



UNITED STATES DISTRICT COURT
District of Rhode Island

**NOTICE OF PROPOSED AMENDMENTS
TO LOCAL RULES**

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

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

General Rules: LR Gen 102, LR Gen 107, LR Gen 201, LR Gen 202, LR Gen 206, LR Gen 207, LR Gen 209, LR Gen 210, LR Gen 211, LR Gen 214, LR Gen 215, LR Gen 216, LR Gen 303, LR Gen 304, LR Gen 308, LR Gen 309.

Civil Rules: LR Cv 5.1, LR Cv 19, LR Cv 33, LR Cv 34, LR Cv 73.

Criminal Rules: LR Cr 11, LR Cr 49.

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

Any comments must be submitted, in writing, no later than November 5, 2018, via e-mail to Local_Rules@rid.uscourts.gov or by submission to the Clerk's Office.

October 4, 2018

Hanorah Tyer-Witek
Clerk Of Court

LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION

(b) Sealed Documents.

(2) Service of Motions to Seal.

- (A) Civil Cases.** A motion to seal in a civil case may be served electronically if the party is a Filing User of the Court's ECF system ~~has consented to electronic filing pursuant to LR Gen 304(e) and LR Gen 309(b)~~. Parties who are ineligible to file and receive documents electronically or exempt from electronic filing must be served ~~electronically~~ pursuant to LR Cv 5.1(b).
- (B) Criminal Cases.** A motion to seal in a criminal case must be ~~electronically~~ served on all parties in the case pursuant to LR ~~Cv 5.1(b)~~ Cr 49.

**~~LR Gen 107 — REQUESTS FOR DAILY TRANSCRIPTS
— OF COURT PROCEEDINGS~~**

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

LR Gen 201 PRACTICE BEFORE THIS COURT

- (a) **Requirement of Membership in Local Bar.** In order to appear in and/or practice before this Court, a person must be a member of the Bar of this Court unless these Local Rules expressly provide otherwise.

A person who is not a member of the Bar of this Court may not sign any pleading or motion filed on behalf of a party unless these Local Rules expressly provide otherwise.

- (b) **Exceptions to Requirement of Membership.** Notwithstanding the provisions of subsection (a), the following individuals may appear and/or practice before this Court:
- (1) **Attorneys for the United States.** An attorney who is a member in good standing of the bar of another federal district court and each jurisdiction in which that attorney has been admitted to practice may appear and practice in this Court as an attorney for the United States or for any agency of the United States or for an officer of the United States in his or her official capacity.
 - (2) ***Pro Hac Vice* Counsel.** An attorney who satisfies the requirements of LR Gen 204(b) may appear and practice in this Court if admitted as *pro hac vice* counsel in accordance with the provisions of LR Gen 204.
 - (3) **Attorneys in Removal Cases.** An attorney who is a member of the bar of the Rhode Island Supreme Court, and who represents a party in a case removed pursuant to 28 U.S.C. §1441 *et seq* other than a party joining in the removal request, may appear and practice in this Court in that case, unless that attorney has been suspended or disbarred as a member of the bar of this Court.
 - (4) **Parties Appearing *Pro se*.** An individual who is not represented by counsel and who is a party to a pending case may appear on his or her own behalf subject to the limitations set forth in LR Gen 205. A *pro se* party shall be subject to and required to comply with all other applicable provisions of these rules.
 - (5) **Attorneys in Transferred Cases.** An attorney who is a member in good standing of the bar of another federal district court, and who represents a party in a case transferred to the District of Rhode Island from another district, may appear and practice in this Court in that case.
 - (6) **Law Student Counsel.** A Senior Law Student who is eligible to appear pursuant to LR Gen 206~~(f)~~(e) may appear in this Court as a Law Student Counsel subject to the limitations in LR Gen 206~~(f)~~(e).

LR Gen 202 ELIGIBILITY AND PROCEDURE FOR ADMISSION

- (a) **Requirements for Admission.** In order to be eligible for membership in the Bar of this Court, an attorney must:
- (1) Be a member in good standing of the Bar of the Supreme Court of the State of Rhode Island; and
 - (2) Be a member in good standing in every other jurisdiction in which the attorney has been admitted to practice; and
 - ~~(2)(3)~~ **Either:**
 - ~~(A)~~ ~~Have completed the course of instruction on Federal Practice and Procedure given by this Court's Board of Bar Admissions, or~~
 - ~~(B)~~ ~~Have at least 5 years of federal practice experience, or a combination of federal practice and federal law clerk experience that totals at least 5 years, and e~~Certify that he or she has read and understands these Local Rules; and
 - ~~(3)(4)~~ Establish to the satisfaction of this Court, that he or she is of good moral character and otherwise qualified and fit to be admitted to the Bar of this Court.
- (b) **Procedure for Admission.**
- (1) **Application for Admission.** An individual attorney applying for admission pursuant to the Bar of this Court LR Gen 202(a)(2)(A) shall must file with the Clerk a completed application form, ~~together with a current certificate(s) of good standing from the Rhode Island Supreme Court that the applicant is a member in good standing of the Bar of that Court,~~ and any other jurisdiction in which the attorney has been admitted to practice, and.

~~An individual applying for admission pursuant to LR Gen 202(a)(2)(B) shall file with the Clerk a completed application form accompanied by a current certificate from the Rhode Island Supreme Court that the applicant is a member in good standing of the Bar of that Court, together with a current certificate from a United States district court that the applicant is a member in good standing of the Bar of that court.~~
 - ~~(2)~~ **Admission Fee.** An individual applying for admission also shall pay the admission fee fixed by the Court.
 - ~~(3)(2)~~ **Review of Application.** In the case of an application pursuant to LR Gen 202(a)(2)(A), The Clerk shall examine review the application and determine if the, the court certificate and the records indicating that the applicant has completed the course of instruction given by the Board of Bar Admissions. ~~If the Clerk finds that those documents and records indicate that the applicant attorney~~

satisfies the prerequisites for admission. ~~If so,~~ the Clerk shall notify the ~~applicant attorney~~ and the ~~Chairman~~ of the Board of Bar Admissions, and place the ~~applicant attorney~~ on the list for the next available admissions ceremony. If the Clerk finds that the ~~documents and records indicate that the applicant attorney~~ does not satisfy the prerequisites for admission, the Clerk shall ~~notify the applicant and the~~ forward the application to the Chief Judge, or his or her designee, for review of this Court. ~~Said notification shall specify the reasons for this determination.~~

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

~~(4)(3)~~ **Admission Ceremony.** Admission to the Bar of this Court is effected by the granting of a motion made by the Chairman of the Board of Bar Admissions or his designee at an admission ceremony presided over by the Court. ~~In the case of an individual admitted pursuant to LR Gen 202(a)(2)(B), admission is effected upon approval by the Chief Judge of the application for admission.~~

~~In order to be admitted, an Approved applicant attorneys shall make the following oath or affirmation before the Clerk:~~

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

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

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

~~(1) — Board of Bar Admissions.~~

~~(A)(1)~~ **Establishment of Board.** There shall be a Board of Bar Admissions which shall ~~administer a course of instruction on federal practice and practice before this Court, in particular~~ advise the Court on the administration and operation of the Court's Bar Fund and other matters benefiting the bench and bar in the administration of justice.

~~(B)(2)~~ **Membership.** The Board of Bar Admissions shall consist of 8 members or such other number as may be fixed from time to time by the Court. The Board shall be comprised of individuals who are members of the Bar of

this Court and who regularly practice before this Court. The Chair of the Board of Bar Admissions shall be appointed by the Chief Judge.

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

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

LR Gen 206 APPEARANCES AND WITHDRAWALS

- (a) **In General.** In order to appear on behalf of a party in this Court, counsel must be a member of the bar of this Court or must qualify under one of the exceptions set forth in LR Gen 201(b).
- (b) **Appearance.** The filing of a written entry of appearance or any other document signed on behalf of a party constitutes an entry of appearance for that party. Once counsel enters an appearance for a party, counsel shall be obliged to continue representing that party unless and until allowed to withdraw in accordance with these rules.
- ~~(c) **Designation of Counsel to Receive Notices.**~~
- ~~(1) **In General.** When a party is represented by more than one attorney from the same firm, the attorneys at that firm shall designate one of them for the purposes of receiving any notices, and any notice sent to the attorney so designated shall constitute notice to all counsel at that firm.~~
- ~~(2) **Attorneys for the United States.** When the Government is represented by more than one attorney from an agency or department of the United States at any geographical location, the attorneys at that location shall designate one of them for the purposes of receiving any notices, and any notice sent to the attorney so designated shall constitute notice to all counsel of the agency or department at that location.~~
- ~~(d)(c) **Designation of Lead Counsel.** Each party shall designate one attorney to act as lead counsel for the case. Lead counsel shall have primary responsibility for the case.~~
- ~~(e)(d) **Withdrawal of Appearance.** An attorney may withdraw his or her appearance on behalf of a party in the following manner:~~
- (1) If there are no motions pending before the Court and no trial date has been set, the attorney may serve and file a notice of withdrawal on his or her client and all other parties, accompanied by an entry of appearance by successor counsel certifying that he or she is familiar with the case and is or will be fully prepared to address any matters pending in the case, including trial, without delaying the case; or
- (2) Otherwise, the attorney must file a motion to withdraw, together with:
- (A) An affidavit attesting to the fact that the party is not in the military service of the United States as defined in the ~~Soldiers' and Sailors' Civil Relief Act~~ [50 App. U.S.C. § 501 *et seq.*], Servicemembers Civil Relief Act of 2003 (50 U.S.C. §§ 3901-4043), as amended; and,
- (B) A certification that:

- (i) the client has been notified of the motion by both regular mail, postage prepaid, and by certified or registered mail, return receipt requested, or by any other method that satisfies the Court that notice has been given to the client; and,
 - (ii) the client has been advised that he or she may object to the motion and that any failure or delay in retaining substitute counsel may not be considered grounds for delaying the trial or any other matter scheduled in the case; and,
- (C) The client's current address and a representation that counsel has made a reasonable effort to confirm that notices sent to that address are likely to be received by the client; and,
- (D) A description of any motions or other matters pending in the case and a statement regarding the anticipated trial date.

(f)(e) Appearances by Law Students.

- (1) **Authorization to Appear.** A Senior Law Student may appear before this Court in a civil or criminal proceeding, without compensation, as Law Student Counsel under the direction of a Supervising Attorney.
- (2) **Eligibility to Appear as Law Student Counsel.** In order to be eligible to appear as Law Student Counsel, a Senior Law Student must:
- (A) be a student at an A.B.A. accredited law school, or be a recent graduate of such a school, awaiting the result of the first bar examination after the student's graduation;
 - (B) have successfully completed three semesters of law school study;
 - (C) be enrolled in, or have successfully completed, a course for credit in evidence or trial practice;
 - (D) be enrolled in, or have successfully completed, a course for credit in criminal procedure (for a student appearing in a criminal proceeding); and
 - (E) establish to the satisfaction of this Court that she or he is of good moral character and otherwise qualified and fit to appear pursuant to ~~this Rule~~ LR Gen 206.
- (3) **Application.**
- (A) An application to appear as Law Student Counsel shall be made by completing and filing a form provided by the Clerk. The form shall contain a certification that the Senior Law Student:

- (i) has read and will abide by the Rules of Professional Conduct of the Supreme Court of the State of Rhode Island;
 - (ii) has read and understands these Local Rules; and
 - (iii) the Senior Law Student has met all of the requirements of LR Gen 206~~(f)~~(e)(2).
- (B) The application shall also be accompanied by a written recommendation from the dean of the law school, or her/his designee, attesting to the law student's good moral character, legal ability, and training.
- (C) In each individual case in which a Senior Law Student wishes to appear, the supervising attorney shall file a "Motion to Appear as Law Student Counsel" that shall contain a document, signed by the client and approved by the supervising attorney, wherein the client acknowledges having been informed of the Law Student Counsel's status and authorizes the named student to appear for and represent the client in the litigation or proceedings identified in the document. No such acknowledgement is required to be attached if the Law Student Counsel will be representing the government. The supervising attorney shall also attach a copy of the Law Student Counsel's application to appear as Law Student Counsel to this motion. The District Judge or Magistrate Judge to whom a case has been assigned shall have discretion to grant or deny any Motion to Appear as Law Student Counsel.
- (4) **Supervising Attorney.** In order to appear as a Law Student Counsel before this Court, the student shall be under the direct supervision of a member in good standing of the Bar of this Court who is a law school faculty member, licensed attorney in a legal services program or clinic conducted by a law school or non-profit organization, or an attorney employed with a governmental agency, including the United States Attorney's Office and the Federal Public Defender.
- The supervising attorney, in addition to all of the other responsibilities of supervising the Law Student Counsel, is required to attend all Court proceedings when the Law Student Counsel is practicing, cosign all filings with the Court, and submit all filings through the Court's ECF system.
- (5) **Revocation.** A Law Student Counsel acting under this rule shall comply with the Rules of Professional Conduct of the Supreme Court of the State of Rhode Island and the Local Rules of this Court. Failure of an attorney supervising students to provide proper training or supervision may be grounds for disciplinary action and/or revocation or restriction of the attorney's authority to supervise students.
- (6) **Attorney/Client Communications.** The rules of law and of evidence relating to communications between attorney and client shall govern communications made or received by any law student acting under the provisions of this rule.

- (7) **Compensation.** The expression “without compensation” used in this rule shall not be construed to prohibit the receipt of a fixed compensation paid regularly by a governmental agency or legal assistance program or law school clinical instruction program acting as the employer of a law student. Furthermore, any fees awarded in a case involving a Law Student Counsel, shall be awarded to the supervising attorney or organization, including any fees resulting from any hours worked by the Law Student Counsel on the case, but under no circumstances are any of the fees to go to the Law Student Counsel.
- (8) **Notification.** Law Student Counsel shall promptly notify this Court in writing of any change in name, address, telephone number, fax number, and/or e-mail address from that shown on the application to appear as Law Student Counsel. Law Student Counsel shall also notify the Court in writing of any change regarding their eligibility to appear as Law Student Counsel.

LR Gen 207 EXCUSE FROM CONFLICT OF COURT APPEARANCES; EXCUSALS

~~(a) — **Conflicting Appearances.** When counsel is notified to appear in this Court and counsel believes that he or she may be prevented from appearing because of a conflicting commitment to appear in a different court or before another judge of this Court, counsel shall immediately inform the judge who caused the notification to issue and shall provide that judge with the following information:~~

- ~~(1) — the name and docket number of each case;~~
- ~~(2) — the nature and scheduled time and expected duration of the other matter; and~~
- ~~(3) — the date on which counsel was notified of the other matter and the name of the judge presiding over that matter.~~

~~(b)~~**(a) Excuse from Court Appearances.**

- (1) How requested.** Counsel who wish to be excused from attendance in this Court at any time(s) ~~shall~~ may submit a written request to be excused ~~as far in advance as possible.~~ The request shall be submitted to the Court's electronic mailbox at excusals@rid.uscourts.gov and shall state:
 - (A) the period of time for which the excuse is requested; and
 - (B) the reason for the request (e.g. family vacation), except that if the reason involves a matter that is confidential or private, the request shall so state; and
 - (C) a list of any matters in which counsel is involved that have been scheduled or that counsel anticipates may be scheduled in this Court during the period for which the excuse is requested.
- (2) Service of Request.** If any matters are scheduled during the period for which an excuse is requested, the request shall be served on all other counsel in those matters. If the request is for a period of 14 days or more, the request shall be served upon counsel in each case pending before this Court in which counsel making the request has entered an appearance. If the request is for a period of less than 14 days, said request shall be filed with the Court only.

LR Gen 209 BASIS FOR DISCIPLINARY ACTION

- (a) **Conferred Jurisdiction.** Any attorney allowed ~~admitted or permitted~~ to practice before this Court ~~pursuant to LR Gen 202 or 204~~ shall be deemed to have conferred disciplinary jurisdiction upon this Court for any alleged attorney misconduct arising during the course of a case pending before this Court or the Bankruptcy Court in which that attorney has participated in any way.
- (b) **Forms of Discipline.** When an attorney, after notice and an opportunity to be heard, has been found to have engaged in misconduct, the Court may:
- (1) Disbar or suspend the attorney from practicing before this Court, if the attorney is a member of the bar of this Court; or
 - (2) Publicly or privately reprimand or censure the attorney; or
 - (3) Take such other disciplinary action against the attorney as the circumstances may warrant, including but not limited to the imposition of monetary sanctions.

The provisions of this subsection (b) shall not limit, in any way, the authority of an individual judge to impose any sanctions or take any other disciplinary action that is permissible and appropriate pursuant to these Local Rules or otherwise.

- (c) **Misconduct.** Misconduct for which an attorney may be disciplined pursuant to ~~Rule~~ LR Gen 209 may include:
- (1) Violation of the Standards of Professional Conduct referred to in LR Gen 208;
 - (2) Intentional violation of these Local Rules or any order of this Court or the Bankruptcy Court;
 - (3) Failure to promptly provide the notifications required by LR Gen 203(b)(1)(B) and/or (C);
 - (4) Conduct which resulted in suspension, disbarment or any other disciplinary action taken against the attorney by any other court or disciplinary body having disciplinary authority over attorneys;
 - (5) Conviction of a crime; and/or
- (6) A pattern or practice of violating §§526, 527, or 528 of the Bankruptcy Code.

LR Gen 210 DISCIPLINARY PROCEEDINGS

- (a) **Definition of “Court.”** As used in ~~this Rule~~ LR Gen 210, the term “Court” refers to the active district judges of this Court, and any action taken or required by the “Court” refers to action by a majority of the active district judges.
- (b) **Initiation of Proceedings.** Whenever allegations of misconduct by an attorney admitted or permitted to practice before this Court come to the Court’s attention, whether by complaint or otherwise, and the applicable procedure is not otherwise provided for by these Local Rules, the Court may initiate disciplinary proceedings in any one or more of the following ways:
- (1) If the matter has not already been referred by an individual judge to a disciplinary agency with jurisdiction over the attorney, the Court may refer the matter to such agency with a request that the agency report its actions to the Court. However, any action taken by the agency shall not necessarily preclude additional disciplinary action by this Court.
 - (2) Designate a magistrate judge or appoint special counsel to investigate the matter, to make appropriate recommendations to this Court, and to perform any other duty specified by the Court. The Court shall consider any recommendation made by the magistrate judge or special counsel but such recommendation will not be binding upon the Court.
 - (3) Provide written notice to the attorney specifying the alleged misconduct and affording the attorney an opportunity to explain, either verbally or in writing, why he or she believes that formal disciplinary proceedings should not be commenced.
 - (4) In cases where the attorney has been notified in accordance with subsection (3) and has failed to provide a satisfactory reason why formal disciplinary proceedings should not be commenced, or in cases where there does not appear to be any dispute with respect to the relevant facts, the Court may commence formal disciplinary proceedings in accordance with ~~subsection~~ LR Gen 210(c) ~~of this Rule.~~
- (c) **Commencement of Formal Proceedings.**
- (1) Formal disciplinary proceedings against an attorney shall be commenced by the issuance of an order by the Court directing the attorney to appear and show cause why disciplinary action should not be taken against the attorney for reasons stated in the order.
 - (2) The order may be served upon the attorney by mailing a copy to him or her at the address provided by the attorney pursuant to these Local Rules or by any other means reasonably calculated to provide notice to the attorney.
 - (3) The attorney shall file a written response to the show cause order and the allegations of misconduct contained therein within 14 days from the date of the

order. If any issue of fact is raised in the response or if the attorney wishes to be heard in mitigation, the Court shall set the matter for hearing in accordance with LR Gen 210 subsection-(d) of this Rule.

(d) Hearing

- (1) Forum.** In the Court's discretion, any hearing conducted pursuant to ~~this Rule~~ LR Gen 210 may be conducted before a magistrate judge or bankruptcy judge designated by the Court, a single district judge or all of the active judges of the Court who are eligible and able to participate. However, if the disciplinary proceeding was initiated by a complaint by a district judge, magistrate judge, or bankruptcy judge; or, if a magistrate judge or bankruptcy judge made any recommendation to the Court pursuant to ~~Rule~~ LR Gen 210(b)(2), any such hearing shall not be conducted by that judge, nor shall that judge participate in any decision or other action taken by the Court with respect to the matter.
- (A) If the hearing is conducted by a district judge, the Court may authorize that district judge to order whatever disciplinary action is appropriate under these Local #Rules without further action by the Court.
- (B) If the hearing is conducted by a magistrate judge or bankruptcy judge, the magistrate judge or bankruptcy judge shall submit findings of fact and recommendations for disposition to the Court and the Clerk shall serve a copy of the findings and recommendations upon the attorney and any special prosecutor appointed by the Court.
- (C) Within 14 days from the date of the order, the attorney and/or any special prosecutor appointed by the Court may serve and file written objections to the report. Failure to file an objection within the 14-day period shall be deemed a waiver of any objection. Those portions of the magistrate judge or bankruptcy judge's findings and recommendations to which objection is made shall be reviewed by the Court *de novo* based on the record compiled before the magistrate judge or bankruptcy judge. The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge or bankruptcy judge or it may receive further evidence or recommit the matter to the magistrate judge or bankruptcy judge with instructions.
- (2) Conduct of Hearing.** The Court may elect to appoint a special prosecutor to present evidence at any disciplinary hearing and to cross-examine any witnesses. The respondent attorney shall have a similar right to present evidence and cross-examine witnesses and to be represented by counsel.

LR Gen 211 DISCIPLINARY ACTION BY COURT

Upon a finding by the Court, or an individual district judge acting pursuant to ~~Rule~~ LR Gen 210(d)(1), that an attorney has engaged in misconduct, the Court or, if authorized, the district judge may enter an order imposing discipline in accordance with these Local Rules.

**LR Gen 214 ACTION TAKEN BY OTHER COURTS
OR DISCIPLINARY AGENCIES**

- (a) **Show Cause Order.** When a certified copy of a judgment or order is filed with this Court showing that an attorney who is a member of the Bar of this Court or who is admitted to practice before this Court *pro hac vice* has been disciplined or found incapacitated to practice by any other court of the United States, the District of Columbia, any state, territory, commonwealth or possession of the United States or by any agency having disciplinary authority over attorneys, whether by reason of misconduct, mental infirmity or addiction to drugs or intoxicants, this Court shall, forthwith:
- (1) provide the attorney with a copy of the judgment or order; and
 - (2) issue an order directing the attorney to show cause, within 14 days from the date of the order, why this Court should not impose the identical discipline and/or make a similar finding of incapacity.

In the event the action imposed in the other jurisdiction has been stayed there, any reciprocal action taken by this Court shall be deferred until such stay expires.

- (b) **Disciplinary Action.** If the attorney fails to show cause within the aforesaid 14-day period, this Court shall impose the identical discipline or make the identical finding of incapacity.
- (c) **Effect of Decision by Other Tribunal.**
- (1) If, with respect to the action taken by the other tribunal, this Court finds:
 - (A) that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process, or
 - (B) that there was such an infirmity of proof establishing the misconduct or incapacity as to give rise to the clear conviction that this Court could not, consistent with its duty, accept as final the tribunal's conclusion on that subject;
 - (C) that the imposition of the same discipline or the making of the same finding by this Court would result in grave injustice; or
 - (D) that the conduct at issue is deemed by this Court to warrant substantially different action,

then this Court may enter such other orders as it deems appropriate.

- (2) In all other respects, a final adjudication in another jurisdiction that an attorney has been guilty of misconduct or found incapacitated shall establish conclusively the misconduct or incapacity for purposes of any proceeding under ~~this Rule~~ LR Gen 214. Where an attorney has been found to be incapacitated, the Court shall

enter an order placing the attorney on inactive status, in which case the attorney may not practice before this Court unless and until reinstated pursuant to LR Gen 215.

LR Gen 215 REINSTATEMENT OF MEMBERSHIP

(a) Application for Reinstatement.

- (1) An individual who has ceased to be a member of the Bar of this Court for any reason, including disbarment, suspension, failure to comply with the requirements for continuation of membership, resignation or failure to renew membership in a timely manner, may apply for reinstatement by filing a completed application for reinstatement on a form provided by the Clerk and paying the applicable reinstatement fee established by the Court.
- (2) An attorney who has been suspended also shall file an affidavit of compliance with the provisions of the order of suspension along with the application for reinstatement.
- (3) An attorney who has been disbarred after hearing or by consent may not apply for reinstatement until at least 5 years after the effective date of disbarment.
- (4) An attorney who was placed on inactive status because of incapacity also shall file, along with his or her application, a written waiver of any doctor/patient privilege with respect to relevant treatment of the attorney during the period of incapacity. In addition, such attorney shall disclose the name of every psychiatrist, psychologist, physician and hospital or other institution by whom or in which the attorney has been examined or treated for any condition or conditions relating to the incapacity since being placed on inactive status and a written consent authorizing each of them to disclose any relevant information and provide any relevant records requested by the Court or special counsel.

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

- (1) Summarily approve or reject the application if the appropriate action to be taken is clear from the face of the application and there are no facts in dispute.
- (2) Designate a magistrate judge or appoint a special counsel to investigate and recommend to the Court whether or not the application should be approved; provided, however, that such recommendation will not be binding upon the Court.
- (3) Promptly schedule the matter for a hearing before the Court, a single district judge designated by the Court or a magistrate judge designated by the Court. However, if a magistrate judge has made a recommendation pursuant to this subsection, the hearing shall not be conducted by that magistrate judge.
 - (A) If the hearing is conducted by a district judge, the Court may authorize that district judge to rule on the application without further action by the Court.

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

- (c) **Conduct of Hearing.** At the hearing, the applicant shall have the burden of demonstrating by clear and convincing evidence that he or she is of good moral character and otherwise qualified and fit to practice law before this Court, and that the applicant's resumption of the practice of law before this Court will not adversely affect the interests of potential clients, public confidence in the integrity of the Bar of this Court or the proper administration of justice.
 - (1) The Court may elect or appoint a special counsel to present evidence at the hearing and to cross examine the witnesses.
 - (2) The applicant shall have a similar right to present evidence and cross examine witnesses and to be represented by counsel.

LR Gen 216 PUBLIC ACCESS AND CONFIDENTIALITY

- (a) **Publicly Available Records.** All filings, orders, and proceedings involving allegations of misconduct by an attorney shall be public, except:
- (1) Any document filed or action taken pursuant to ~~Rule~~ LR Gen 210(b) prior to the commencement of formal disciplinary proceedings under ~~Rule~~ LR Gen 210(c); or
 - (2) When the Court, *sua sponte*, or in response to a motion for protective order, orders that such matters shall not be made public; provided, however, that any finding of misconduct shall be public.
- (b) **Respondent's Request.** The respondent-attorney may request that the Court make any matter public that would not otherwise be public under ~~this Rule~~ LR Gen 216.

LR Gen 303 SPECIAL FILING REQUIREMENTS**(a) Civil Case Opening Documents.**

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

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

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

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

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

LR Gen 304 ELIGIBILITY, REGISTRATION, PASSWORDS

- (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.

An attorney eligible to appear before the Court pursuant to LR Gen 201(b), and not otherwise prohibited from filing documents electronically under the Local Rules, must register as a Filing User of the Court's ECF system. 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 and be permitted to file documents electronically.

- (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.
- ~~(c) **Consent to Electronic Service.** ECF registration as a Filing User constitutes consent to electronic service of all documents as provided in these Local Rules and in accordance with the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.~~

LR Gen 308 SIGNATURES

- (a) **ECF Login and Password as Signature; Format of Signature Block.** The user login and password required to submit documents to the ECF system 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, the Federal Rules of Criminal Procedure and these Local Rules. All electronically filed documents must include a signature block ~~and must set forth the~~ with the attorney's name, bar registration number, address, telephone number, fax number and e-mail address. ~~The name of the ECF user under whose login and password the document is submitted must be preceded by a "/s/" and typed in the space where the signature would otherwise appear.~~
- (b) **Restrictions on Use of ECF Login and Password.** No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.
- (c) **Documents Requiring Multiple Signatures.** The filer of any document requiring more than one signature (e.g., pleadings filed by *pro hac vice* lawyers, stipulations, joint status reports) must list thereon all the names of other signatories ~~by means of a "/s/"~~ with a signature block for each as described in (a). 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. A signatory or party who disputes the authenticity of an electronically filed document containing such "signatures" must file an objection to the document within 14 days of service of the NEF. The filing attorney shall retain any records evidencing this concurrence for future production, if necessary, in accordance with the Document Retention Requirements stated in LR Gen 307.

LR Gen 309 SERVICE OF DOCUMENTS BY ELECTRONIC MEANS

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

LR Cv 5.1 PROOF OF SERVICE OF SUMMONS AND OTHER DOCUMENTS

- (a) **Summons.** Unless service is waived, proof of service of a summons must be filed with the Court within 14 days after service is made. Except for service by a United States marshal or deputy marshal, the proof of service must consist of an affidavit by the person who made service certifying:
- (1) the date and manner of service;
 - (2) the names of the persons served; and
 - (3) the addresses of the persons served.
- (b) **Certificates of Service as to Filings Other Than the Summons.** Unless a document is ~~filed by~~ served through the ECF system ~~electronic means, the service of which would be governed by LR Gen 309,~~ any document ~~conventionally~~ filed after the complaint required to be served by other means must contain a certificate of service stating:
- (1) the date and manner of service;
 - (2) the names of the persons served; and
 - (3) the addresses of the places of delivery, as appropriate for the manner of service.

The certificate of service shall be affixed to the documents filed with the Court.

~~LR Cv 19 — INDISPENSABLE PARTIES~~

~~See LR Cv 24 (concerning notification required to non-parties when the constitutionality of a statute is challenged).~~

LR Cv 33 INTERROGATORIES

- (a) **Filing.** Except in connection with motions to compel answers or more responsive answers, neither interrogatories nor answers or objections to interrogatories shall be filed with the Court.
- (b) **Form of Response.** An answer or objection to an interrogatory shall recite the interrogatory and state the answer and/or ground(s) for objecting.
- (c) **Objections.** Each objection and the grounds therefor shall be stated separately under each individual request. When an objection is made to any interrogatory, or sub-part thereof, it shall state with specificity all grounds upon which the objecting party relies. Any ground not stated in an objection shall be deemed waived. The requirement that the grounds for objecting be stated with specificity under each individual request precludes the consideration of any generic general objections.

LR Cv 34 REQUESTS FOR PRODUCTION

- (a) **Filing.** Except in connection with motions to compel production, neither requests for production nor responses or objections thereto shall be filed with the Court.
- (b) **Form of Response.**
 - (1) A response or objection to a request for production shall recite the request and describe what was produced in response and/or the ground(s) for objecting.
 - (2) When documents produced in response to a request for production exceed 50 pages, counsel for the party producing the documents shall affix Bates-stamped numbers to each page so that the documents produced can be readily identified and located.
- (c) **Objections.** Each objection and the grounds therefor shall be stated separately under each individual request. When an objection is made to any request, or sub-part thereof, it shall state with specificity all grounds upon which the objecting party relies. Any ground not stated in an objection shall be deemed waived. The requirement that the grounds for objecting be stated with specificity under each individual request precludes the consideration of any generic general objections.

LR Cv 73 CONSENT TO ORDER OF REFERENCE

- (a) **Trial by Magistrate Judge.** A full-time or recalled magistrate judge may conduct a jury or non-jury trial in a civil case if all parties consent and the district judge to whom the case has been assigned approves.
- (b) **Notification of Option to Consent.**
- (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 the time specified in the notice issued by the Clerk.
 - (2) At any time thereafter, the district judge to whom the case has been assigned may again authorize the Clerk to advise the parties of their opportunity to consent to a trial before, or other disposition of the case by, a magistrate judge, in which case the Clerk shall send a similar notice to the parties.
 - (3) A district judge or magistrate judge shall not be informed of a party's response to the Clerk's notification unless all parties have consented to a trial before a magistrate judge.

LR Cr 11 PLEAS AND PLEA AGREEMENTS

- (a) Time and Form.** In cases where a plea agreement is reached, the government shall notify the Court of the existence of the plea agreement as soon as possible and file a written plea agreement with the Court at least 7 days prior to jury empanelment. The Court will consider the timeliness of the filing of a plea agreement when determining whether, in calculating the guideline sentence range, the defendant should receive a reduction for acceptance of responsibility. The Court will not accept any plea agreement that is not in writing.
- (b) Plea Agreement as to an Information.** In cases where a written plea agreement is filed as to an information, the Court may schedule a combined arraignment and plea hearing before a district judge.

LR Cr 49 PROOF OF SERVICE

(a) Certificates of Service. Unless a document is served through the ECF system, any document required to be served by other means must contain a certificate of service stating:

- (1) the date and manner of service;
- (2) the names of the persons served; and
- (3) the addresses of the places of delivery, as appropriate for the manner of service.

The certificate of service shall be affixed to the documents filed with the Court.