrative protective order, **the party must file the motion papers under seal with the court. Within seven days of filing of the sealed motion paper**, two sets of motion papers must be filed ...

The court’s Rule 30 already requires the parties to confer on the contents of the appendix and does not pose the same problems as briefs. That rule can therefore either be left unchanged, or the deadline for filing under Rule 30(a)(4) can be extended from seven days to 14 days after the filing of the last brief to allow the parties additional time to confer on redactions if needed.

The foregoing fix is extremely simple, would not require conforming amendments to the court’s ECF procedures, and may alleviate the over-redaction plague more efficiently than anything else currently being tried.

—By William H. Burgess, Kirkland & Ellis LLP

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[1] ESN LLC v. Cisco Sys. Inc., No. 2010-1185, Oral Arg. Recording at 31:23-31:45, (Fed. Cir. Oct. 8, 2010) (relevant excerpt available at <http://www.717madisonplace.com/?p=3215>)

[2] Practice Note following Fed. Cir. R. 28.

[3] In re Violation of Rule 28(d), 635 F.3d 1352, 1360 (Fed. Cir. 2011).

[4] Spellbound Development Grp. Inc. v. Pacific Handy Cutter Inc., No. 12-1573, Dkt. No. 50 (Fed. Cir. March 22, 2013).

[5] In re Cyclobenzaprine Hydrochloride Extended-Release Capsule Patent Litig., 497 F. App'x 66 (Fed. Cir. 2013).

[6] See, e.g., ESN, LLC v. Cisco Sys., Inc., No. 2010-1185, Oral Arg. Recording at 30:05-31:50, (Fed. Cir. Oct. 8, 2010) (relevant excerpt available at <http://www.717madisonplace.com/?p=3215>); Almondnet, Inc. v. Microsoft Corp., No. 2012-1203, Oral Arg. Recording at 0:00-1:18, (Fed. Cir. Nov. 5, 2012); Spellbound Development Grp., Inc. v. Pacific Handy Cutter Inc., No. 12-1573, Oral Arg. Recording at 0:00-10:33 (Fed. Cir. Apr. 5, 2013).

[7] Practice Note following Fed. Cir. R. 28.

[8] See, e.g., Interdigital Communications LLC v. ITC, 718 F.3d 1336, 1339 n.1 (Fed. Cir. 2013); Almondnet, Inc. v. Microsoft Corp., No. 2012-1203, Oral Arg. Recording at 0:00-1:18, (Fed. Cir. Nov. 5, 2012).

[9] Sanofi-Aventis v. Sandoz Inc., 405 F. App'x 493 (Fed. Cir. 2010).

[10] Gilead Sci. Inc. v. Sigmapharm Labs. LLC, No. 14-1456, Dkt. No. 48 (Fed. Cir. Nov. 26, 2014).

[11] ESN LLC v. Cisco Sys. Inc., No. 2010-1185, Oral Arg. Recording at 30:45-30:55, (Fed. Cir. Oct. 8, 2010) (relevant excerpt available at <http://www.717madisonplace.com/?p=3215>); Almondnet Inc. v. Microsoft Corp., No. 2012-1203, Oral Arg. Recording at 0:49-1:01, (Fed. Cir. Nov. 5, 2012).

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EXHIBIT B

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

**REVISED ADMINISTRATIVE PROCEDURES GOVERNING
FILING AND SERVICE BY ELECTRONIC MEANS**

ELECTRONIC FILING and PDF

Electronic Filing is the process of uploading a document from a user's computer, utilizing the Court's Internet-based Case Management and Electronic Case Filing (CM/ECF) system, to file the document in the Court's case file. CM/ECF accepts documents in a portable document format (PDF).

Electronically converted PDF's are created from word processing documents (MS Word, WordPerfect, etc) using Adobe Acrobat or similar software. They are text searchable and their file size is small. Scanned PDF's are created from paper documents run through an optical scanner. Scanned PDF's are not searchable and have a large file size.

PDF documents filed electronically shall not exceed 5 megabytes in size.

ADMINISTRATIVE PROCEDURES

(A) General Information

- (1) **Effective March 1, 2005, all documents submitted for filing in both new and pending civil and criminal cases**, except those documents specifically exempted in subsection (G) of these procedures, shall be filed either electronically using CM/ECF or on a properly labeled compact disk or flash drive in PDF so that the document can be added to the electronic case file.
- (2) The official Court record in CM/ECF cases shall be the electronic file maintained on the Court's servers, together with any paper attachments and exhibits filed in accordance with these procedures.
- (3) In instances where the Local Rules or Scheduling Orders provide for the filing of an additional copy, a courtesy paper copy of an electronically filed document shall be delivered to the Clerk's Office by the next business day. Motions for admission *pro hac vice* shall not require a courtesy paper copy.
- (4) The Clerk's Office may discard the PDF disk after it has been uploaded to CM/ECF.

- (5) All documents filed by electronic means must comply with technical standards, if any, established by the Judicial Conference of the United States or by this Court.

(B) Registration

- (1) All users of CM/ECF must register with the Court to receive a log-in and password. Registration information is available on the Court's web page at www.ded.uscourts.gov.
- (2) Attorneys admitted to the bar of this Court, including those authorized to represent the United States, shall register as users of CM/ECF prior to filing any pleadings. Prior to registration, attorneys must complete the online independent training via the Court's website (www.ded.uscourts.gov). Registration shall continue to be effective provided the user remains a bar member in good standing.
- (3) An attorney retained in a criminal case who is not admitted to the bar of this Court shall register as a user of CM/ECF solely for purposes of the criminal action. Registration requires identification of the case as well as the name, address, telephone number and Internet e-mail address of the attorney. Familiarity with Delaware's CM/ECF practices and procedures will be required. In addition, a current Certificate of Good Standing is required by Standing Order.
- (4) Upon approval of the judge, a party to a case who is not represented by an attorney may register as a user of CM/ECF solely for purposes of the action. Registration requires completion of the online independent training courses available on the Court's website, identification of the case as well as the name, address, telephone number and Internet e-mail address of the party. If, during the course of the case, the party retains an attorney who appears on the party's behalf, the attorney must advise the Clerk of Court to terminate the party's registration as a user upon the attorney's appearance.
- (5) A user registered in CM/ECF shall not allow another person to file a document using his or her log-in and password, except as an authorized agent of the user. Use of a user's log-in and password by an authorized agent shall be deemed to be the act of the user. Attorneys who are not admitted to the bar of this Court or admitted solely pro hac vice shall not be considered authorized agents.
- (6) Registration constitutes consent to service of all documents by electronic means as provided in these procedures.

(C) Filing and Service of Civil and Miscellaneous Case Opening Documents

- (1) Beginning February 1, 2008, civil and miscellaneous case opening documents that are not being filed under seal, such as a complaint, petition, or notice of removal, together with a summons, civil cover sheet, Rule 7.1 disclosures, and any

accompanying motions, may be filed electronically into case number 99-mc-9999 (a holding case for initial documents), provided that, in instances in which a filing fee is due, the user is either paying via credit card, or submitting an application to proceed without prepayment of fees. As an alternative, case opening documents can also be filed with the Clerk's Office during regular business hours by delivering the documents both in paper format and on a properly labeled compact disk or flash drive in PDF.

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

(D) Electronic Filing

- (1) Electronic transmission of a document to CM/ECF, together with the transmission of a Notice of Electronic Filing (NEF) from the Court, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure and constitutes entry of the document on the docket maintained by the Clerk pursuant to Fed.R.Civ.P.58, Fed.R.Civ.P.79 and Fed.R.Crim.P.55.
- (2) Before filing a scanned document with the Court, a user must verify its legibility.
- (3) A document filed electronically shall be deemed filed at the time and date stated on the NEF received from the Court. CM/ECF will calculate all response deadlines from the date on the NEF.
- (4) All pleadings filed electronically shall be titled in accordance with the approved dictionary of civil or criminal events listed in CM/ECF.

(E) Service of Electronically Filed Documents

- (1) Whenever a pleading or other document is filed electronically, CM/ECF will automatically generate and send a NEF to the user and to all other attorneys or parties of record who are registered as users in CM/ECF. The user(s) shall retain a paper or digital copy of the NEF, which shall serve as the Court's datestamp and proof of filing.
- (2) 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)(D), Fed.R.Civ.P.77(d), Fed.R.Crim.P.49(b) and D. Del. LR 5.2.
- (3) Attorneys who have not yet registered as users with CM/ECF, as well as pro se litigants not registered with CM/ECF, shall be served a paper copy of any electronically filed pleading or other document in accordance with the provisions of Fed.R.Civ.P.5.

- (4) In cases involving pro se parties, all documents filed using CM/ECF shall include a certificate of service identifying the manner in which the service on each party was accomplished. A sample certificate of service form is attached as Form A.
- (5) Service by electronic means shall be treated the same as service by mail for the purpose of adding three (3) days to the prescribed period to respond in accordance with Fed.R.Civ.P.6.

(F) Deadlines

Filing documents electronically does not in any way alter any filing deadlines. Aside from initial pleadings, all electronic transmissions of documents (including, but not limited to, motions, briefs, appendices, and discovery responses) must be completed by 6:00 p.m. Eastern Time, in order to be considered timely filed and served that day. All electronic transmission of initial pleadings must be completed prior to midnight Eastern Time, in order to be considered timely filed that day. When CM/ECF calculates a deadline, it will include intermediate weekends and holidays as prescribed in Fed.R.Civ.P.6. CM/ECF will also add 3 calendar days for mailing as prescribed in section (E)(5) of these procedures.

(G) Special Filing Requirements and Exceptions

- (1) With the exception of Social Security cases, all sealed documents in civil cases must be filed electronically in CM/ECF beginning November 1, 2012. A certificate of service shall be included as an attachment to the sealed document. A redacted version of the sealed civil document shall be filed electronically, within 7 days after the filing of the original sealed document. Courtesy paper copies of sealed documents shall be filed with the Clerk's Office, however, courtesy copies of redacted versions of sealed documents shall not be filed, unless otherwise ordered. A motion to file documents under seal may be filed electronically unless prohibited by law.
- (2) The following documents **shall be filed only on paper**:
 - (a) Documents exceeding 5 megabytes;
 - (b) Medical records (shall be filed under seal with no redacted version);
 - (c) Initial papers of a criminal nature such as the indictment, information, criminal complaint, application for search warrant, as well as any superseding indictment or information.
- (3) The following documents **may be scanned by counsel and filed using CM/ECF, or filed on paper**:
 - (a) Fed.R.Civ.P.4 executed service of process documents;

- (b) Attachments to filings (See subsection (J)); and
 - (c) The certified State Court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings.
- (4) A notice of appeal may be filed using CM/ECF. The applicable filing fee must be remitted to the Clerk's Office within 24 hours (excluding weekends, holidays, and days the Court is closed) of filing the notice of appeal. As an alternative, counsel may elect to pay the filing fee by credit card using CM/ECF. A motion for leave to proceed in forma pauperis may be filed using CM/ECF at the time that the notice of appeal is filed.
- (5) In cases involving patents and trademarks, counsel shall complete form AO-120, Report on the Filing or Determination of an Action Regarding a Patent or Trademark, and include it with the case initiating document. If additional patents are brought into the case at a later time, counsel shall complete the AO-120 form, to include the additional patents, and electronically file the form in CM/ECF. Form AO-120 can be found on the Court's website at www.ded.uscourts.gov under the Clerk's Office forms section.
- (6) An attorney may apply to the Court for permission to file paper documents.

(H) Signature

(1) Attorneys

The user log-in and password required to submit documents to CM/ECF shall serve as that user's signature for purposes of Fed.R.Civ.P.11 and for all other purposes under the Federal Rules of Civil Procedure and the Local Rules of this Court. All electronically filed documents must include a signature block and must set forth the attorney's name, address, telephone number and e-mail address. The name of the CM/ECF user under whose log-in and password the document is submitted must be preceded by a "/s/" and typed in the space where the signature would otherwise appear.

(2) Multiple Signatures

The filer of any document requiring more than one signature (e.g., stipulations, joint status reports) must list thereon all the names of other signatories by means of a "/s/" _____ block for each. By submitting such a document, the filing attorney certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filing attorney has their actual authority to submit the document electronically. The filing attorney shall retain any records evidencing this concurrence for future production, if necessary, until two (2) years after the expiration of the time for filing a timely appeal. A non-filing signatory or party who disputes the authenticity of an electronically filed

document containing multiple signatures must file an objection to the document within ten days of the date on the NEF.

(3) Affidavits

Affidavits shall be filed electronically; however, the electronically filed version must contain a "/s/_____" block indicating that the paper document bears an original signature. By submitting such a document, the filing attorney certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filing attorney has their actual authority to submit the document electronically. The filing attorney shall retain the original for future production, if necessary, for two (2) years after the expiration of the time for filing a timely appeal.

(I) Privacy

To address the privacy concerns created by Internet access to Court documents, unless otherwise ordered by the Court, certain personal data identifiers in pleadings and other papers shall be redacted as follows:

- (1) Names of minor children - only initials shall be used;
- (2) Social security numbers - only the last four digits shall be used;
- (3) Dates of birth - only the year shall be used;
- (4) Financial account numbers - only the last four digits shall be used;
- (5) Home addresses - only the city and state shall be used in criminal cases.

A sealed and otherwise identical document containing the un-redacted personal data identifiers may be filed in paper format along with the required redacted document. The sealed document will be retained by the Court as a part of the record.

NOTE: It is not the responsibility of the Clerk's Office to review each document to determine if pleadings have been modified and are in the proper form. The responsibility for redacting personal identifiers rests solely with counsel and the parties.

Caution shall also be exercised when filing documents that contain the following:

- Personal identifying numbers, such as driver's license numbers;
- Medical records, treatment and diagnosis (shall be filed under seal with no redacted version);
- Employment history;
- Individual financial information;

- Proprietary or trade secret information;
- Information regarding cooperation with the government;
- Victim information; and
- National security information.

(J) Attachments to Filings and Exhibits (other than hearing and trial exhibits)

- (1) Attachments to filings and exhibits must be filed in accordance with the Court's CM/ECF User Manual, unless otherwise ordered by the Court.
- (2) Users shall not attach as an exhibit any pleading or other paper already on file with the Court in that case, but shall merely refer to that document by file date and docket item number when applicable.
- (3) Attachments and exhibits larger than 5 megabytes may be filed electronically in separate 5 megabyte segments or may be bound and submitted in conventional format. The filing party must serve copies on all other parties in the manner in which the documents were filed with the Court.

(K) Orders and Judgments

- (1) Proposed orders may be submitted electronically in PDF. All proposed orders must be either attached as an exhibit to a motion or stipulation, or contained within the body of a stipulation.
- (2) A judge or deputy clerk, if appropriate, may grant routine orders by a text-only entry upon the docket. In such instances, no PDF document will be issued; the text-only entry shall constitute the Court's only order on the matter and counsel will receive a system-generated NEF.
- (3) All orders, decrees, judgments, and proceedings of the Court filed electronically will constitute entry on the docket kept by the Clerk under Fed.R.Civ.P. 58 and 79.

(L) Facsimile Transmissions

No pleadings or other documents shall be submitted to the Court for filing by facsimile transmission without prior leave of Court.

(M) Technical Failures

A user whose filing is made untimely as the result of a technical failure may seek appropriate relief from the Court.

(N) Pro Se Litigation

A party to a case who is not represented by an attorney may file and serve all pleadings and other documents on paper. Upon approval of the judge, a pro se party may register as a user of CM/ECF in accordance with subsection (B) of these procedures.

(O) Access to Electronically Stored Documents

A person may review at the Clerk's Office filings that have not been sealed by the Court. A person also may access CM/ECF at the Court's Internet site, www.ded.uscourts.gov, by obtaining a PACER log-in and password. A person who has PACER access may retrieve docket sheets and documents. Only a user under subsection (B) of these procedures may file documents.

Form A

UNITED STATES DISTRICT COURT DISTRICT OF DELAWARE

CERTIFICATE OF SERVICE

I hereby certify that on _____, I electronically filed _____ with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following: _____. I hereby certify that on _____, I have mailed by United States Postal Service, the document(s) to the following non-registered participants:

/s/Name of Attorney
Law Firm Name & Address
Law Firm Phone Number
Attorney's E-mail Address

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

FINAL CHART RE: AMENDMENTS TO LOCAL RULES

General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 102	<p align="center">LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION</p> <p align="center">*****</p> <p>(b) Sealed Documents.</p> <p align="center">*****</p> <p><u>(4) Exceptions.</u></p> <p>(a) Sealed Cases. Parties do not need to file a separate motion to seal for pleadings or documents filed in cases that are sealed pursuant to statute, Court order, or local rule, provided that the document be stamped or labeled by the party on the cover page “FILED UNDER SEAL.” Sealed cases would include, but are not limited to, grand jury proceedings, pen register requests, wire and video interceptions, and <i>qui tam</i> actions.</p> <p>(b) Ex parte Filings. Parties do not need to file a separate motion to seal for pleadings or documents filed <i>ex parte</i>, provided that the document be stamped or labeled by the party on the cover page “FILED EX PARTE.”</p> <p align="center">*****</p>	This proposal was referred to the LRRC after the General Rules Subcommittee met, and was discussed by the full LRRC at its May 16, 2017 meeting.	PROPOSED CHANGE ACCEPTED.	COURT APPROVED CHANGE.
LR Gen 102	<p align="center">LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION</p> <p align="center">*****</p> <p>(b) Sealed Documents.</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 <u>A</u> motion to seal <u>in accordance with LR Cv 7 and LR Cr 47, 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</u></p>		PROPOSED CHANGE ACCEPTED. THE CHANGE, HOWEVER, IS CONTINGENT ON THE COURT’S ACCEPTANCE OF THE AMENDMENTS TO LR CV 7 AND LR CR 47.	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>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>			
LR Gen 104	<p>LR Gen 104 — REMOVAL AND COPYING OF DOCUMENTS</p> <p>(a) Removal of Documents. Unless otherwise ordered by the Court, case files or documents filed with the Clerk as part of the record in a case shall not be removed from the Clerk's office except:</p> <p style="padding-left: 40px;">(1) by a judicial officer or Court employee using the documents for an official purpose; or</p> <p style="padding-left: 40px;">(2) by counsel or a member of the public examining the documents under the Clerk's supervision at a place designated by the Clerk for that purpose.</p> <p>(b) Copies. Upon the request of any person, the Clerk, to the extent reasonable under the circumstances, shall provide copies of any public document filed in a case. The Clerk may charge a fee consistent with the District Court Miscellaneous Fee Schedule pursuant to 28 U.S.C. §1914.</p>	<p>The General Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED.</p>	<p>COURT APPROVED CHANGE.</p>

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General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 105	<p>LR Gen 105 ASSIGNMENT OF CASES</p> <p>(a) New Cases.</p> <p>(1) In General. Except as otherwise provided in paragraph (a)(2) and (a)(4) of this Rule, <u>the Clerk shall randomly assign each new case</u> shall be randomly assigned to a district judge and a magistrate judge in a manner that evenly distributes the cases among them by type of classification as provided under LR Cv 5(b) or LR Cr 57(b).</p> <p>(2) Related Cases. A civil or criminal case which the cover sheet indicates, or which the Clerk believes may be related to a case previously filed in this Court, shall be provisionally assigned to the judge to whom the related case was assigned. If the judge to whom the case is provisionally assigned determines that the case is not closely related, the judge shall return the case to the eClerk for random assignment as provided in paragraph (a)(1) of this Rule.</p> <p>(3) Re-filed Cases. A civil or criminal case that appears to involve substantially the same parties and issues as a case or proceeding that previously was brought in this Court and dismissed or otherwise terminated shall be provisionally assigned to the judge who originally was assigned the prior case or proceeding, or if already assigned, shall be transferred to the judge who originally was assigned the prior case or proceeding.</p> <p><u>(4) Assignment of Civil Cases to Magistrate Judges.</u> <u>The Clerk shall randomly assign certain types of civil cases identified by the Court among district judges and full-time magistrate judges. If a magistrate judge is randomly assigned such a civil case as the presiding judge, they shall conduct all</u></p>	<p>The General Rules Subcommittee recommended adoption of the proposed change by the LRRC, with the following revision to (a)(4):</p> <p>(4) Assignment of Civil Cases to Magistrate Judges. The Clerk shall randomly assign certain types of civil cases identified by the Court by <u>General Order</u> (see www.rid.uscourts.gov)</p>	<p>The LRRC agreed to accept the change as originally proposed, with the recommendation that a comment be added to the rule indicating where counsel could find a list of the types of civil cases eligible for direct assignment to a Magistrate Judge.</p>	<p>COURT APPROVED CHANGE. AT THE CONCLUSION OF THE PUBLIC COMMENT PERIOD, THE COURT APPROVED AN ADDITIONAL CHANGE TO LR GEN 105(a)(4).</p> <p>(4) Assignment of Civil Cases to Magistrate Judges. The Clerk shall randomly assign certain types of civil cases identified by the Court among district judges and full-time magistrate judges. If a magistrate judge is randomly</p>

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General/Attorney Rules

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	<p><u>proceedings, including a jury or non-jury trial, and order the entry of judgment in the case. Such assignments are subject to the provisions of Fed. R. Civ. P. 73 and LR Cv 73, and require consent of the parties. Any case for which all parties do not consent will be reassigned pursuant to (a)(1).</u></p> <p>*****</p>	<p>among district judges and full-time magistrate judges. If a magistrate judge is randomly assigned such a civil case as the presiding judge, they shall conduct all proceedings, including a jury or non-jury trial, and order the entry of judgment in the case. Such assignments are subject to the provisions of Fed. R. Civ. P. 73 and LR Cv 73, and require consent of the parties. Any case for which all parties do not consent will be reassigned pursuant to (a)(1).</p>		<p>assigned such a civil case as the presiding judge, they shall conduct all proceedings, including a jury or non-jury trial, and order the entry of judgment in the case. Such assignments are subject to the provisions of Fed. R. Civ. P. 73 and LR Cv 73, and require consent of the parties. Any case for which all parties do not consent will be reassigned pursuant to (a)(1) of this Rule.</p>
LR Gen 109	<p>LR Gen 109 BANKRUPTCY</p> <p>*****</p> <p>(c) Reports and Recommendations by Bankruptcy Judge.</p> <p>*****</p> <p>(2) Content of Objections. Any objection to the proposed findings of fact and/or rulings of law shall be accompanied by (A) a memorandum of law specifying the proposed findings and/or rulings to which objection is made and the basis for the objection(s), and (B) be accompanied by a transcript of any evidentiary hearing(s) before the bankruptcy judge. The memorandum <u>objection</u> shall comply with LR Cv 7.</p> <p>*****</p> <p>(f) Stays Pending Appeal to the District Court. When a motion is made in the District Court in accordance with Bankruptcy Rule 8007(b) to stay a judgment, order or decree of a bankruptcy judge or for</p>		<p>PROPOSED CHANGE ACCEPTED. THE CHANGE, HOWEVER, IS CONTINGENT ON THE COURT'S ACCEPTANCE OF THE AMENDMENTS TO LR CV 7 AND LR CR 47.</p>	<p>COURT APPROVED CHANGE.</p>

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General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p>any other relief pending appeal, the movant shall <u>set forth the reasons why a stay should be granted and the legal authorities supporting the stay, and</u> file the following with its motion:</p> <p>(1) a copy of the judgment, order or decree that the movant seeks to have stayed;</p> <p>(2) a copy of the bankruptcy judge’s order denying the movant’s motion to stay; <u>and</u></p> <p>(3) any written decision(s) and/or transcript(s) of any oral decision(s) of the bankruptcy judge stating the reasons for the orders referred to in paragraphs (1) and (2) of this subsection; and</p> <p>(4) a memorandum of law setting forth the reasons why a stay should be granted and the legal authorities supporting the motion for a stay.</p> <p style="text-align: center;">*****</p>			
LR Gen 112	<p>LR Gen 112 USE OF ELECTRONIC DEVICES</p> <p>(a) General Prohibition on Electronic Devices. Except as provided in subsection (c) of this rule or expressly authorized by the Court, no person shall bring into the Courthouse or portion of the John O. Pastore Building occupied by the Court any electronic device capable of sending or receiving communications, making sound or video recordings, or making, recording or transmitting photographs or videos. *[see Comment, end of Rule]</p> <p style="text-align: center;">*****</p> <p>(c) Exceptions.</p> <p style="text-align: center;">*****</p> <p>(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</p>	<p>The General Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED.</p>	<p>COURT APPROVED CHANGE.</p>

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General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p>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 a lists of authorized individuals and those judicial officers who have approved such usage <u>authorized pursuant to this subsection.</u></p> <p>*COMMENT Pursuant to the General Order dated December 1, 2016, 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 112. Please consult the General Order dated December 1, 2016, and related materials available on the Court’s website.</p>			
LR Gen 302	<p>LR Gen 302 EXEMPTIONS; EXCEPTIONS; AND PRO SE LITIGANTS</p> <p>(a) Attorney Exemption/Exceptions. If filing electronically would create an undue hardship for an attorney, the attorney may request an exemption from the Clerk of Court and permission to file documents conventionally. The request must be made in writing, and must contain a detailed explanation of the reason(s) for the request. The Clerk may grant an exemption on such terms and conditions as are appropriate and reasonable.* [see Comment, end of Rule]</p> <p>(b) One-Time Exemption. An attorney who is not a Filing User may conventionally file documents on behalf of a client in an ECF case without leave of the Court for 21 days from the filing of the first document by the attorney. However, within that 21 day period, the attorney must register as a Filing User, or seek an exemption under (a) above.</p>	<p>The General Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED.</p>	<p>COURT APPROVED CHANGE.</p>

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General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p>(e) Attorneys in Removal Cases. An attorney who is not a member of the bar of this Court but who is permitted to appear and practice in this Court pursuant to the provisions of LR Gen 201(b)(3) may, but is not required to, register as a Filing User and file documents electronically using ECF.</p> <p>(d)(h) Pro Se Litigants. A non-incarcerated <i>pro se</i> litigant in a pending case may apply to the Court for permission to file and receive documents electronically on a form prescribed by the Clerk’s Office. If the Court grants a <i>pro se</i> litigant permission to file documents electronically, that permission is limited to the case specified, and the Court may withdraw that permission at any time during the pendency of a case.</p> <p>In the absence of a court order authorizing electronic filing, all <i>pro se</i> litigants shall conventionally file and serve all documents in accordance with the provisions of the Federal Rules of Civil Procedure and Criminal Procedure and the Local Rules of this Court, and all electronically filed documents must be conventionally served on the <i>pro se</i> litigant.</p> <p>*COMMENT</p> <p>Prior to requesting an exemption, attorneys should seek assistance from the Clerk’s Office. The Court offers ECF training sessions as well as computer-based training modules for attorneys and their staff. Also, the Clerk’s Office has a workstation available at the Courthouse for any Filing User who needs assistance with electronic filing. ECF training and support information can be obtained from the Clerk’s Office and found on the Court’s web site at: www.rid.uscourts.gov.</p> <p>obtained from the Clerk’s Office and found on the Court’s web site at: www.rid.uscourts.gov.</p>			

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General/Attorney Rules

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LR Gen 303	<p>LR Gen 303 SPECIAL FILING REQUIREMENTS</p> <p>*****</p> <p>(b) Miscellaneous Case Opening Documents. Miscellaneous case opening documents shall be filed conventionally along with the prescribed filing fee. Absent an exemption under LR Gen 302, miscellaneous case opening documents shall be filed electronically, and the required filing fee shall be paid at the time of filing.</p> <p>(c) Other Documents to be Conventionally Filed.</p> <p>*****</p> <p>(3) Ex parte motions and applications;</p> <p>(4)(3) Consent to Proceed Before a Magistrate Judge;</p> <p>(5)(4) 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>(6)(5) The charging document in a criminal case, such as the complaint, indictment and information;</p> <p>(7)(6) Affidavits for search and arrest warrants and related papers;</p> <p>(8)(7) Fed. R. Crim. P. 20 and Fed. R. Crim. P. 5 papers received from another court;</p> <p>(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>(10)(8) Appearance Bonds.</p> <p>*****</p>	<p>The General Rules Subcommittee recommended adoption of the proposed change to (b) by the LRRC, but requested that the Criminal Rules Subcommittee comment on the change allowing documents containing a defendant's signature to be filed electronically. (See, LR Gen 303(c)(9)). The Criminal Rules Subcommittee recommended adoption of this change to (c)(9).</p>	<p>PROPOSED CHANGE ACCEPTED.</p>	<p>COURT APPROVED CHANGE.</p>

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General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Gen 304	<p>LR Gen 304 ELIGIBILITY, REGISTRATION, PASSWORDS</p> <p>*****</p> <p>(a) ECF Login and Password. An attorney admitted to the bar of this Court pursuant to LR Gen 202 will automatically become a Filing User of the Court’s ECF system and will be permitted to file documents electronically using ECF without further authorization. The Filing User will receive notification from the Court of the user login and password after admission.</p> <p>An attorney eligible to appear before the Court pursuant to LR Gen 201(b), <u>and not otherwise prohibited from permitted to file filing</u> documents electronically under the Local Rules, must register as a Filing User of the Court’s ECF system <u>prior to filing any documents electronically</u>. Registration will be on an ECF Registration Form provided by the Clerk. Once ECF registration is completed, the Filing User will receive notification from the Court of the user login and password <u>and be permitted to file documents electronically</u>.</p> <p>(b) Confidentiality of Login and Password. Filing Users agree to protect the security of their passwords and immediately notify the Clerk’s Office if they learn that their password has been compromised. *[see Comment, end of Rule]</p> <p>*****</p> <p>*[COMMENT Since failure to comply with this provision could cause serious harm to the administration of justice, attorneys are reminded that, as officers of the Court, they are responsible for ensuring full compliance with this provision.]</p>	<p>The General Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED.</p>	<p>COURT APPROVED CHANGE.</p>

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General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
Suggestion from the Bar	During the 2011-12 cycle, Girard Visconti, Esq. and Marc DeSisto, Esq. proposed that the Court adopt a rule requiring pro se litigants to certify that an attorney has not drafted the documents that they 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 the Supreme Court’s policy on the ghostwriting of pleadings by a member of the bar on behalf of a pro se litigant. The Supreme Court opened this policy to public comment until January 15, 2016, and have not issued any subsequent orders regarding ghostwriting.	The General Rules Subcommittee recommended that the LRRC table the suggestion for reconsideration during the next cycle.	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, and issued a final policy on “limited scope representation” and provisionally amended the Rules of Professional Conduct to reflect the policy on May 23, 2017. In light of this policy change and the provisional amendments to the Rules of Professional Conduct, the LRRC tabled the suggestion for reconsideration during the 2017-18 local rules review cycle.	N/A
Suggestion from the Bar	Attorney James Nagelberg submitted a comment suggesting that the LRRC consider amending LR Gen 102(b)(3) to require that a redacted version of a document filed under seal be filed within 7 days after the filing of the original sealed document.	The General Rules Subcommittee reviewed the proposal, but recommended that this proposed change be referred back to Mr. Nagelberg for resubmission with further information for consideration during the 2017-2018 LRRC cycle.	The LRRC accepted the recommendation of the General Rules Subcommittee.	N/A

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General/Attorney Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
Suggestion from the Bar	Attorney John Fulweiler suggested that the LRRC consider adoption of a local rule addressing the confidentiality of medical records obtained through discovery.	The General Rules Subcommittee reviewed the proposal, but recommended that the proposed change be referred back to Mr. Fulweiler for resubmission with further information and the text of a proposed amendment during the 2017-2018 LRRC cycle.	The LRRC accepted the recommendation of the General Rules Subcommittee.	N/A

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Civil Rules

<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
LR Cv 5	<p style="text-align: center;">LR Cv 5 FORM AND FILING OF DOCUMENTS</p> <p style="text-align: center;">*****</p> <p>(b) Civil Cover Sheet. Any person filing a complaint in a civil case or any other document that requires a file to be opened shall contemporaneously file a completed local civil cover sheet describing the type of case and identifying any related case previously filed or pending in this Court. The Clerk may reclassify a case if the cover sheet does not accurately describe its type. Cover sheets shall be provided by the Clerk upon request.⌘ [see Comment, end of Rule]</p> <p style="text-align: center;">*****</p> <p>*COMMENT The United States District Court for the District of Rhode Island uses a local version of the JS-44 Civil Cover Sheet, which is available in the “Forms” section of the Court’s website.</p>	<p>The Civil Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p style="text-align: center;">PROPOSED CHANGE ACCEPTED.</p>	<p style="text-align: center;">COURT APPROVED CHANGE.</p>
LR Cv 7	<p>LR Cv 7 MOTIONS, OBJECTIONS AND REPLIES <u>MOTIONS AND OTHER PAPERS</u></p> <p>(a) Form and Content. Every motion shall bear a title identifying the party filing it and stating the precise nature of the motion. In addition, every motion except a motion to extend time or motion to compel discovery shall contain a short and plain description of the requested relief and shall be accompanied by a separate memorandum of law setting forth the reasons why the relief requested should be granted and any applicable points and</p>	<p>The Civil Rules Subcommittee accepted the change with the following modifications:</p>	<p>The LRRC accepted the proposed amendment as modified by the Civil Rules Subcommittee, with the following modifications to (a)(2)(B) and (b). In addition, the LRRC recommended that a comment be added to the rule indicating where counsel could find a list of the types of procedural motions that could be ruled on by a Magistrate Judge or the Clerk.</p>	<p style="text-align: center;">COURT APPROVED ALL RECOMMENDED CHANGES EXCEPT THE LRRC’S MODIFICATION TO (b) (DISPOSITION OF MOTIONS FOR PROCEDURAL ORDERS.) THE COURT REMOVED THIS PROPOSED SECTION FROM THE RULE.</p>

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Civil Rules

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	<p>authorities supporting the motion. A motion to extend time or to compel discovery shall include within the motion a brief statement of reasons why the relief requested should be granted.</p> <p><u>In General.</u></p> <p><u>(1) Request for Relief.</u> A request for a court order must be made by motion. A motion must be in writing unless made during a hearing or trial or if the court permits otherwise.</p> <p><u>(2) Contents of a Motion.</u></p> <p><u>(A) Grounds and Relief Sought.</u> All motions must state with particularity the grounds for seeking an order, the relief sought, and the legal argument necessary to support it.</p> <p><u>(B) Accompanying Documents.</u> A separate memorandum of law need not be filed. However, any memorandum of law or other paper necessary to support a motion must be served and filed with the motion.</p> <p><u>(3) Response.</u> Any party may file a response to a motion, the contents of which are governed by LR Cv 7(a)(2). The response must be filed within 14 days after service of the motion unless the Court shortens or extends the time.</p> <p><u>(4) Reply to Response.</u> Any reply to a response must be filed within 7 days after service of the response. A reply shall not present matters that do not relate to the response, or reargue or expand upon the</p>	<p><u>(B) Accompanying Documents.</u> A separate memorandum of law need not be filed as a separate docket entry. However, any memorandum of law or other paper necessary to support a motion must be served as an attachment to and filed with the motion.</p> <p><u>(4) Reply to Response.</u> Although the filing of a reply is not required, Any reply to a response must be filed within 7 days after service of the response. A reply shall not present matters that do not relate to the</p>	<p><u>(B) Accompanying Documents.</u> A separate memorandum of law need not be filed as separate docket entry. However, any if a party chooses to file a memorandum of law, it or other paper necessary to support a motion must be served as an attachment to the motion and not as a separate docket entry.</p>	

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Civil Rules

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	<p><u>arguments made in support of the motion.</u></p> <p>(5) Sur-replies. <u>Sur-replies may only be filed with prior leave of Court.</u></p> <p>(b) Objections and Replies.</p> <p><u>Disposition of a Motion for a Procedural Order.</u> <u>The Court may act on a motion for a procedural order at any time without awaiting a response, and authorizes the Clerk to act on specific types of routine procedural motions. A party adversely affected by the Clerk’s action may file a motion to reconsider, vacate or modify the action which will be submitted to the presiding judge for consideration.</u></p> <p><u>(1) Any party opposing a motion shall file and serve an objection not later than 14 days after service of the motion. Every objection shall be accompanied by a separate memorandum of law setting forth the reasons for the objection and applicable points and authorities supporting the objection.</u></p> <p><u>(2) The movant may file and serve a reply memorandum not later than 7 days after the service of the objection. A reply memorandum shall consist only of a response to an objection and shall not present additional grounds for granting the motion, or reargue or expand upon the arguments made in support of the motion.</u></p> <p><u>(3) No memorandum other than a memorandum in support of a motion, a</u></p>	<p>response, or reargue or expand upon the arguments made in support of the motion.</p> <p>(b) Disposition of a Motion for a Procedural Order. <u>The Court may act on a motion for a procedural order at any time without awaiting a response. For all procedural motions, the moving party is required to confer with the non-moving party prior to filing the procedural motion and indicate in the motion whether it has been assented-to, is a joint motion or will be objected to. Procedural motions shall include the following [INSERT LIST]. The Court authorizes the Clerk to act upon these procedural motions. A party adversely affected by the Court or Clerk acting upon a motion before the time period to respond has lapsed, and authorizes the Clerk to act on specific types of routine procedural motions. A party adversely affected by the Clerk’s action may file a motion to reconsider, vacate or modify the action which will be submitted to the presiding judge for consideration.</u></p>	<p>(b) Disposition of a Motion for a Procedural Order. <u>The Court may act on a motion for a procedural order at any time without awaiting a response. For all procedural motions, the moving party is required to confer with contact the non-moving party prior to filing the procedural motion and, where possible, indicate in the motion whether it has been assented-to, is a joint motion or will be objected to. Procedural motions shall include the following [INSERT LIST]. The Court authorizes a Magistrate Judge or the Clerk to act upon these procedural motions. A party adversely affected by the Court or Clerk acting upon a motion before the time period to respond has lapsed may file a motion to reconsider, vacate or modify the action which will be submitted to the presiding judge for consideration.</u></p>	

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	<p>memorandum in opposition, and a reply memorandum may be filed without prior leave of the Court.</p> <p>(e) Copies. With respect to documents that are conventionally filed, two copies of every motion, objection and reply and memorandum in support, together with any permitted appendices, shall be filed along with the original. The originals shall be retained in the Court file. The Clerk shall transmit the copies to the chambers of the judge to whom the case has been assigned.</p> <p>(d) Memoranda and Supporting Documents</p> <p>(1) Form of Memoranda. All memoranda of law, as well as all motions, objections and replies, shall conform with the requirements of LR-Cv 5(a) of these Rules. Page margins shall be at least one inch on all sides, and only one side of each page may be used. Each item attached to the memorandum shall be separately identified and labeled.* [see Comment, end of Rule]</p> <p>(2) Page Limits. The judicial officer to whom a case is assigned may establish page limits for any memoranda, appendices or other supporting documents filed in support of or in opposition to any motion. Before filing or objecting to any motion, counsel shall determine what page limits, if any, have been set by such judicial officer.</p> <p>(3) Requests to Modify Page and Format Restrictions.</p> <p>(A) Any request to exceed page</p>			

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	<p>limits or to otherwise modify any page and format restrictions for memoranda, appendices and/or exhibits shall be made by motion.</p> <p>(B) Any such motion shall be filed far enough in advance of the due date to permit the Court to rule on it before that time. If the time required to rule on the motion is likely to extend beyond the deadline, the motion shall be accompanied by a motion to extend the deadline.</p> <p>(C) A motion to exceed page limits shall explain why a lengthier memorandum or appendix is required and state the length of the proposed memorandum. The proposed memorandum shall not be submitted with the motion to exceed page limits and shall not be filed unless and until the motion is granted.</p> <p>(c)(4) Record Citations in Administrative Appeals. Any memorandum <u>motion, response or reply</u> filed in a case involving an appeal from the ruling or determination of an administrative tribunal, including but not limited to Social Security disability determinations, shall include all pertinent citations to the administrative record.</p> <p>(d)(e) Need for Evidentiary Hearing. All motions and objections <u>responses</u> shall contain a statement by counsel as to whether oral argument and/or an evidentiary hearing is requested; and, if so, the estimated time that will be required.</p>			

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Civil Rules

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LR Cv 9	<p style="text-align: center;">LR Cv 9 REQUEST FOR EMERGENCY/EXPEDITED RELIEF OR FOR THREE-JUDGE DISTRICT COURT</p> <p>When a document is filed containing a request for a temporary restraining order, any other form of emergency relief, or the appointment of a three-judge court, such request shall be noted in all capital letters on the first page to the right of, or immediately beneath, the case caption, <u>and</u>. The basis for any such request shall be set forth in a memorandum of law attached to the basis for the request.</p> <p>In addition, the party making the request shall promptly communicate the request to the deputy clerk for the judge to whom the case is assigned.</p>		<p>PROPOSED CHANGE ACCEPTED. THE CHANGE, HOWEVER, IS CONTINGENT ON THE COURT'S ACCEPTANCE OF THE AMENDMENTS TO LR CV 7 AND LR CR 47.</p>	<p>COURT APPROVED CHANGE.</p>
LR Cv 15	<p>LR Cv 15 MOTIONS TO AMEND</p> <p>Any motion to amend a pleading shall be made promptly after the party seeking to amend first learns the facts that form the basis for the proposed amendment. A motion to amend a pleading shall be <u>filed in accordance with LR Cv 7, explain how the amended pleading differs from the original and why the amendment is necessary, and be accompanied by:</u></p> <p>(a) the a complete and signed copy of the proposed amended pleading; and</p> <p>(b) a supporting memorandum that explains how the amended pleading differs from the original and why the amendment is necessary.</p>	<p>The Civil Rules Subcommittee accepted the proposed amendment, with the following revision:</p> <p>Any motion to amend a pleading shall be made promptly after the party seeking to amend first learns the facts that form the basis for the proposed amendment. A motion to amend a pleading shall be filed in accordance with LR Cv 7, explain how the amended pleading differs from the original and why the amendment is necessary, and be accompanied by a complete and signed copy of the proposed amended pleading. <u>If the motion to amend is granted, the Clerk's Office shall file the proposed amended pleading as a separate docket entry.</u></p>	<p>The LRRC accepted the proposal, with the following modification of the Civil Rules Subcommittee's revision:</p> <p>Any motion to amend a pleading shall be made promptly after the party seeking to amend first learns the facts that form the basis for the proposed amendment. A motion to amend a pleading shall be filed in accordance with LR Cv 7, explain how the amended pleading differs from the original and why the amendment is necessary, and be accompanied by a complete and signed copy of the proposed amended pleading. If the motion to amend is granted, the Clerk's Office shall file the proposed amended pleading as a separate docket entry.</p>	<p>COURT APPROVED CHANGE.</p>

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Civil Rules

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LR Cv 41.1	<p>LR Cv 41.1 ADMINISTRATIVE CLOSURE OF CASES SUBJECT TO BANKRUPTCY STAY</p> <p>If a petition in bankruptcy that triggers the automatic stay provision of the Bankruptcy Code is filed with respect to any party to a pending civil action, the civil action may be administratively closed as to that party, subject to being reopened at such time as the stay is no longer in effect.</p>	<p>The Civil Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED.</p>	<p>COURT APPROVED CHANGE.</p>
LR Cv 54	<p>LR Cv 54 COSTS</p> <p>*****</p> <p>(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.</p> <p>*****</p>		<p>PROPOSED CHANGE ACCEPTED. THE CHANGE, HOWEVER, IS CONTINGENT ON THE COURT’S ACCEPTANCE OF THE AMENDMENTS TO LR CV 7 AND LR CR 47.</p>	<p>COURT APPROVED CHANGE.</p>
LR Cv 54.2	<p>LR Cv 54.2 JUROR COSTS See LR Cv 39.4(b) (Payment of Juror Costs in connection with settlement).</p>	<p>The Civil Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED.</p>	<p>COURT APPROVED CHANGE.</p>

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LR Cv 56	<p>LR Cv 56 MOTIONS FOR SUMMARY JUDGMENT</p> <p>(a) Statement of Undisputed Facts.</p> <p>(1) In addition to the memorandum of law required by LR Cv 7, A a motion for summary judgment shall be accompanied by a separate Statement of Undisputed Facts that concisely sets forth all facts that the movant contends are undisputed and entitle the movant to judgment as a matter of law.</p> <p>(2) The Statement of Undisputed Facts shall be filed as a separate filing, document with not an attachment to the motion for summary judgment and memorandum. Each “fact” shall be set forth in a separate, numbered paragraph and shall identify the evidence establishing that fact, including the page and line of any document to which reference is made, unless opposing counsel has expressly acknowledged that the fact is undisputed.</p> <p style="text-align: center;">*****</p> <p>(5) If an objecting party files a separate statement of additional undisputed facts and the movant contests any of those facts, the movant shall file a separate statement setting forth what additional facts are disputed, numbered correspondingly to the opposing party's additional undisputed facts, at the same time it files its reply memorandum pursuant to LR Cv 7(b)(2).</p>		<p>PROPOSED CHANGE ACCEPTED. THE CHANGE, HOWEVER, IS CONTINGENT ON THE COURT'S ACCEPTANCE OF THE AMENDMENTS TO LR CV 7 AND LR CR 47.</p>	<p>COURT APPROVED CHANGE.</p>

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LR Cv 67	<p>LR Cv 67 PARTIES' FUNDS DEPOSITED AND WITHDRAWAL OF FUNDS WITH CLERK OF COURT</p> <p>(a) Procedure for Deposit Receipt of Funds.</p> <p>(1) Any party who seeks to deposit funds into the Registry of the Court pursuant to Title 28 U.S.C. § 2041 or Fed. R. Civ. P. 67 or other rule or law must first file a motion in the form required by LR Cv 7 and. The motion must be accompanied by a proposed order specifying the amount of funds to be deposited, the name and address of a local financial institution into which the funds are to be deposited, and the type of account desired. The financial institution and the type of account must be approved in advance by the Clerk of Court.</p> <p><u>Court Order Required.</u> No funds shall be sent to the Court or its officers for deposit into the registry of the Court without an order signed by the presiding judge. The party making the deposit shall serve the order permitting the deposit or transfer on the Clerk of Court.</p> <p>(2) The motion and proposed order shall be served on all other parties of record in the case.</p> <p><u>Deposit with the Treasurer of the United States.</u> Unless otherwise ordered, all funds ordered to be paid to the Court or its officers shall be deposited with the Treasurer of the United States in the name and to the credit of this Court pursuant to 28 USC §2041 through the depositories designated by the Treasury to accept such deposit on its behalf.</p>	<p>This proposal was referred to the LRRC after the Civil Rules Subcommittee met, and was discussed by the full LRRC at its May 16, 2017 meeting.</p>	<p>PROPOSED CHANGE ACCEPTED.</p>	<p>COURT APPROVED CHANGE. AT THE CONCLUSION OF THE PUBLIC COMMENT PERIOD, THE COURT APPROVED AN ADDITIONAL CHANGES TO LR CV 67(b)(1) AND (c)(1).</p>

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<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p>(3) Upon the granting of the motion, the party shall promptly deliver to the Clerk's Office a check for the amount to be deposited, together with a copy of the signed order.</p> <p><u>(b) Investment of Registry Funds.</u></p> <p><u>(1) Court Registry Investment System (CRIS).</u> Unless otherwise ordered, funds on deposit with the Court ordered to be placed in some form of interest-bearing account in accordance with Fed. R. Civ. P. 67 will be placed in the Court Registry Investment System (CRIS) administered through the Administrative Office of the United States Courts. The Director of the Administrative Office of the United States Courts is designated as custodian for all CRIS funds.</p> <p>Deposits made with the CRIS will be pooled with those on deposit with the Treasury to the credit of other courts in the CRIS and used to purchase Government Account Series securities through the Bureau of Public Debt, which will be held at the Treasury in an account in the name and to the credit of the Director of Administrative Office of the United States Courts.</p> <p><u>(2) Interest-Bearing Funds.</u> A separate account for each case will be established in the CRIS Liquidity Fund titled in the name of the case giving rise to the investment in the fund. Income generated from fund investments will be distributed to each case based upon the ratio each account's principal and earnings has to the aggregate principal and income total in the fund after the CRIS maintenance fee described in (c)</p>			<p>(b) Investment of Registry Funds.</p> <p>(1) Court Registry Investment System (CRIS). Unless otherwise ordered, funds on deposit with the Court ordered to be placed in some form of interest-bearing account in accordance with Fed. R. Civ. P. 67 will be placed in the Court Registry Investment System (CRIS) administered through the Administrative Office of the United States Courts. The Director of the Administrative Office of the United States Courts is designated as custodian for all CRIS funds.</p> <p>Deposits made with the CRIS will be pooled with those on deposit with the Treasury to the credit of other courts in the CRIS and used to purchase Government</p>

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<u>Rule Number</u>	<u>Suggestion Received*</u>	<u>Subcommittee Recommendation</u>	<u>Full Committee Action</u>	<u>Court Action</u>
	<p><u>has been applied. Reports showing the interest earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in the CRIS and made available to litigants and/or their counsel.</u></p> <p><u>(3) Interpleader Funds.</u> <u>Interpleader funds deposited under 28 U.S.C. §1335 are considered a “Disputed Ownership Fund” (DOF), a taxable entity that requires tax administration. Unless otherwise ordered by the Court, interpleader funds shall be deposited in the DOF established within the CRIS. The custodian shall be responsible for meeting all DOF tax administration requirements, and is authorized and directed to deduct the DOF fee on assets on deposit in the DOF for management of investments and tax administration. The custodian is further authorized and directed to withhold and pay federal taxes due on behalf of the DOF.</u></p> <p><u>For each interpleader case, an account shall be established in the CRIS Disputed Ownership Fund, titled in the name of the case giving rise to the deposit invested in the fund. Income generated from fund investments will be distributed to each case after the DOF fee described in (c) has been applied and tax withholdings have been deducted from the fund. Reports showing the interest earned and the principal amounts contributed in each case will be available through the FedInvest/CMS application for each court participating in the CRIS and made available to litigants and/or their counsel. On appointment of an administrator authorized to incur expenses on behalf of</u></p>			<p>Account Series securities through the Bureau of Public Debt, which will be held at the Treasury in an account in the name and to the credit of the Director of <u>the</u> Administrative Office of the United States Courts.</p>

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Civil Rules

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	<p><u>the DOF in a case, the case DOF funds should be transferred to another investment account directed by court order.</u></p> <p><u>(c) Maintenance of Interest-Bearing Funds</u></p> <p><u>(1) Non-DOF Maintenance Fees.</u> <u>The custodian is authorized and directed to deduct a fee of an annualized 10 basis points on assets on deposit for all CRIS funds, excluding the case funds held in the DOF, for the management of investments in CRIS. The fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to individual accounts.</u></p> <p><u>(2) DOF Maintenance Fees.</u> <u>The custodian is authorized and directed to deduce the DOF fee of an annualized 20 basis points on assets on deposit in the DOF for management of investments and tax administration. The DOF fee is assessed from interest earning to the pool before a pro rata distribution of earnings is made to individual accounts.</u></p> <p>(2) In cases in which funds are ultimately disbursed to the United States or to agencies or officials thereof, the clerk shall provide to those agencies or officials any relief from the CRIS fee approved by the Director of the Administrative Office on application filed by the United States Attorney or any government counsel.</p> <p><u>(b) Procedure for Withdrawals and Fund Transactions.</u> <u>Any party seeking to withdraw monies from the Registry of the Court must file</u></p>			<p><u>(c) Maintenance of Interest-Bearing Funds</u></p> <p><u>(1) Non-DOF Maintenance Fees.</u> <u>The custodian is authorized and directed to deduct a fee of an annualized 10 basis points on assets on deposit for all CRIS funds, excluding the case funds held in the DOF, for the management of investments in the CRIS. The fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to individual accounts.</u></p>

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Civil Rules

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	<p>and serve a motion for the withdrawal of monies from the Registry, together with a proposed order stating the exact amount to be disbursed to each party, and a separate list containing each party's name, address and tax identification number. The proposed order and separate list shall not be electronically filed. All transactions regarding Registry funds shall be made only with the approval of the Court.</p> <p>(e) Deduction of Court Fees.— Any order obtained by a party that directs the Clerk to invest in an interest bearing account or investment funds deposited in the Registry of the Court shall contain wording which directs the Clerk, pursuant to 28 U.S.C. § 1914(b), to deduct a fee in accordance with the schedule set by the Judicial Conference of the United States from the income earned on the funds deposited or invested, whenever such income becomes available for such deduction, and without further order of the Court. Such a provision shall be included in the order regardless of the nature of the case in which the deposit was made.</p> <p><u>(d) Disbursement of Funds.</u></p> <p><u>(1) Disbursement of Interest Bearing Funds.</u> No interest-bearing funds may be paid out of the registry except by order of the Court. The custodian shall disburse all registry principal and income, if applicable, less the registry fee assessment, pursuant to the Court's order. Any such order shall set forth the funds in question and name(s) of the payee(s).</p> <p><u>(2) Disbursement of Non-Interest Bearing Funds.</u> No non-interest bearing</p>			

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	<p><u>funds may be paid out of the registry except by order of the Court. Any such order shall set forth the funds in question and name(s) of the payee(s).</u></p>			
LR Cv 72	<p>LR Cv 72 AUTHORITY OF MAGISTRATE JUDGES IN CIVIL CASES</p> <p>*****</p> <p>(c) Objections to Rulings on Nondispositive Matters.</p> <p>*****</p> <p>(2) Content of Objections. An objection to a magistrate judge’s order or ruling in a nondispositive matter shall set forth the basis of the objection and be accompanied by a memorandum of law which complies with LR Cv 7.</p> <p>(d) Objections to Reports and Recommendations.</p> <p>*****</p> <p>(2) Content of Objections. An objection to a magistrate judge’s Report and Recommendation shall be accompanied by a memorandum of law specifying the findings and/or recommendations to which objection is made and the basis for the objection. The memorandum <u>objection</u> shall comply with LR Cv 7.</p> <p>*****</p>		<p>PROPOSED CHANGE ACCEPTED. THE CHANGE, HOWEVER, IS CONTINGENT ON THE COURT’S ACCEPTANCE OF THE AMENDMENTS TO LR CV 7 AND LR CR 47.</p>	<p>COURT APPROVED CHANGE.</p>

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Civil Rules

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LR Cv 73	<p>LR Cv 73 CONSENT TO ORDER OF REFERENCE</p> <p>*****</p> <p>(b) Notification of Option to Consent.</p> <p>(1) When a civil action or notice of removal is filed, the Clerk, with the permission of the district judge to whom the case is assigned, shall give written notice to the parties of the option to consent to a trial before, or other disposition of the case by, a magistrate judge and shall provide the parties with a consent form. The notice shall inform the parties that they are free to withhold consent without adverse consequences; that the form is to be returned to the Clerk only if all parties consent; and that if all parties consent, the executed form must be returned within 30 <u>days the time specified in the notice issued by the Clerk.</u></p> <p>*****</p>	<p>The Civil Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>PROPOSED CHANGE ACCEPTED.</p>	<p>COURT APPROVED CHANGE.</p>

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Criminal Rules

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LR Cr 6	<p>LR Cr 6 GRAND JURY MATTERS</p> <p>*****</p> <p>(c) Motions and Pleadings Concerning Grand Jury. All motions and other documents filed with the Clerk relating to grand jury matters (including but not limited to motions to compel, motions to quash, and motions to grant immunity) shall be automatically sealed by the Clerk, whether or not a separate motion to seal is filed. <u>Parties do not need to file a separate motion to seal in regard to these matters, provided that the document be stamped or labeled by the party on the cover page "FILED UNDER SEAL."</u></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>
LR Cr 47	<p>LR Cr 47 MOTIONS, OBJECTIONS AND SUPPORTING DOCUMENTS OTHER PAPERS</p> <p>(a) Form and Content. Every motion shall bear a title identifying the party filing it and stating the precise nature of the motion. In addition, every motion except a motion to extend time or motion to compel discovery shall contain a short and plain description of the requested relief and shall be accompanied by a separate memorandum of law setting forth the reasons why the relief requested should be granted and any applicable points and authorities supporting the motion. A motion to extend time or to compel discovery shall include within the motion a brief statement of reasons why the requested relief should be granted.</p> <p><u>In General.</u></p> <p><u>(1) Request for Relief.</u> A request</p>	<p>The Criminal Rules Subcommittee recommended adoption of the proposed change by the LRRC.</p>	<p>The LRRC elected to modify LR Cr 47 (a)(2)(B), (a)(4), and (b) so that the final version of the rule matches the companion civil rule, LR Cv 7.</p>	<p>COURT APPROVED ALL RECOMMENDED CHANGES EXCEPT THE LRRC'S MODIFICATION TO (b) (DISPOSITION OF MOTIONS FOR PROCEDURAL ORDERS.) THE COURT REMOVED THIS PROPOSED SECTION FROM THE RULE.</p>

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Criminal Rules

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	<p>for a court order must be made by motion. A motion must be in writing unless made during a hearing or trial or if the court permits otherwise.</p> <p><u>(2) Contents of a Motion.</u></p> <p><u>(A) Grounds and Relief Sought.</u> All motions must state with particularity the grounds for seeking an order, the relief sought, and the legal argument necessary to support it.</p> <p><u>(B) Accompanying Documents.</u> A separate memorandum of law need not be filed. However, any memorandum of law or other paper necessary to support a motion must be served and filed with the motion.</p> <p><u>(3) Response.</u> Any party may file a response to a motion, the contents of which are governed by LR Cr 47(a)(2). The response must be filed within 14 days after service of the motion unless the Court shortens or extends the time.</p> <p><u>(4) Reply to Response.</u> Any reply to a response must be filed within 7 days after service of the response. A reply shall not present matters that do not relate to the response, or reargue or expand upon the arguments made in support of the motion.</p> <p><u>(5) Sur-replies.</u> Sur-replies may only be filed with prior leave of Court.</p>		<p><u>(B) Accompanying Documents.</u> A separate memorandum of law need not be filed. However, any if a party chooses to file a memorandum of law, it or other paper necessary to support a motion must be served and filed with as an attachment to the motion and not as a separate docket entry.</p> <p><u>(4) Reply to Response.</u> Although the filing of a reply is not required, Any reply to a response must be filed within 7 days after service of the response. A reply shall not present matters that do not relate to the response, or reargue or expand upon the arguments made in support of the motion.</p>	

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	<p>(b) Objections and Replies.</p> <p><u>Disposition of a Motion for a Procedural Order.</u> The Court may act on a motion for a procedural order at any time without awaiting a response, and authorizes the Clerk to act on specific types of routine procedural motions. A party adversely affected by the Clerk’s action may file a motion to reconsider, vacate or modify the action which will be submitted to the presiding judge for consideration.</p> <p>(1) Any party opposing a motion shall file and serve an objection not later than 14 days after service of the motion. Every objection shall be accompanied by a memorandum setting forth the reasons for the objection and any applicable points and authorities supporting the objection.</p> <p>(2) Other than a memorandum in support of a motion and a memorandum in opposition, no memorandum (including a reply memorandum) may be filed without prior leave of the Court.</p> <p>(c) Copies. With respect to documents that are conventionally filed, two copies of every motion, objection and reply and memorandum in support, together with any permitted appendices, shall be filed along with the original. The original shall be retained in the Court file. The Clerk shall transmit the copies to the chambers of the judge to whom the case has been assigned.</p>		<p>(b) Disposition of a Motion for a Procedural Order. The Court may act on a motion for a procedural order at any time without awaiting a response, and authorizes the Clerk to act on specific types of routine procedural motions. For all procedural motions, the moving party is required to contact the non-moving party prior to filing the procedural motion and, where possible, indicate in the motion whether it has been assented-to, is a joint motion or will be objected to. The Court authorizes a Magistrate Judge or the Clerk to act upon these procedural motions. A party adversely affected by the Court or Clerk acting upon a motion before the time period to respond has lapsed may file a motion to reconsider, vacate or modify the action which will be submitted to the presiding judge for consideration.</p>	

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	<p>(d) Memoranda and Supporting Documents.</p> <p>(1) Form of Memoranda. All memoranda of law, as well as all motions, objections and replies, shall conform with the requirements of LR Cr 57(a) of these Rules. Page margins shall be at least one inch on all sides, and only one side of each page may be used. Each item attached to the memorandum shall be separately identified and labeled.* [see Comment, end of Rule].</p> <p>(2) Page Limits. The judicial officer to whom a case is assigned may establish page limits for any memoranda, appendices or other supporting documents filed in support of or in opposition to any motion. Before filing or objecting to any motion, counsel shall determine what page limits, if any, have been set by such judicial officer.</p> <p>(3) Requests to Modify Page and Format Restrictions.</p> <p>(A) Any request to exceed page limits or to otherwise modify any page and format restrictions for memoranda, appendices and/or exhibits shall be made by motion.</p> <p>(B) Any such motion shall be filed far enough in advance of the due date to permit the Court to rule on it before that time. If the time required to rule on the motion is likely to extend beyond the deadline, the motion shall be accompanied by a motion to extend</p>			

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	<p>the deadline.</p> <p>(C) A motion to exceed page limits shall state the reasons for the request and the number of pages in the proposed document(s). The proposed document(s) shall not be submitted unless and until the motion to exceed is granted.</p> <p>(c)(e) Need for Evidentiary Hearing. All motions and objections responses shall contain a statement by counsel as to whether oral argument and/or an evidentiary hearing is requested; and, if so, the estimated time that will be required.</p>			
LR Cr 57.1	<p>LR Cr 57.1 APPLICATIONS FOR POST-CONVICTION RELIEF</p> <p>*****</p> <p>(b) Non-conforming Filing. If the petition is not filed on the form referred to in subsection (a) of this rule, or on a substantially similar form, or if it is not properly completed, the Clerk shall promptly notify the petitioner in writing of the deficiency. If the petitioner fails to file a corrected petition within 21 days after such notification, the Clerk shall present the petition to a judicial officer to determine whether the petition should be dismissed.</p> <p>(e)(b) Assignment. Petitions for relief pursuant to 28 U.S.C. § 2255 shall be assigned to the district judge who sentenced the petitioner. If that district judge is unavailable to review the petition, the petition shall be randomly assigned to another district judge. Petitions for relief pursuant to 28</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>

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	<p>U.S.C. § 2254 shall be randomly assigned.</p> <p>(d)(c) Ineffective Assistance of Counsel Claims. If a petitioner makes a claim of ineffective assistance of counsel based on counsel’s failure to file a direct appeal, the petitioner shall append to his petition a sworn statement regarding the discussions the petitioner had with counsel regarding an appeal, specifically stating:</p> <p>(1) whether counsel asked whether the petitioner wished to appeal; and</p> <p>(2) whether petitioner ever told counsel that he wished to appeal.</p>			
LR Cr 57.2	<p>LR Cr 57.2 AUTHORITY OF MAGISTRATE JUDGES IN CRIMINAL CASES</p> <p>*****</p> <p>(c) Objections to Rulings on Nondispositive Matters.</p> <p>*****</p> <p>(2) Content of Objections. An objection to a magistrate judge’s order or ruling in a nondispositive matter shall set forth the basis of the objection and be accompanied by a memorandum of law which complies with LR Cr 47.</p> <p>*****</p> <p>(d) Objections to Reports and Recommendations.</p>		<p>PROPOSED CHANGE ACCEPTED. THE CHANGE, HOWEVER, IS CONTINGENT ON THE COURT’S ACCEPTANCE OF THE AMENDMENTS TO LR CV 7 AND LR CR 47.</p>	<p>COURT APPROVED CHANGE.</p>

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	<p style="text-align: center;">*****</p> <p>(2) Content of Objections. An objection to a magistrate judge’s Report and Recommendation shall be accompanied by a memorandum of law specifying the findings and/or recommendations to which objection is made and the basis for the objection. The <u>memorandum objection</u> shall comply with LR Cr 47.</p>			

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