



**United States District Court  
Eastern District of New York  
Southern District Of New York**

**Margo K. Brodie**  
*Chief Judge, E.D.N.Y.*

**Laura Taylor Swain**  
*Chief Judge, S.D.N.Y.*

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**JOINT NOTICE TO THE BAR**  
June 21, 2024

**CONTACT**  
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**Redline of Amendments to the EDNY-SDNY Joint Local Rules Effective July 1, 2024**

On June 17, 2024, the Eastern and Southern Districts of New York announced that the judges of the two courts had adopted amendments to their Joint Local Rules, which amendments will take effect on July 1, 2024, and govern civil and criminal cases pending or filed on or after that date. *See* Local Civil Rule 1.1; Local Criminal Rule 1.1.

For convenience of counsel, attached to this Notice is a redline of the amendments. (The redline excludes the table of contents and all committee notes, which have been moved to an appendix in the amended rules.) The redline was automatically generated using a word processing program and, thus, may contain errors. Counsel should rely on the clean version of the amended Joint Local Rules, not on the redline, and may not cite or rely on the redline in any court filings.

The redline will remain on each court's website until August 1, 2024, at which point it will be removed. Because, under amended Local Civil Rule 1.1, the October 15, 2021 version of the Joint Local Rules apply to actions pending on July 1, 2024, if fewer than 14 days remain to perform an action governed by the Rules, the October 15, 2021 version of the Joint Local Rules will also remain on each court's website until August 1, 2024, at which point it will be removed.

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LOCAL RULES OF THE UNITED STATES DISTRICT COURTS FOR THE  
SOUTHERN AND EASTERN DISTRICTS OF NEW YORK

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*Adopted* by the Boards of Judges of the  
Eastern District of New York and the  
Southern District of New York

~~Approved by~~ Transmitted to the Judicial Council of the Second Circuit

Effective ~~October 15, 2021~~  
~~with amendments to Joint Local Rule~~ July 1:5(d), 2024

## LOCAL CIVIL RULES

### Local Civil Rule 1.1. Application of Rules

These Local Civil Rules are promulgated under 28 U.S.C. § 2071 and Fed. R. Civ. P. 83. They apply in all civil actions and proceedings governed by the Federal Rules of Civil Procedure. Each district has, under 28 U.S.C. § 137, separately adopted Division of Business Rules that are available on their respective websites.

These Local Civil Rules take effect on July 1, 2024 (the “Effective Date”) and govern actions pending or filed on or after that date. For actions pending on the Effective Date, if fewer than 14 days remain to perform an action governed by these Rules, the provisions of the previous Local Rules effective on June 30, 2024 will govern.

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

### Local Civil Rule 1.2. Night Depository

A night depository with an automatic date stamp ~~shall~~will be maintained by the ~~Clerk~~clerk of the Southern District in the Pearl Street Courthouse and by the ~~Clerk~~clerk of the Eastern District in the Brooklyn ~~Courthouse and Central Islip Courthouses.~~ After regular business hours, papers for the ~~District Court only~~district court may be deposited only in the night depository. ~~Such~~Those papers will be considered as having been filed in the ~~District Court~~district court as of the date stamped thereon, which ~~shall~~will be deemed presumptively correct. Filings that must be made via the Electronic Case Filing (ECF) system may not be made by using the night depository.

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

### Local Civil Rule 1.3. Admission to the Bar

- (a) A member in good standing of the bar of the State of New York, or a member in good standing of the bar of the United States District Court in Connecticut or Vermont and of the bar of the State in which ~~such~~that district court is located, ~~provided such~~if that district court by its rule extends a corresponding privilege to members of the bar of this ~~Court~~court, may be admitted to practice in this ~~Court~~court on compliance with the following provisions:

(b) Each applicant for admission ~~is required to~~must file an application for admission in electronic form and pay the required fee through the Public Access to Court Electronic Records (PACER) system at [www.pacer.gov](http://www.pacer.gov). This one application will be utilized both to admit and then to provide the applicant to the bar of this ~~Court~~court with electronic filing privileges for use on the ~~Court's Electronic Case-Filing (court's ECF)~~ system. The applicant ~~shall~~must adhere to all applicable rules of admission.

(c) The application for admission ~~shall~~must state:

- (1) applicant's residence and office address;
- (2) the date(s) when, and courts where, admitted;
- (3) applicant's legal training and experience;
- (4) whether applicant has ever been held in contempt of court, and, if so, the nature of the contempt and the final disposition thereof;
- (5) whether applicant has ever been censured, suspended, disbarred, or denied admission or readmission by any court, and, if so, the facts and circumstances connected therewith;
- (6) that applicant has read and is familiar with
  - (A) the provisions of the Judicial Code (Title 28, U.S.C.) ~~which pertain to~~concerning the jurisdiction of, and practice in, the United States ~~District Courts~~district courts;
  - (B) the Federal Rules of Civil Procedure;
  - (C) the Federal Rules of Criminal Procedure;
  - (D) the Federal Rules of Evidence;
  - (E) the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York; and
  - (F) the New York State Rules of Professional Conduct as adopted from time to time by the Appellate Divisions of the State of New York; and

(7) that applicant will faithfully adhere to all rules applicable to applicant's conduct in connection with any activities in this ~~Court~~court.

~~(d)~~ The application ~~shall~~must be accompanied by a certificate of the clerk of the court for each of the states in which the applicant is a member of the bar, which has been issued within ~~thirty (30)~~ days of filing and states that the applicant is a member in good standing of the bar of that state court. The application ~~shall~~must also be accompanied by an affidavit of an attorney of this ~~Court~~court who has known the applicant for at least one year, stating when the affiant was admitted to practice in this ~~Court~~court, how long and under what circumstances the attorney has known the applicant, and what the attorney knows of the applicant's character and experience at the bar.

~~Such (e)~~ Absent court order, the clerk will schedule a date for a hearing on the application ~~shall be placed, and~~ at the ~~head of the calendar and, on the call~~ ~~thereof hearing~~, the attorney whose affidavit accompanied the application ~~shall~~must, for the Eastern District ~~of New York~~, and may, and is encouraged to, for the Southern District ~~of New York~~, personally move the admission of the applicant. If the application is granted, the applicant ~~shall~~will take the oath of office ~~and sign~~ ~~the roll of attorneys~~.

~~(f)~~ A member of the bar of the state of New York, Connecticut, or Vermont who has been admitted to the bar of this ~~Court pursuant to~~court under this subsection, and who thereafter voluntarily resigns from membership in the bar of the state ~~pursuant to~~under which he was admitted to the bar of this ~~Court~~court, and who does not within 30 days of that voluntary resignation file an affidavit with the ~~Clerk~~clerk of this ~~Court~~court indicating that such person remains eligible to be admitted to the bar of this ~~Court pursuant to~~court under other provisions of this subsection (such as because he is still a member of the bar of another eligible state and, where applicable, a corresponding district court), ~~shall~~will be deemed to have voluntarily resigned from the bar of this ~~Court~~court as of the same date the member resigned from the bar of the underlying state, ~~provided that such~~ ~~but the~~ resignation ~~shall~~will not be deemed to deprive this ~~Court~~court of jurisdiction to impose

discipline on this person, ~~pursuant to~~ in accordance with Rule 1.5 infra, for conduct preceding the date of ~~such~~ the resignation.

~~(b)~~ A member in good standing of the bar of either the Southern or Eastern District ~~of New York~~ may be admitted to the bar of the other district without formal application

(1) upon electronically filing through the PACER website a certificate of the ~~Clerk~~ clerk of the United States ~~District Court~~ district court for the district in which the applicant is a member of the bar, which has been issued within ~~thirty~~ ~~(30)~~ days of filing and states that the applicant is a member in good standing of the bar of that ~~Court~~ court;

(2) upon an affidavit by the applicant stating

(A) whether the applicant has ever been convicted of a felony,

(B) whether the applicant has ever been censured, suspended, disbarred, or denied admission or readmission by any court,

(C) whether there are any disciplinary proceedings presently against the applicant, and

(D) the facts and circumstances surrounding any affirmative responses to (a) through (c); and

(3) upon taking the oath of office, ~~signing the roll of attorneys of that district,~~ and paying the fee required in that district.

~~(h)~~ Each district retains the right to deny admission based ~~upon~~ on the content of the affidavit in response to item ~~(b)~~ (2).

~~(e)~~ A member in good standing of the bar of any state or of any United States ~~District Court~~ district court may be permitted to argue or try a particular case in whole or in part as counsel or advocate, upon motion as described below.

~~(j)~~ After requesting pro hac vice electronic filing privileges through the PACER website, applicants ~~shall~~ must electronically file a motion for admission pro hac vice on the court's ECF system and pay the required fee.

(k) The motion must be accompanied by a certificate of the court for each of the states in which the applicant is a member of the bar, ~~which that~~ has been issued within ~~thirty (30)~~ days of filing and states that the applicant is a member in good standing of the bar of that state court, and an affidavit by the applicant stating

- (1) whether the applicant has ever been convicted of a felony,
- (2) whether the applicant has ever been censured, suspended, disbarred, or denied admission or readmission by any court,
- (3) whether there are any disciplinary proceedings presently against the applicant, and
- (4) the facts and circumstances surrounding any affirmative responses to (a) through (c);

(l) Attorneys appearing for the Department of Justice may appear before the ~~Court~~ without requesting pro hac vice admission. ~~Such~~ Those attorneys ~~shall~~ must request electronic filing privileges through the PACER website. Attorneys appearing for other federal agencies must move for pro hac vice admission, but the fee requirement is waived, and the certificate(s) of good standing may must have been issued within one year of filing. Only an attorney who has been so admitted or who is a member of the bar of this ~~Court~~ may enter appearances for parties, sign stipulations, or receive payments ~~upon~~ judgments, decrees, or orders.

~~(d)~~ — If an attorney who is a member of the bar of this ~~Court~~, or who has been authorized to appear in a case in this ~~Court~~, changes his or her residence or office address, the attorney ~~shall~~ must immediately ~~notify~~ update the ~~Clerk of the Court, relevant information~~ in ~~addition to serving the PACER system,~~ and ~~file~~ and file a notice of change of address in each pending case in which the attorney has appeared.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*



#### **Local Civil Rule 1.4. Notice of Appearance; Withdrawal or Displacement of Attorney of Record**

Except as set forth in this rule, each attorney appearing on behalf of a party must file a notice of appearance in each case, promptly upon the attorney's first appearance or filing in the case. The notice of appearance must provide the attorney's name, any firm or organizational affiliation, business address, telephone number, email address, and the name of the party or parties represented. An attorney who ~~has appeared as attorney of record~~ files a case-initiating document, such as a complaint, petition, or notice of removal, need not file a separate notice of appearance; those attorneys will be deemed to have entered a notice of appearance on behalf of the party or parties on whose behalf the filing is made.

Whether or not a notice of appearance is filed, an attorney for a party may be relieved or displaced only by order of the ~~Court and may not withdraw from a case without leave of the Court granted by court.~~ This order. ~~Such an order~~ may be ~~granted~~ issued after the filing of a motion to withdraw, only upon a showing by affidavit or otherwise of satisfactory reasons for withdrawal or displacement, and the posture of the case, ~~including its position, if any, on the calendar,~~ and whether or not the attorney is asserting a retaining or charging lien. While a motion to withdraw is required when an attorney seeks to be relieved, an affidavit is unnecessary if other counsel from the same firm, agency, or organization has already entered a notice of appearance on behalf of the client and will remain in the case or, upon substitution of counsel by stipulation, if the stipulation is also signed by the client.

All ~~applications~~ motions to withdraw must be served ~~upon~~ on the client and (unless excused by the ~~Court~~) ~~upon~~ on all other parties. Proof of service on the client must be filed on the docket in each case where withdrawal is sought.

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

#### **Local Civil Rule 1.5. Discipline of Attorneys**

- (a) Committee on Grievances. The ~~Chief Judge shall~~ chief judge will appoint a committee of the Board of Judges known as the Committee on Grievances, which, under the direction of the ~~Chief Judge shall~~ chief judge will have charge of all

matters relating to the discipline of attorneys. ~~The Chief Judge shall~~ Magistrate judges and district judges may serve on the Committee on Grievances. The chief judge will also appoint a panel of attorneys who are members of the bar of this ~~Court~~ court to advise or assist the Committee on Grievances. At the direction of the Committee on Grievances or its chair, members of this panel of attorneys may investigate complaints, may prepare and support statements of charges, or may serve as members of hearing panels.

- (b) Grounds for Discipline or Other Relief. Discipline or other relief, of the types set forth in paragraph (c) below, may be imposed, by the Committee on Grievances, after notice and opportunity to respond as set forth in paragraph (d) below, if any of the following grounds is found by clear and convincing evidence:
- (1) Any member of the bar of this ~~Court~~ court has been convicted of a felony or misdemeanor in any federal court, or in a court of any state or territory.
  - (2) Any member of the bar of this ~~Court~~ court has been disciplined by any federal court or by a court of any state or territory.
  - (3) Any member of the bar of this ~~Court~~ court has resigned from the bar of any federal court or of a court of any state or territory while an investigation into allegations of misconduct by the attorney was pending.
  - (4) Any member of the bar of this ~~Court~~ court has an infirmity ~~which~~ that prevents the attorney from engaging in the practice of law.
  - (5) In connection with activities in this ~~Court~~ court, any attorney is found to have engaged in conduct violative of the New York State Rules of Professional Conduct as adopted from time to time by the Appellate Divisions of the State of New York. In interpreting ~~the Code~~ these Rules of Professional Conduct, in the absence of binding authority from the United States Supreme Court or the United States Court of Appeals for the Second Circuit, this ~~Court~~ court, in the interests of comity and predictability, will give due regard to decisions of the New York Court of Appeals and other New York ~~State~~ state courts, absent significant federal interests.

(6) Any attorney not a member of the bar of this ~~Court~~court has appeared at the bar of this ~~Court~~court without permission to do so.

(c) Types of Discipline or Other Relief

- (1) In the case of an attorney admitted to the bar of this ~~Court~~court, discipline imposed ~~pursuant to~~under paragraph (b)(1), (b)(2), (b)(3), or (b)(5) above may consist of a letter of reprimand or admonition, censure, suspension, or an order striking the name of the attorney from the roll of attorneys admitted to the bar of this ~~Court~~court.
- (2) In the case of an attorney not admitted to the bar of this ~~Court~~court, discipline imposed ~~pursuant to~~under paragraph (b)(5) or (b)(6) above may consist of a letter of reprimand or admonition, censure, or an order precluding the attorney from again appearing at the bar of this ~~Court~~court.
- (3) Relief required ~~pursuant to~~under paragraph (b)(4) above ~~shall~~will consist of suspending the attorney from practice before this ~~Court~~court.

(d) ~~Procedure~~

- (1) If it appears that there exists a ground for discipline set forth in paragraph (b)(1), (b)(2), or (b)(3), notice thereof ~~shall~~must be served by the Committee on Grievances ~~upon~~on the attorney concerned by first class mail, directed to the address of the attorney as shown on the rolls of this ~~Court~~court and to the last known address, if any, of the attorney ~~(if any)~~ as shown in the complaint and any materials submitted therewith. Service shall be deemed complete upon mailing in accordance with the provisions of this paragraph.

In all cases in which any federal court or a court of any state or territory has entered an order disbaring or censuring an attorney or suspending the attorney from practice, whether or not on consent, the notice shall be served together with an order by the ~~Clerk~~clerk of this ~~Court~~court, to become effective ~~twenty-four~~24 days after the date of service ~~upon~~on the attorney, disbaring or censuring the attorney or suspending the attorney from practice in this ~~Court~~upon court on terms and conditions comparable to those set forth by the other court of record. In all cases in which an attorney has resigned from the bar of any federal court or

of a court of any state or territory while an investigation into allegations of misconduct by the attorney was pending, even if the attorney remains admitted to the bar of any other court, the notice shall be served together with an order entered by the ~~Clerk~~ clerk for this ~~Court~~ court, to become effective ~~twenty-four~~ 24 days after the date of service ~~upon~~ on the attorney, deeming the attorney to have resigned from the bar of this ~~Court~~ court.

Within ~~twenty~~ 20 days of the date of service of either order, the attorney may file a motion for modification or revocation of the order. ~~Any such~~ This motion ~~shall~~ must set forth with specificity the facts and principles relied ~~upon~~ on by the attorney ~~as showing to show~~ cause why that a different disposition should be ordered by this ~~Court~~ court. The timely filing of ~~such a~~ this motion will stay the effectiveness of the order until a further order by this ~~Court~~ court. If good cause is shown to hold an evidentiary hearing, the Committee on Grievances may direct such a hearing ~~pursuant to~~ under paragraph (d)(4) below. If good cause is not shown to hold an evidentiary hearing, the Committee on Grievances may proceed to impose discipline or to take such other action as justice and this rule may require. If an evidentiary hearing is held, the Committee may direct such interim relief pending the hearing as justice may require.

In all other cases, the notice shall be served together with an order by the Committee on Grievances directing the attorney to show cause in writing why discipline should not be imposed. If the attorney fails to respond in writing to the order to show cause, or if the response fails to show good cause to hold an evidentiary hearing, the Committee on Grievances may proceed to impose discipline or to take such other action as justice and this rule may require. If good cause is shown to hold an evidentiary hearing, the Committee on Grievances may direct such a hearing ~~pursuant to~~ under paragraph (d)(4) below. If an evidentiary hearing is held, the Committee may direct such interim relief pending the hearing as justice may require.

- (2) In the case of a ground for discipline set forth in paragraph (b)(2) or (b)(3) above, discipline may be imposed unless the attorney concerned establishes by clear and convincing evidence (i) that there was such an infirmity of proof of

misconduct by the attorney as to give rise to the clear conviction that this ~~Court~~court could not, consistent with its duty, accept as final the conclusion of the other court, or (ii) that the procedure resulting in the investigation or discipline of the attorney by the other court was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process, or (iii) that the imposition of discipline by this ~~Court~~court would result in grave injustice.

- (3) Complaints in writing alleging any ground for discipline or other relief set forth in paragraph (b) above shall be directed to the ~~Chief Judge~~chief judge, who shall refer ~~such~~those complaints to the Committee on Grievances. The Committee on Grievances, by its chair, may designate an attorney, who may be selected from the panel of attorneys established ~~pursuant to~~under paragraph (a) above, to investigate the complaint, if it deems investigation necessary or warranted, and to prepare a statement of charges, if the Committee deems that necessary or warranted. Complaints, and any files based on them, shall be treated as confidential unless ordered otherwise ~~ordered~~ by the ~~Chief Judge~~chief judge for good cause shown or in accordance with paragraph (d)(5) below.
- (4) A statement of charges alleging a ground for discipline or other relief set forth in paragraph (b)(4), (b)(5), or (b)(6) shall be served ~~upon~~on the attorney concerned by certified mail, return receipt requested, directed to the address of the attorney as shown on the rolls of this ~~Court~~court and to the last known address, if any, of the attorney ~~(if any)~~ as shown in the complaint and any materials submitted therewith, together with an order by the Committee on Grievances directing the attorney to show cause in writing why discipline or other relief should not be imposed. Upon the respondent attorney's answer to the charges the matter will be designated by the Committee on Grievances for a prompt evidentiary hearing before a ~~Magistrate Judge~~magistrate judge of the ~~Court~~court or before a panel of three attorneys, who may be selected from the panel of attorneys established ~~pursuant to~~under paragraph (a) above. The ~~Magistrate Judge~~magistrate judge or panel of attorneys conducting the hearing may grant such pre-hearing discovery as they determine to be necessary, shall hear witnesses called by the attorney supporting the charges and by the respondent attorney, and may consider such other evidence included in the record of the hearing as they deem relevant and

material. The ~~Magistrate Judge~~magistrate judge or panel of attorneys conducting the hearing ~~shall~~must report their findings and recommendations in writing to the Committee on Grievances and ~~shall~~must serve them ~~upon~~on the respondent attorney and the attorney supporting the charges. After affording the respondent attorney and the attorney supporting the charges an opportunity to respond in writing to ~~such~~the report, or if no timely answer is made by the respondent attorney, or if the Committee on Grievances determines that the answer raises no issue requiring a hearing, the Committee on Grievances may proceed to impose discipline or to take such action as justice and this rule may require.

- (5) A duly constituted disciplinary authority of a New York ~~State Court~~state court may request expedited disclosure of records or documents that are confidential for use in an investigation or proceeding pending before the disciplinary authority. The request shall be made in writing and submitted to the ~~Chair~~chair of the ~~Grievance~~Committee on Grievances. The request should, to the extent practicable, identify the nature of the pending investigation or proceeding and the specific records or documents sought. The request may also seek deferral of notice of the request for so long as the matter is in the investigative stage before the disciplinary authority. Upon receipt of the request, the ~~Chair~~chair of the ~~Grievance~~Committee on Grievances may take any appropriate action and may refer the request to the full Committee on Grievances. Confidential records and documents disclosed to the disciplinary authority in response to the request shall not be used for any purpose other than the investigation or proceeding pending before the disciplinary authority.
- (e) Reinstatement. Any attorney who has been suspended or precluded from appearing in this ~~Court~~court or whose name has been struck from the roll of the members of the bar of this ~~Court~~court may apply in writing to the ~~Chief Judge~~chief judge, for good cause shown, for the lifting of the suspension or preclusion or for reinstatement to the rolls. The ~~Chief Judge shall~~chief judge must refer ~~such~~this application to the Committee on Grievances. The Committee on Grievances may refer the application to a ~~Magistrate Judge~~magistrate judge or hearing panel of attorneys (who may be the same ~~Magistrate Judge~~magistrate judge or panel of

attorneys who previously heard the matter) for findings and recommendations, or may act upon the application without making such a referral. Absent extraordinary circumstances, no such application will be granted unless the attorney seeking reinstatement meets the requirements for admission set forth in Local Civil Rule 1.3(a).

- (f) Remedies for Misconduct. The remedies provided by this rule are in addition to the remedies available to individual ~~District Judges~~ district judges and ~~Magistrate Judges~~ magistrate judges under applicable law with respect to lawyers appearing before them. Individual ~~District Judges~~ district judges and ~~Magistrate Judges~~ magistrate judges may also refer any matter to the ~~Chief Judge~~ chief judge for referral to the Committee on Grievances to consider the imposition of discipline or other relief ~~pursuant to~~ under this rule.
- (g) Notice to Other Courts. When an attorney is known to be admitted to practice in the court of any state or territory, or in any other federal court, and has been convicted of any crime, or disbarred, precluded from appearing, suspended, or censured in this court, the ~~Clerk~~ clerk shall send to ~~such~~ the other court or courts a certified or electronic copy of the judgment of conviction or order of disbarment, preclusion, suspension, or censure, a certified or electronic copy of the ~~Court's~~ court's opinion, if any, and a statement of the attorney's last known office and residence address.
- (h) Duty of Attorney to Report Discipline
- (1) In all cases in which any federal, state or territorial court, agency or tribunal has entered an order disbarring or censuring an attorney admitted to the bar of this ~~Court~~ court, or suspending the attorney from practice, whether or not on consent, the attorney shall deliver a copy of ~~said~~ the order to the ~~Clerk~~ clerk of this ~~Court~~ court within ~~fourteen~~ 14 days after the entry of the order.
  - (2) In all cases in which any member of the bar of this ~~Court~~ court has resigned from the bar of any federal, state, or territorial court, agency, or tribunal while an investigation into allegations of misconduct against the attorney was pending, the attorney shall report ~~such~~ that resignation to the ~~Clerk~~ clerk of this ~~Court~~ court within ~~fourteen~~ 14 days after the submission of the resignation.

- (3) In all cases in which this ~~Court~~court has entered an order disbaring or censuring an attorney, or suspending the attorney from practice, whether or not on consent, the attorney shall deliver a copy of ~~said~~the order within ~~fourteen~~14 days after the entry of the order to the clerk of each federal, state, or territorial court, agency, and tribunal in which ~~such~~the attorney has been admitted to practice.
- (4) Any failure of an attorney to comply with the requirements of this Local Civil Rule 1.5(h) ~~shall~~will constitute a basis for discipline of ~~said~~that attorney ~~pursuant to~~under Local Civil Rule 1.5(c).

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

#### **Local Civil Rule 1.6. Duty of Attorneys in Related Cases**

~~(a) It shall be the continuing duty of~~ Unless another attorney has already done so, each attorney appearing in ~~any civil or criminal~~a case ~~to~~must bring ~~promptly~~ to the attention of the ~~Court~~ all facts which said attorney believes are relevant to a determination that ~~said case and one or more pending civil or criminal~~court potentially related cases ~~should be heard, to the extent required~~ by the ~~same Judge,~~ Division of Business Rules in order to avoid unnecessary duplication of judicial effort. As soon as the attorney becomes aware of such relationship, said attorney shall notify the ~~Judges to~~ whom district where the ~~cases have been assigned.~~ case was filed.

~~(b) If counsel fails to comply with Local Civil Rule 1.6(a), the Court may assess reasonable costs directly against counsel whose action has obstructed the effective administration of the Court's business.~~

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

#### **Local Civil Rule 1.7. Fees of Court Clerks and Reporters**

- (a) The ~~Clerk~~clerk ~~shall~~will not be required to render any service for which a fee is prescribed by statute or by the Judicial Conference of the United States unless the fee for the particular service is paid to the ~~Clerk~~clerk in advance or the ~~Court~~court orders otherwise.



- (b) ~~Every~~An attorney appearing in any proceeding who orders a transcript of any trial, hearing, or any other proceeding, is obligated to pay the cost thereof to the court reporters of the ~~Court~~court upon rendition of the invoice unless at the time of ~~such~~the order, the attorney, in writing, advises the court reporter that only the client is obligated to pay.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 1.8. ~~Photographs, Radio, Recordings, Television~~Electronic Equipment and Recording, Broadcasting, and Streaming of Court Matters**

- (a) ~~Unless authorized to do so by an administrative or standing order of each-~~  
~~respective Court~~the court, the clerk, or the district executive, no one other than ~~Court~~court officials engaged in the conduct of ~~Court~~court business ~~shall (a) may:~~
- (1) bring any camera, transmitter, receiver, recording device, cellular telephone, computer, or other electronic device into any courthouse; or ~~(b)~~
- (2) take a photograph or make an audio or video recording of any proceeding or any communication with the Court, an employee of the Court, or any person acting at the direction of the Court, including a mediator. No such authorization will be given with respect to a court proceeding or mediation unless approved in advance by the presiding judge.
- (b) Proceedings must not be broadcast or streamed unless authorized by the presiding judge in accordance with Judicial Conference policy.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 1.9. Acceptable Substitutes for Affidavits [formerly Local Civil Rule 1.10]**

In situations in which any ~~Local Rule~~local rule provides for an affidavit or a verified statement, the following are acceptable substitutes: (a) a statement subscribed under penalty of perjury as prescribed in 28 U.S.C. § 1746; or (b) if accepted by the ~~Court~~court as a substitute for an affidavit or a verified statement, (1) a statement signed by an attorney or by a party not represented by an attorney in accordance with Fed. R. Civ.

~~P.~~ pursuant to Federal Rule of Civil Procedure 11, or (2) an oral representation on the record in open court.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 5.1. Filing of Discovery Materials [Withdrawn]**

~~A party seeking or opposing relief under Fed.~~ *For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

~~R. Civ. P. 26 through 37 inclusive, or making or opposing any other motion or application, shall quote or attach only those portions of the depositions, interrogatories, requests for documents, requests for admissions, or other discovery or disclosure materials, together with the responses and objections thereto, that are the subject of the discovery motion or application, or that are cited in papers submitted in connection with any other motion or application. See also Civil Local Rule 37.1.~~

### **Local Civil Rule 5.2. Requirements for Electronic Filing and Service; Duty to Review Underlying Orders**

#### **Counsel must serve and Filing of Documents**

~~(a) Parties serving and filing~~ file papers ~~shall follow~~ by following the instructions regarding ~~Electronic Case Filing (ECF)~~ published on the website of each respective Court. ~~A paper served and filed by court, unless exempted from~~ electronic filing by court order or Fed. R. Civ. P. means 5. Highly Sensitive Documents (HSDs) must be filed in hard copy, in accordance with ~~such instructions is, for purposes of Fed. the order issued by R. Civ. P. 5, served and filed in compliance with the Local Civil Rules of the Southern and Eastern Districts of New York.~~

~~(b) Subject to the instructions regarding ECF published on the website of each respective Court and any pertinent Individual Judge's Practices, letter motions permitted by Local Civil Rule 7.1(d) and letters addressed to the Court (but not letters between the parties) may be filed via ECF.~~ district governing those documents.

~~(e)~~—Parties have an obligation to review the ~~Court's~~court's actual order, decree, or judgment (on ECF), which controls, and should not rely on the description on the docket or in the ECF Notice of Electronic Filing (NEF).

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 5.3. Service by Overnight Delivery**

Service ~~upon~~on an attorney may be made by overnight delivery service. “Overnight delivery service” means any delivery service ~~which~~that regularly accepts items for overnight delivery. Overnight delivery service ~~shall~~will be deemed service by mail for purposes of Fed. R. Civ. P. 5 and 6.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 6.1. Service and Filing of Motion Papers**

Except for letter-motions as permitted by Local Rule 7.1(d), and unless provided otherwise ~~provided~~ by statute or rule, or by the ~~Court~~court in a ~~Judge's Individual-Practice~~judge's individual practices or in a direction in a particular case, ~~upon any motion, the notice of motion, supporting affidavits, and memoranda shall~~ papers must be served and filed as follows:

- (a) On all motions and applications under Fed. R. Civ. P. 26 through 37 inclusive and 45(d)(3), ~~(1) the notice of all motion, supporting affidavits, and memoranda of law shall~~ papers must be served by the moving party on all other parties that have appeared in the action, (2) any opposing ~~affidavits and answering memoranda of law shall~~ or response papers must be served within seven days after service of the moving papers, and (3) any reply ~~affidavits and reply memoranda of law shall~~ papers must be served within two days after service of the answering papers. In computing periods of days, refer to Fed. R. Civ. P. ~~6 and Local Civil Rule 6.46~~.
- (b) On all civil motions, petitions, and applications, other than those described in Rule 6.1(a), and other than petitions for writs of habeas corpus, (1) the ~~notice of motion, supporting affidavits, and memoranda of law shall~~ moving papers must be served by the moving party on all other parties that have appeared in the action, (2) any opposing ~~affidavits and answering memoranda shall~~ or response papers must be

served within ~~fourteen~~14 days after service of the moving papers, and (3) any reply ~~affidavits and memoranda of law shall~~papers must be served within seven days after service of the answering papers. In computing periods of days, refer to Fed. R. Civ. P. ~~6 and Local Civil Rule 6.4.6.~~

~~(c) The parties and their attorneys shall only appear to argue the motion if so directed by the Court by order or by a Judge's Individual Practice.~~

(c) Unless otherwise exempt, filing and service must be accomplished via ECF.

(d) No ex parte order, or order to show cause to bring on a motion, will be granted, except upon a clear and specific showing by affidavit ~~of~~that contains good and sufficient reasons why a procedure other than by notice of motion is necessary, and ~~stating~~states whether a previous application for similar relief has been made.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 6.2. Orders on Motions**

A memorandum signed by the ~~Court~~court of the decision on a motion that does not finally determine all claims for relief, or an oral decision on such a motion, ~~shall~~will constitute the order unless the memorandum or oral decision directs the submission or settlement of an order in more extended form. The notation in the docket of a memorandum or of an oral decision that does not direct the submission or settlement of an order in more extended form ~~shall~~will constitute the entry of the order. Where an order in more extended form is required to be submitted or settled, the notation in the docket of ~~such~~the order ~~shall~~will constitute the entry of the order.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 6.3. Motions for Reconsideration ~~or Reargument~~**

Unless otherwise provided by the ~~Court~~court or by statute or rule (such as Fed. R. Civ. P. 50, 52, and 59), a notice of motion for reconsideration ~~or reargument of a court order determining a motion shall~~must be served within ~~fourteen~~ (14) days after the entry of the ~~Court's determination of the original motion, or in the case of a court order resulting in a judgment, within fourteen (14) days after the entry of the judgment.~~court's order being challenged. There ~~shall~~must be served with the notice of motion a memorandum,

~~no longer than 10 pages in length~~, setting forth concisely the matters or controlling decisions which counsel believes the ~~Court~~court has overlooked. The time periods for the service of any answering and reply memoranda, ~~if any, shall be~~which may not be longer than 10 and 5 pages in length, respectively, is governed by Local Civil Rule 6.1(a) or (b), as in the case of the original motion. ~~No oral argument shall be heard unless the Court directs that the matter shall be reargued orally. No~~No party may file any affidavits shall be filed by any party unless directed by the Court~~.court~~.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

#### **Local Civil Rule 6.4. Computation of Time [Withdrawn]**

~~In computing any period of time prescribed or allowed by the Local Civil Rules or the Local Admiralty and Maritime Rules, the provisions of Fed.~~For relevant historical context for this local rule, consult the Appendix of Committee Notes.

~~R. Civ. P. 6 shall apply unless otherwise stated. In these Local Rules, as in the Federal Rules as amended effective December 1, 2009, Saturdays, Sundays, and legal holidays are no longer excluded in computing periods of time. If the last day of the period is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.~~

#### **Local Civil Rule 7.1. Motion Papers**

~~(a) Except~~(a) Unless the judge's individual practices or court order provide otherwise, all motions, except for letter-motions as permitted by Local Civil Rule 7.1(d) ~~or as otherwise permitted by the Court, all motions shall~~, must include the following motion papers:

- (1) A notice of motion, or an order to show cause signed by the ~~Court, which shall specify~~court, that specifies the ~~applicable~~ rules or statutes ~~pursuant to~~under which the motion is brought, and ~~shall specify~~ the relief sought ~~by the motion~~;
- (2) A memorandum of law, setting forth the cases and other authorities relied ~~upon~~on in support of the motion, and divided, under appropriate headings, into as many parts as there are issues to be determined; and

- (3) Supporting affidavits and exhibits thereto containing any factual information and ~~portions~~parts of the record necessary for the decision of the motion.
- (b) Except for letter-motions as permitted by Local Rule 7.1(d) or as otherwise permitted by the ~~Court~~court, all oppositions and replies with respect to motions ~~shall~~must comply with Local Civil Rule 7.1(a)(2) and (3) above, and an opposing party who seeks relief that goes beyond the denial of the motion ~~shall~~must comply as well with Local Civil Rule 7.1(a)(1) above.
- (c) Unless ~~ordered~~ otherwise ~~ordered~~ by the ~~District Judge~~district judge to whom the appeal is assigned, appellate briefs on bankruptcy appeals ~~shall~~must comply with the briefing format and length specifications set forth in ~~Federal Rules of Bankruptcy Procedure~~Fed. R. Bankr. P. 8015 to 8017.
- (d) Applications for extensions or adjournments, applications for a pre-motion conference, and similar non-dispositive matters ~~as permitted by the instructions regarding ECF published on the website of each respective Court and any pertinent Individual Judge's Practices, may be brought by letter motion filed via ECF pursuant to Local Civil Rule 5.2(b), may be brought by letter-motion. Other motions cannot be brought by letter-motion unless authorized by the judge's individual practices or order issued in a particular case.~~

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 7.1.1 Disclosure Statement**

For purposes of Fed. R. Civ. P. 7.1(b)(2), “promptly” ~~shall mean~~means “within ~~fourteen~~14 days,” that is, parties ~~are required to~~must file a supplemental disclosure statement within ~~fourteen~~14 days of the time there is any change in the information required in a disclosure statement filed ~~pursuant to~~in accordance with those rules.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 7.2. Authorities to Be Provided to Pro Se Litigants**

In cases involving a pro se litigant, counsel ~~shall~~must, when serving a memorandum of law (or other submissions to the ~~Court~~court), provide the pro se litigant (but not other counsel or the ~~Court~~court) with copies of cases and other authorities cited therein that

are unpublished or reported exclusively on computerized databases. Upon request, counsel ~~shall~~must provide the pro se litigant with copies of such unpublished cases and other authorities as are cited in a decision of the ~~Court~~court and were not previously cited by any party.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 11.1. Form of Pleadings, Motions, and Other Papers**

(a) ~~Every~~A pleading, written motion, and other paper must

- (1) be plainly written, typed, printed, or copied without erasures or interlineations ~~which~~that materially deface it,
- (2) bear the docket number and the initials of the ~~District Judge~~district judge and any ~~Magistrate Judge~~magistrate judge before whom the action or proceeding is pending,
- (3) have the name of each person signing it clearly printed or typed directly below the signature.

~~(b) The~~(b) Unless a judge's individual practices provide otherwise, the typeface, margins, and spacing of all documents presented for filing must meet the following requirements:

- (1) all text must be 12-point type or larger, except for text in footnotes, ~~z~~ which may be 10-point type;
- (2) all documents must have at least one-inch margins on all sides;
- (3) all text must be double-spaced, except for headings, text in footnotes, or block quotations, which may be single-spaced.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 12.1. Notice to Pro Se Litigant Who Opposes a Rule 12 Motion Supported by Matters Outside the Pleadings**

A represented party moving to dismiss or for judgment on the pleadings against a party proceeding pro se, who refers in support of the motion to matters outside the pleadings

as described in Fed. R. Civ. P. 12(b) or 12(c), ~~shall~~must serve and file the following notice with the full text of Fed. R. Civ. P. 56 attached at the time the motion is served.—

If the ~~Court~~court rules that a motion to dismiss or for judgment on the pleadings will be treated as one for summary judgment ~~pursuant to~~under Fed. R. Civ. P. 56, and the movant has not previously served and filed the notice required by this rule, the movant ~~shall~~must amend the form notice to reflect that fact and ~~shall~~must serve and file the amended notice within ~~fourteen~~14 days of the ~~Court's~~court's ruling.

### NOTICE TO PRO SE LITIGANT WHO OPPOSES A RULE 12 MOTION SUPPORTED BY MATTERS OUTSIDE THE PLEADINGS

The defendant in this case has moved to dismiss or for judgment on the pleadings ~~pursuant to~~under Rule 12(b) or 12(c) of the Federal Rules of Civil Procedure, and has submitted additional written materials. This means that the defendant has asked the ~~Court~~court to decide this case without a trial, based on these written materials. You are warned that the ~~Court~~court may treat this motion as a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. For this reason, THE CLAIMS YOU ASSERT IN YOUR COMPLAINT MAY BE DISMISSED WITHOUT A TRIAL IF YOU DO NOT RESPOND TO THIS MOTION ON TIME by filing sworn affidavits as required by Rule 56(c) and/or other documents. The full text of Rule 56 of the Federal Rules of Civil Procedure is attached.

In short, Rule 56 provides that you may NOT oppose the defendant's motion simply by relying ~~upon~~on the allegations in your complaint. Rather, you must submit evidence, such as witness statements or documents, countering the facts asserted by the defendant and raising specific facts that support your claim. If you have proof of your claim, now is the time to submit it. Any witness statements must be in the form of affidavits. An affidavit is a sworn statement of fact based on personal knowledge stating facts that would be admissible in evidence at trial. You may submit your own affidavit and/or the affidavits of others. You may submit affidavits that were prepared specifically in response to defendant's motion.

If you do not respond to the motion on time with affidavits and/or documents contradicting the facts asserted by the defendant, the ~~Court~~court may accept



defendant's facts as true. Your case may be dismissed and judgment may be entered in defendant's favor without a trial.

If you have any questions, you may direct them to the Pro Se Office.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 15.1 Amendment of Pleadings**

(a) Motions to Amend or Supplement Pleadings. Except for motions made by pro se litigants, all motions made under Fed. R. Civ. P. 15(a)(2) or (d) must also include as an exhibit (1) a clean copy of the proposed amended or supplemental pleading; and (2) a version of the proposed pleading that shows—through redlining, underlining, strikeouts, or other similar typographic method—all differences from the pleading that it is intended to amend or supplement.

(b) Filing of Amended or Supplemental Pleading. The granting of a motion under Rule 15(a)(2) or (d) does not constitute the filing of the amended or supplemental pleading. Unless the court orders otherwise, a non-pro se moving party must file the new pleading within seven days of the order granting the motion.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 16.1. Exemptions from Mandatory Scheduling Order**

~~Matters involving habeas~~Habeas corpus petitions, section 2255 motions, social security disability cases, ~~motions to vacate sentences~~, forfeitures, ~~and~~ reviews from administrative agencies (including Freedom of Information Act cases), and bankruptcy appeals, are exempted from the mandatory scheduling order required by Fed. R. Civ. P. 16(b). Discovery may proceed in those cases only at the time, and to the extent, authorized by the court.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 16.2. Entry and Modification of Mandatory Scheduling Orders by Magistrate Judges**

In any case referred to a ~~Magistrate Judge~~ magistrate judge, the ~~Magistrate Judge~~ magistrate judge may issue or modify scheduling orders ~~pursuant to~~ under Fed. R. Civ. P. 16(b).

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 23.1. Fees in Class Action and Shareholder Derivative Actions**

Fees for attorneys or others ~~shall~~ must not be paid upon recovery or compromise in a class action or a derivative action on behalf of a corporation ~~except as~~ unless allowed by the ~~Court~~ court after a hearing ~~upon~~ on such notice as the ~~Court~~ court may direct. The notice ~~shall~~ must include a statement of the names and addresses of the applicants for ~~such~~ the fees and the amounts requested respectively and ~~shall~~ must disclose any fee sharing agreements with anyone. Where the ~~Court~~ court directs notice of a hearing upon a proposed voluntary dismissal or settlement of a class action or a derivative action, the above information ~~as to~~ regarding the applications ~~shall~~ must be included in the notice.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 26.1. Address of Party and Original Owner of Claim to Be Furnished [Withdrawn]**

~~A party shall furnish to any other party, within seven (7) days after a demand, a verified statement setting forth:~~

- ~~(a) If the responding party is a natural person, that party's residence and domicile, and any state or other jurisdiction of which that party is a citizen for purposes of 28 U.S.C. § 1332;~~
- ~~(b) If the responding party is a partnership, limited liability partnership, limited liability company, or other unincorporated association, like information for all of its partners or members, as well as the state or other jurisdiction of its formation;~~
- ~~(c) If the responding party is a corporation, its state or other jurisdiction of incorporation, principal place of business, and any state or other jurisdiction of which that party is a citizen for purposes of 28 U.S.C. § 1332; and~~

~~(d) In the case of an assigned claim, corresponding information for each original owner of the claim and for any assignee.~~

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

## Local Civil Rule 26.2. Assertion of Claim of Privilege

- (a) Unless otherwise agreed to by the parties or directed by the ~~Court~~court, where a claim of privilege is asserted in objecting to any means of discovery or disclosure, including but not limited to a deposition, and an answer is not provided on the basis of ~~such~~the assertion,
- (1) The person asserting the privilege ~~shall~~must identify the nature of the privilege (including work product) which is being claimed and, if the privilege is governed by state law, indicate the state's privilege rule being invoked; and
  - (2) The following information ~~shall~~must be provided in the objection, or (in the case of a deposition) in response to questions by the questioner, unless divulgence of ~~such~~the information would cause disclosure of the allegedly privileged information:
    - (A) For documents: (including electronically stored information): (i) the type of document, *e.g.*, letter, email, or memorandum; (ii) the general subject matter of the document; (iii) the date of the document; and (iv) the author of the document, the addressees of the document, and any other recipients, and, where not apparent, the relationship of the author, addressees, and recipients to each other;
    - (B) For oral communications: (i) the name of the person making the communication and the names of persons present while the communication was made and, where not apparent, the relationship of the persons present to the person making the communication; (ii) the date and place of communication; and (iii) the general subject matter of the communication.
- (b) Where a claim of privilege is asserted in response to discovery or disclosure other than a deposition, and information is not provided on the basis of ~~such~~the assertion, the information set forth in paragraph (a) above ~~shall~~must be furnished in writing

at the time of the response to ~~such~~the discovery or disclosure, unless otherwise agreed to in writing by the parties or ordered by the ~~Court~~court.

- (c) Efficient means of providing information regarding claims of privilege are encouraged, ~~and parties~~. Parties are encouraged to agree upon ~~discuss~~ measures that further this end. ~~For example, including which information fields will be provided in the privilege log. When appropriate, parties should consider and discuss the use of a categorical log or a metadata log, instead of a document-by-document log. Unless otherwise agreed to by the parties or provided by a judge's individual practices or by court order,~~
- (1) when a party is asserting privilege on the same basis with respect to multiple documents, it is presumptively proper to provide the information required by this rule by group or category. ~~A;~~
  - (2) where numerous documents are withheld and the party receiving is using review software, preparation of a metadata log may suffice to provide the information required to support the claim of privilege; ~~;~~
  - (3) where either a categorical log that groups documents or otherwise departs from a metadata log is used, the parties are encouraged to discuss whether to allow the requesting party to request a document-by-document log for a limited number or communication-by-communication listing may not percentage of the logged documents; and
  - (4) a party cannot object to a privilege log solely on ~~that~~the basis that it is a categorical log or a metadata log, but may object if the substantive information required by this rule has not been provided in a comprehensible form.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 26.3. Uniform Definitions in Discovery Requests**

- (a) The full text of the definitions and rules of construction set forth in paragraphs (c) and (d) is deemed incorporated by reference into all discovery requests. No discovery request ~~shall~~may use broader definitions or rules of construction than those set forth in paragraphs (c) and (d). This rule ~~shall~~does not preclude:

- (1) the definition of other terms specific to the particular litigation,
  - (2) the use of abbreviations, or
  - (3) a ~~more narrow~~ narrower definition of a term defined in paragraph (c).
- (b) This rule is not intended to broaden or narrow the scope of discovery permitted by the Federal Rules of Civil Procedure.
- (c) The following definitions apply to all discovery requests:
- (1) Communication. The term “communication” means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise).
  - (2) Document. The term “document” is defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in Fed. R. Civ. P. 34(a)(1)(A). A draft or non-identical copy is a separate document within the meaning of this term.
  - (3) Identify (with respect to persons). When referring to a person, “to identify” means to give, to the extent known, the person’s full name, present or last known address, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.
  - (4) Identify (with respect to documents). When referring to documents, “to identify” means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s) and recipient(s). In the alternative, the responding party may produce the documents, together with identifying information sufficient to satisfy Fed. R. Civ. P. 33(d).
  - (5) Parties. The terms “plaintiff” and “defendant” as well as a party’s full or abbreviated name or a pronoun referring to a party mean the party and, where applicable, its officers, directors, employees, partners, corporate parent,

subsidiaries, or affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation.

- (6) Person. The term “person” is defined as any natural person or any legal entity, including, without ~~limitation~~limit, any business or governmental entity or association.
  - (7) Concerning. The term “concerning” means relating to, referring to, describing, evidencing, or constituting.
- (d) The following rules of construction apply to all discovery requests:
- (1) All/Any/Each. The terms “all,” “any,” and “each” ~~shall~~must each be construed as encompassing any and all.
  - (2) And/Or. The connectives “and” and “or” ~~shall~~must be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
  - (3) Number. The use of the singular form of any word includes the plural and vice versa.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 26.4. Cooperation Among Counsel in Discovery [formerly Local Civil Rules 26.5 and 26.7]**

- (a) Counsel are expected to cooperate with each other, consistent with the interests of their clients, in all phases of the discovery process and to be courteous in their dealings with each other, including in matters relating to scheduling and timing of various discovery procedures.
- (b) Discovery requests ~~shall~~must be read reasonably in the recognition that the attorney serving them generally does not have the information being sought and the attorney receiving them generally does have ~~such~~the information or can obtain it from the client.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 26.5. Form Discovery Requests [formerly Local Civil Rule 26.6]**

Attorneys using form discovery requests ~~shall~~must review them to ascertain that they are consistent with the scope of discovery under Fed. R. Civ. P. 26(b)(1). Non-compliant requests ~~shall~~must not be used.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 30.1. Counsel Fees on Taking Depositions More Than 100 Miles From Courthouse [~~Withdrawn~~]**

~~When a deposition upon oral examination is to be taken at a place more than one hundred (100) miles from the courthouse, any party may request the Court to issue an order providing that prior to the examination, another party shall pay the expense (including a reasonable counsel fee) of the attendance of one attorney for each other party at the place where the deposition is to be taken. The amounts so paid, unless otherwise directed by the Court, may be taxed as a cost at the conclusion of the action or proceeding.~~

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 30.2. Telephonic and Other Remote Depositions [formerly Local Civil Rule 30.3]**

The motion of a party to take the deposition of an adverse party by telephone or other remote means will presumptively be granted. Where the opposing party is a corporation, the term “adverse party” means an officer, director, managing agent, or corporate designee ~~pursuant to~~under Fed. R. Civ. P. 30(b)(6).

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 30.3. Persons Attending Depositions [formerly Local Civil Rule 30.4]**

A person who is a party in the action may attend the deposition of a party or witness. A witness or potential witness in the action may attend the deposition of a party or witness unless ordered otherwise ~~ordered~~ by the ~~Court~~court.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 30.4. Conferences Between Deponent and Defending Attorney  
[formerly Local Civil Rule 30.6]**

An attorney for a deponent ~~shall~~must not initiate a private conference with the deponent while a deposition question is pending, except for the purpose of determining whether a privilege should be asserted.

*~~For relevant historical context for this local rule, consult the Appendix of Committee Notes.~~*

**[Local Civil Rule 33.1 Intentionally Omitted]**

**Local Civil Rule 33.2. Standard Discovery in Prisoner Pro Se Actions**

(a) This rule ~~shall apply~~applies in any action commenced *pro se* in which the plaintiff's complaint includes any claim described in paragraph (b) of this rule, ~~and~~ in which the events alleged in the complaint occurred while the plaintiff was in the custody of the New York State Department of Corrections & Community Supervision, the Department of Correction of the City of New York, or any other jail, prison, or correctional facility operated by or for a city, county, ~~municipal~~municipality, or other local governmental entity (collectively, the "Department").

Defendants represented by the Office of the New York State Attorney General, the Office of the Corporation Counsel of the City of New York, or counsel for or appointed by the Department responsible for the jail, prison, or correctional facility (collectively, the "Facility"), ~~shall~~must respond to the standing discovery requests adopted by the ~~Court~~court, in accordance with the instructions and definitions set forth in the standing requests, unless ordered otherwise ~~ordered~~ by the ~~Court~~court.

(b) The claims to which the standard discovery requests ~~shall~~ apply are Use of Force Cases, Inmate Against Inmate Assault Cases, and Disciplinary Due Process Cases, as defined below.

(1) "Use of Force Case" refers to an action in which the complaint alleges that an employee of the Department or Facility used physical force against the plaintiff in violation of the plaintiff's rights.



- (2) “Inmate ~~against~~ Against Inmate Assault Case” refers to an action in which the complaint alleges that an employee of the Department or Facility was responsible for the plaintiff’s injury resulting from physical contact with another inmate.
- (3) “Disciplinary Due Process Case” refers to an action in which (i) the complaint alleges that an employee of the Department or Facility violated or permitted the violation of a right or rights in a disciplinary proceeding against plaintiff, and (ii) the punishment imposed ~~upon~~ on plaintiff as a result of that proceeding was placement in a special housing unit for more than 30 days.
- (c) If a response to the requests is required to be made on behalf of an individual defendant represented by the Office of the Corporation Counsel, the Office of the New York State Attorney General, or counsel for or appointed by the Department responsible for the Facility, it ~~shall~~ must be made on the basis of information and documents within the possession, custody, or control of the Department or Facility in accordance with the instructions contained in the requests. If no defendant is represented by ~~such~~ those counsel, responses based ~~upon~~ such ~~on that~~ information need not be made ~~pursuant to~~ under this ~~Local Rule~~ local rule, without prejudice to such other discovery procedures as the plaintiff ~~shall~~ may initiate.
- (d) The requests, denominated “Plaintiff’s Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents,” ~~shall~~ must be answered within 120 days of service of the complaint on any named defendant except (i) as ordered otherwise ~~ordered~~ by the Court ~~court~~, for good cause shown, which ~~shall~~ must be based ~~upon~~ on the facts and procedural status of the particular case and not ~~upon~~ on a generalized claim of burden, expense, or relevance, or (ii) if a dispositive motion is pending. The responses to the requests ~~shall~~ must be served ~~upon~~ on the plaintiff and ~~shall~~ must include verbatim quotation of the requests. Copies of the requests are available from the Court ~~court~~, including the Court’s ~~court’s~~ website.
- (e) Except upon permission of the Court ~~court~~, for good cause shown, the requests ~~shall~~ constitute the sole form of discovery available to plaintiff during the 120-day period designated above.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### Local Civil Rule 33.3. Interrogatories (Southern District Only)

- (a) Unless ordered otherwise ~~ordered~~ by the ~~Court~~court, at the commencement of discovery, interrogatories will be restricted to those seeking names of witnesses with knowledge of information relevant to the subject matter of the action, the computation of each category of damage alleged, and the existence, custodian, location, and general description of relevant documents, including pertinent insurance agreements, and other physical evidence, or information of a similar nature.
- (b) During discovery, interrogatories other than those seeking information described in paragraph (a) above may only be served only
- (1) if they are a more practical method of obtaining the information sought than a request for production or a deposition, or
  - (2) if ordered by the ~~Court~~court.
- (c) At the conclusion of other discovery, and at least 30 days ~~prior to~~before the discovery cut-off date, interrogatories seeking the claims and contentions of the opposing party may be served unless the ~~Court~~court has ordered otherwise.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### Local Civil Rule 37.1. Verbatim Quotation of Discovery Materials

Upon any motion or application involving discovery or disclosure requests or responses under Fed. R. Civ. P. 37, the moving party ~~shall~~must specify and quote or set forth verbatim in the motion papers each discovery request and response to which the motion or application is addressed. The motion or application ~~shall~~must also set forth the grounds ~~upon~~on which the moving party is entitled to prevail ~~as to~~for each request or response. ~~Local Civil Rule 5.1 also applies to the motion or application.~~

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 37.2. ~~Mode of Raising~~ Discovery Disputes ~~With the Court (Southern District Only)~~**

~~No~~ Unless the individual practices of the judge presiding over discovery require a different procedure, no motion under ~~Rules Fed. R. Civ. P. 26 through 37 inclusive of the Federal Rules of Civil Procedure shall~~ and Fed. R. Civ. P. 45 will be heard unless counsel for the moving party has first requested an informal conference with the ~~Court~~ court by letter-motion for a pre-motion discovery conference (~~subject to the instructions regarding ECF published on the Court's website and the Judge's Individual Practices~~) and such ~~and that~~ request has either been denied or the discovery dispute has not been resolved as a consequence of ~~such a~~ the conference.

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

**Local Civil Rule 37.3. Mode of Raising Discovery and Other Non-Dispositive Pretrial Disputes With the Court (Eastern District Only) [Withdrawn]**

~~(a) Good Faith Effort to Resolve. Prior to seeking judicial resolution of a discovery or non-dispositive pretrial dispute, the attorneys for the affected parties or non-party witness shall attempt to confer in good faith in person or by telephone in an effort to resolve the dispute, in conformity with Fed. R. Civ. P. 37(a)(1). For relevant historical context for this local rule, consult the Appendix of Committee Notes.~~

~~R. Civ. P. 37(a)(1).~~

~~(b) Disputes Arising During Depositions. Where the attorneys for the affected parties or a non-party witness cannot agree on a resolution of a discovery dispute that arises during a deposition, they shall, to the extent practicable, notify the Court by telephone and seek a ruling while the deposition is in progress. If a prompt ruling cannot be obtained, and the dispute involves an instruction to the witness not to answer a question, the instruction not to answer may stand and the deposition shall continue until a ruling is obtained pursuant to the procedure set forth in paragraph (c) below.~~

~~(c) Other Discovery and Non-Dispositive Pretrial Disputes. Where the attorneys for the affected parties or non-party witness cannot agree on a resolution of any other discovery dispute or non-dispositive pretrial dispute, or if they are unable to obtain a telephonic ruling on a discovery dispute that arises during a deposition as provided in~~

~~paragraph (b) above, they shall notify the Court by letter not exceeding three pages in length outlining the nature of the dispute and attaching relevant materials. Within four days of receiving such a letter, any opposing affected party or non-party witness may submit a responsive letter not exceeding three pages attaching relevant materials. Except for the letters and attachments authorized herein, or where a ruling which was made exclusively as a result of a telephone conference is the subject of *de novo* review pursuant to paragraph (d) hereof, papers shall not be submitted with respect to a dispute governed by this rule unless the Court has so directed.~~

~~(d) Motion for Reconsideration. A ruling made exclusively as a result of a telephone conference may be the subject of *de novo* reconsideration by a letter not exceeding five pages in length attaching relevant materials submitted by any affected party or non-party witness. Within four days of receiving such a letter, any other affected party or non-party witness may submit a responsive letter not exceeding five pages in length attaching relevant materials.~~

~~(e) Decision of the Court. The Court shall record or arrange for the recording of the Court's decision in writing. Such written order may take the form of an oral order read into the record of a deposition or other proceeding, a handwritten memorandum, a handwritten marginal notation on a letter or other document, or any other form the Court deems appropriate.~~

### **Local Civil Rule 39.1. Custody of Trial and Hearing Exhibits**

- (a) Unless the ~~Court~~court orders otherwise, trial and hearing exhibits ~~shall~~must not be filed with the ~~Clerk~~clerk, but ~~shall~~must be retained in the custody of the respective attorneys who produced them in court.
- (b) Trial and hearing exhibits ~~which~~that have been filed with the ~~Clerk~~clerk ~~shall~~must be removed by the party responsible for them (1) if no appeal is taken, within ~~ninety~~ (90) days after a final decision is rendered, or (2) if an appeal has been taken, within ~~thirty~~ (30) days after the final disposition of the appeal. Parties failing to comply with this rule ~~shall~~will be notified by the ~~Clerk~~clerk to remove their exhibits and upon their failure to do so within ~~thirty~~ (30) days, the ~~Clerk~~clerk may dispose of ~~them~~the exhibits as the ~~Clerk~~clerk may see fit.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 39.2. Order of Summation**

After the close of evidence in civil trials, the order of summation ~~shall~~will be determined in the discretion of the ~~Court~~court.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 40.1 Trial Scheduling**

Judges have discretion to schedule trials in light of the needs of their dockets. Each district may adopt court-wide practices or procedures for trial scheduling in their respective Division of Business Rules or through an administrative or standing order. Scheduling must give priority to matters as required by federal statute.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 47.1. Assessment of Jury Costs**

All counsel in civil cases ~~shall~~must seriously discuss the possibility of settlement a reasonable time ~~prior to~~before trial. The ~~Court~~court may, in its discretion, assess the parties or counsel with the cost of one day's attendance of the jurors if a case is settled after the jury has been summoned or during trial, the amount to be paid to the ~~Clerk~~clerk of the ~~Court~~court. For purposes of this rule, a civil jury is considered summoned for a trial as of ~~Noon~~noon one day ~~prior to~~before the designated date of the trial.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 53.1. Masters**

~~(a) Oath. Every person appointed pursuant to Rule 53 shall before entering upon his or her duties take and subscribe an oath, which, except as otherwise prescribed by statute or rule, shall be the same as the oath prescribed for Judges pursuant to 28 U.S.C. § 453, with the addition of the words "in conformance with the order of appointment" after the words "administer justice." Such an oath may be taken before any federal or~~

~~state officer authorized by federal law to administer oaths, and shall be filed in the office of the Clerk.~~

~~(b) May Sit Outside District.~~ A person appointed ~~pursuant to Rule~~ under Fed. R. Civ. P. 53 may sit within or outside the district. When the person appointed is requested to sit outside the district for the convenience of a party and there is opposition by another party, he or she may make an order for the holding of the hearing, in full or a in part ~~thereof~~, outside the district, upon such terms and conditions as shall be just. ~~Such order may be reviewed by the Court upon motion of any party, served within twenty-one (21) days after service on all parties by the master of the order.~~

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

#### **Local Civil Rule 54.1. Taxable Costs**

- (a) Notice of Taxation of Costs. Within ~~thirty (30)~~ days after the entry of final judgment, or, in the case of an appeal by any party, within ~~thirty (30)~~ days after the final disposition of the appeal, unless this period is extended by the ~~Court~~ court for good cause shown, any party seeking to recover costs ~~shall~~ must file with the ~~Clerk~~ clerk a notice of taxation of costs by ~~Electronic Case Filing~~ ECF, except a pro se party may do so in writing, indicating the date and time of taxation which ~~shall~~ must comply with the notice period prescribed by Fed. R. Civ. P. 54, and annexing a bill of costs. Costs will not be taxed during the pendency of any appeal, motion for reconsideration, or motion for a new trial. Within ~~thirty (30)~~ days after the determination of any appeal, motion for reconsideration, or motion for a new trial, the party seeking tax costs ~~shall~~ must file a new notice of taxation of costs. Any party failing to file a notice of taxation of costs within the applicable ~~thirty (30)~~ day period will be deemed to have waived costs. The bill of costs ~~shall~~ must include an affidavit that the costs claimed are allowable by law, are correctly stated and were necessarily incurred. Bills for the costs claimed ~~shall~~ must be attached as exhibits.
- (b) Objections to Bill of Costs. A party objecting to any cost item ~~shall~~ must serve objections by ~~Electronic Case Filing~~ ECF, except a pro se party may do so in writing, ~~prior to~~ before the date and time scheduled for taxation. The parties need not appear at the date and time scheduled for taxation unless requested by the ~~Clerk~~ clerk. The

~~Clerk~~ will proceed to tax costs at the time scheduled and allow ~~such~~ any items ~~as that~~ are properly taxable. In the absence of written objection, any item listed may be taxed within the discretion of the ~~Clerk~~.

(c) Items Taxable as Costs

- (1) Transcripts. The cost of any part of the original trial transcript that was necessarily obtained for use in this ~~Court~~ or on appeal is taxable. Convenience of counsel is not sufficient. The cost of a transcript of ~~Court~~ proceedings ~~prior to~~ before or ~~subsequent to~~ after trial is taxable only when authorized in advance or ordered by the ~~Court~~.
- (2) Depositions. Unless ordered otherwise ~~ordered~~ by the ~~Court~~, the original transcript of a deposition, plus one copy, is taxable if the deposition was used or received in evidence at the trial, whether or not it was read in its entirety. Costs for depositions are also taxable if they were used by the ~~Court~~ in ruling on a motion for summary judgment or other dispositive substantive motion. Costs for depositions taken solely for discovery are not taxable. Counsel's fees and expenses in attending the taking of a deposition are not taxable ~~except as~~ unless provided by statute, rule ~~(including Local Civil Rule 30.1)~~, or order of the ~~Court~~. Fees, mileage, and subsistence for the witness at the deposition are taxable at the same rates as for attendance at trial if the deposition taken was used or received in evidence at the trial.
- (3) Witness Fees, Travel Expenses and Subsistence. Witness fees and travel expenses authorized by 28 U.S.C. § 1821 are taxable if the witness testifies. Subsistence ~~pursuant to~~ under 28 U.S.C. § 1821 is taxable if the witness testifies and it is not practical for the witness to return to his or her residence from day to day. No party to the action may receive witness fees, travel expenses, or subsistence. Fees for expert witnesses are taxable only to the extent of fees for ordinary witnesses unless prior court approval was obtained.
- (4) Interpreting Costs. The reasonable fee of a competent interpreter is taxable if the fee of the witness involved is taxable.

- (5) Exemplifications and Copies of Papers. A copy of an exhibit is taxable if the original was not available and the copy was used or received in evidence. The cost of copies used for the convenience of counsel or the ~~Court~~court are not taxable. The fees for a search and certification or proof of the non-existence of a document in a public office is taxable.
- (6) Maps, Charts, Models, Photographs and Summaries. The cost of photographs, 8" x 10" in size or less, is taxable if used or received in evidence. Enlargements greater than 8" x 10" are not taxable except by order of the ~~Court~~court. Costs of maps, charts, and models, including computer generated models, are not taxable except by order of the ~~Court~~court. The cost of compiling summaries, statistical comparisons, and reports is not taxable.
- (7) ~~Attorney~~Attorney's Fees and Related Costs. ~~Attorney~~Attorney's fees and disbursements and other related fees and paralegal expenses are not taxable except by order of the ~~Court~~court. A motion for ~~attorney~~attorney's fees and related nontaxable expenses ~~shall~~must be made within the time period prescribed by Fed. R. Civ. P. 54.
- (8) Fees of Masters, Receivers, Commissioners, and Court Appointed Experts. Fees of masters, receivers, commissioners, and ~~Court~~court appointed experts are taxable as costs, unless ordered otherwise ~~ordered~~ by the ~~Court~~court.
- (9) Costs for Title Searches. A party is entitled to tax necessary disbursements for the expenses of searches made by title insurance, abstract, or searching companies.
- (10) Docket and Miscellaneous Fees. Docket fees, and the reasonable and actual fees of the ~~Clerk~~clerk and of a marshal, sheriff, and process server, are taxable unless ordered otherwise ~~ordered~~ by the ~~Court~~court.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

#### **Local Civil Rule 54.2. Security for Costs**

The ~~Court~~court, on motion or on its own initiative, may order any party to file an original bond for costs or additional security for costs in such an amount and so



conditioned as it may designate. For failure to comply with the order the ~~Court~~court may make such orders in regard to noncompliance as are just, and among others the following: an order striking out pleadings or staying further proceedings until the bond is filed or dismissing the action or rendering a judgment by default against the non-complying party.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 54.3. Entering Satisfaction of Money Judgment**

Satisfaction of a money judgment ~~that has been~~ entered or registered ~~in this district-~~ ~~shall~~must be entered by the ~~Clerk~~clerk as follows:

- (a) Upon the payment into the ~~Court~~court of the amount thereof, plus interest, and the payment of the ~~Clerk's~~clerk's and marshal's fees, if any;
- (b) Upon the filing of a satisfaction executed and acknowledged by:
  - (1) the judgment creditor; or
  - (2) the judgment creditor's legal representatives or assigns, with evidence of their authority; or
  - (3) the judgment creditor's attorney if within ~~ten~~(10) years of the entry of the judgment or decree;
- (c) If the judgment creditor is the United States, upon the filing of a satisfaction executed by the United States Attorney;
- (d) ~~Pursuant to~~Upon an order of satisfaction entered by the ~~Court~~court; or
- (e) Upon the registration of a certified copy of a satisfaction entered in another court.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 55.1. Certificate of Default**

~~(a)~~ A party applying for seeking entry of default under Fed. R. Civ. P. 55(a) ~~shall~~must file:

- ~~(1)~~ a) — a request for a Clerk's Certificate of "Request to Enter Default, and," in a form prescribed by the clerk;

~~(b2)~~ an affidavit ~~demonstrating or~~ declaration showing: (a) that:

~~1. (1) the~~ the requirements of Fed. R. Civ. P. 4 for service or waiver of service have been satisfied; and (b) that the party against whom a ~~notation of default judgment for affirmative relief is sought is not an infant, in the military, or an incompetent person;~~

~~(2) the party has failed to plead or otherwise defend the action; and;~~

~~2. (3) the pleading to which no response has been made was properly served.~~

Aa proposed "Clerk's Certificate of Default," in a form must be attached to ~~prescribed by the affidavit.~~ clerk; and

~~(4) a certificate of service showing that the foregoing documents have been personally served on, or mailed to the last known residence (for an individual defendant) or business address (for other defendants) of, the party against whom default is sought.~~

If the mailing is returned, a supplemental certificate must be filed setting forth that fact, together with the reason provided for return, if any.

~~(b) The court, on its own initiative, may enter default or direct the clerk to enter default.~~

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

### **Local Civil Rule 55.2. Default Judgment**

~~(a) By the Clerk. Upon issuance~~ In addition to following the applicable procedures in either (b) or (c) below, any party seeking a default judgment must file:

(1) an affidavit or declaration showing that:

(A) the clerk has entered default under Local Civil Rule 55.1;

(B) the party seeking default judgment has complied with the Servicemembers Civil Relief Act, 50a U.S.C. § 521; and

(C) the party against whom judgment is sought is not known to be a minor or an incompetent person, or, if seeking default judgment by the court, the minor

or incompetent person is represented by a general guardian, conservator, or other fiduciary who has appeared.

(2) if proceeding by motion, the papers required by Local Civil Rule 7.1, including a memorandum of a Clerk's law, a proposed order detailing the proposed judgment to be entered; and

(3) a certificate of default, if service stating that all documents in support of the request for default judgment, including the "Clerk's Certificate of Default" and any papers required by this rule, have been personally served on, or mailed to the last known residence (for an individual defendant) or business address (for other defendants) of, the party against whom default judgment is sought.

If the mailing is returned, a supplemental certificate of service must be filed setting forth that fact, together with the reason provided for return, if any.

(b) By the Clerk (available under Fed. R. Civ. P. 55(b)(1)). If the claim to which no response has been made ~~only sought~~ seeks payment only of a sum certain, ~~or a sum that can be made certain by computation~~ and does not ~~include a request for~~ seek attorney's fees or other substantive relief, ~~and if at the party seeking default judgment is sought against all remaining parties, must file, in addition to the action, the moving party shall submit~~ documents listed in (a) above, an affidavit or declaration from someone with personal knowledge showing the principal amount due and owing, not exceeding the amount sought in the claim to which no response has been made, plus interest, if any, computed by the party, with credit for all payments received to date clearly set forth, and costs, if any, ~~pursuant to 28 U.S.C. § 1920~~ under 28 U.S.C. § 1920. Upon confirming that the submission complies with the federal and local rules, the clerk must enter judgment for principal, interest, and costs. The clerk cannot enter judgment against a minor or incompetent person.

(b)c) By the Court. ~~In all other cases the party seeking a judgment by default shall apply to the Court as described in~~ (available under Fed. R. Civ. P. 55(b)(2), ~~and shall append~~)). In addition to the application:

3. ~~(1) the Clerk's certificate of default,~~

~~4. (2) matters required in section (a) copy of the claim to which no response has been made, and~~

~~5. (3) a proposed form of default judgment.~~

~~(c) Mailing of Papers. Unless otherwise ordered by the Court, all papers submitted to the Court pursuant to Local Civil Rule 55.2(a) or (b), above shall simultaneously be mailed to the party against whom a default judgment is sought at the last known residence of such party (if an individual), the party must file a statement of damages, sworn or affirmed to by one or the last known business address of such party (if a person other than an individual). Proof of such mailing shall be filed more people with the Court. If the mailing is returned, a supplemental affidavit shall be filed with the Court setting forth that fact, together with the reason provided personal knowledge, in support of the request, showing the proposed damages and the basis for return, if any each element of damages, including interest, attorney's fees, and costs.~~

*~~For relevant historical context for this local rule, consult the Appendix of Committee Notes.~~*

#### **Local Civil Rule 56.1. Statements of Material Facts on Motion for Summary Judgment**

~~(a) Upon~~ (a) Unless the court orders otherwise, on motion or on its own, any motion for summary judgment ~~pursuant to Rule~~ under Fed. R. Civ. P. 56 of the Federal Rules of Civil Procedure, there shall be annexed to the notice of motion must be accompanied by a separate, short, and concise statement, in numbered paragraphs, of the material facts as to which the moving party contends there is no genuine issue to be tried. Failure to submit such a statement may constitute grounds for denial of the motion. This rule does not apply to claims brought under the Administrative Procedure Act or the Freedom of Information Act.

(b) The papers opposing a motion for summary judgment ~~shall~~ must include a correspondingly numbered paragraph admitting or denying, and otherwise responding to, each numbered paragraph in the statement of the moving party, and if necessary, additional paragraphs containing a separate, short and concise statement of additional material facts as to which it is contended that there exists a genuine issue to be tried. \_

- (c) Each numbered paragraph in the statement of material facts set forth in the statement required to be served by the moving party will be deemed to be admitted for purposes of the motion unless specifically denied and controverted by a correspondingly numbered paragraph in the statement required to be served by the opposing party.
- (d) Each statement by the movant or opponent ~~pursuant to~~under Rule 56.1(a) and (b), including each statement denying and controverting any statement of material fact, must be followed by citation to evidence ~~which~~that would be admissible, and set forth as required by Fed. R. Civ. P. 56(c).
- (e) In any case where all parties are represented by counsel, any party moving for summary judgment must provide all other parties with an electronic copy, in a standard word processing format, of the moving party's Statement of Material Facts. In any case where all parties are represented by counsel, the counterstatement required by this rule must include each entry in the moving party's statement and set out the opposing party's response directly beneath it.

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

### **Local Civil Rule 56.2. Notice to Pro Se Litigant Who Opposes a Summary Judgment**

Any represented party moving for summary judgment against a party proceeding pro se ~~shall~~must serve and file as a separate document, together with the papers in support of the motion, the following "Notice To Pro Se Litigant Who Opposes a Motion For Summary Judgment" with the full texts of Fed. R. Civ. P. 56 and Local Civil Rule 56.1 attached. Where the pro se party is not the plaintiff, the movant ~~shall~~must amend the form notice as necessary to reflect that fact.

#### **NOTICE TO PRO SE LITIGANT WHO OPPOSES A MOTION FOR SUMMARY JUDGMENT**

The defendant in this case has moved for summary judgment ~~pursuant to~~under Rule 56 of the Federal Rules of Civil Procedure. This means that the defendant has asked the ~~Court~~court to decide this case without a trial, based on written materials, including affidavits, submitted in support of the motion. THE CLAIMS YOU ASSERT IN YOUR

COMPLAINT MAY BE DISMISSED WITHOUT A TRIAL IF YOU DO NOT RESPOND TO THIS MOTION ON TIME by filing sworn affidavits and/or other documents as required by Rule 56(c) of the Federal Rules of Civil Procedure and by Local Civil Rule 56.1. The full text of Rule 56 of the Federal Rules of Civil Procedure and Local Civil Rule 56.1 is attached.

In short, Rule 56 provides that you may NOT oppose summary judgment simply by relying ~~upon~~ the allegations in your complaint. Rather, you must submit evidence, such as witness statements or documents, countering the facts asserted by the defendant and raising specific facts that support your claim. If you have proof of your claim, now is the time to submit it. Any witness statements must be in the form of affidavits. An affidavit is a sworn statement of fact based on personal knowledge stating facts that would be admissible in evidence at trial. You may submit your own affidavit and/or the affidavits of others. You may submit affidavits that were prepared specifically in response to defendant's motion for summary judgment.

If you do not respond to the motion for summary judgment on time with affidavits and/or documents contradicting the material facts asserted by the defendant, the ~~Court~~ may accept defendant's facts as true. Your case may be dismissed and judgment may be entered in defendant's favor without a trial.

If you have any questions, you may direct them to the Pro Se Office.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 58.1. Remand by an Appellate Court**

Any mandate, order, or judgment of an appellate court, when filed ~~in the office of~~ with the ~~Clerk~~ clerk of the ~~District Court, shall~~ district court, will automatically become the order or judgment of the ~~District Court~~ district court and be entered as such by the ~~Clerk~~ clerk without further order, except if ~~such~~ the mandate, order, or judgment of the appellate court requires further proceedings in the ~~District Court other than a new trial,~~ an order shall be entered making the order or judgment district court.

*For relevant historical context for this local rule, consult the Appendix of* ~~the appellate court~~ the order or judgment of the District Court. *Committee Notes.*

**Local Civil Rule 65.1.1. ~~Sureties~~Security**

- (a) ~~Whenever~~When a bond, undertaking, or stipulation is required, it ~~shall~~will be sufficient, ~~except as~~unless otherwise prescribed by law, if the instrument is executed by the ~~surety or sureties only~~security provider.
- (b) ~~Except as~~Unless otherwise provided by law, ~~every~~a bond, undertaking, or stipulation must be secured by:
- (1) the deposit of cash or government bonds in the amount of the bond, undertaking, or stipulation; or
  - (2) the undertaking or guaranty of a corporate ~~surety~~security provider holding a certificate of authority from the Secretary of the Treasury; or
  - (3) the undertaking or guaranty of two individual residents of the district in which the case is pending, each of whom owns real or personal property within the district worth double the amount of the bond, undertaking, or stipulation, over all his or her debts and liabilities, and over all obligations assumed by ~~said~~the surety on other bonds, undertakings or stipulations, and exclusive of all legal exemptions.
- (c) Except as otherwise provided by law, all bonds, undertakings and stipulations of corporate ~~sureties~~security providers holding certificates of authority from the Secretary of the Treasury, where the amount of ~~such~~the bonds or undertakings has been fixed by a ~~Judge~~judge or by court rule or statute, may be approved by the ~~Clerk~~clerk.
- (d) In the case of a bond, or undertaking, or stipulation executed by individual ~~sureties~~security provider, each ~~surety shall~~provider must attach ~~the surety's~~sits affidavit of justification, giving the surety's full name, occupation, residence and business addresses, and showing that the ~~surety~~provider is qualified as an individual ~~surety~~security provider under paragraph (b) of this rule.
- (e) Members of the bar who have appeared in the case ~~shall~~must not act as a ~~surety~~security provider in the case. Administrative officers and employees of the ~~Court~~court, the marshal, and the marshal's deputies and assistants, ~~shall~~must not

act as a ~~surety~~security provider in any suit, action or proceeding pending in this ~~Court~~court.

- (f) Whenever a notice of motion to enforce the liability of a ~~surety upon~~security provider on a bond is served ~~upon~~on the ~~Clerk pursuant to~~clerk under Fed. R. Civ. P. 65.1 or Fed. R. App. P. 8(b), the party making ~~such~~the motion ~~shall~~must deposit with the clerk the original, three copies, and one additional copy for each ~~surety~~provider to be served.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 67.1. Order for Deposit in Interest-Bearing Account**

- (a) Whenever a party seeks a court order for money to be deposited by the ~~Clerk~~clerk in an interest-bearing account, the party ~~shall~~must file the proposed order. The ~~Clerk shall~~clerk must inspect the proposed order for proper form and content and compliance with this rule ~~prior to~~before submission to the ~~Judge~~judge for signature.
- (b) Proposed orders directing the ~~Clerk~~clerk to invest such funds in an interest-bearing account or other instrument ~~shall~~must include the following:
- (1) The exact United States dollar amount of the principal sum to be invested; and
  - (2) Wording ~~which~~that directs the ~~Clerk~~clerk to deduct from the income on the investment a fee consistent with that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office.
- (c) Unless ~~ordered~~otherwise ordered by the court, interpleader funds ~~shall~~must be deposited in the Disputed Ownership Fund in an interest-bearing account. Income generated from fund investments in each case will be distributed after the appropriate fee has been applied and tax withholdings have been deducted from the fund.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 72.1. Powers of Magistrate Judges**

In addition to other powers of ~~Magistrate Judges~~magistrate judges:



- (a) ~~Full-time Magistrate Judges are hereby~~ General Authority of a Magistrate Judge. A full-time or part-time magistrate judge may be assigned any duty allowed by law to be performed by a magistrate judge. In addition, magistrate judges are specially designated to exercise the jurisdiction set forth in 28 U.S.C. § 636(c).
- (b) ~~Magistrate Judges are authorized to entertain *ex parte* applications by appropriate representatives of~~ Parties who consent to magistrate judge jurisdiction must follow the United States government for the issuance of administrative inspection orders or warrants.
- (c) ~~Magistrate Judges may issue subpoenas, writs of *habeas corpus ad testificandum* or *ad prosequendum* or other orders necessary to obtain the presence of parties or witnesses or evidence needed for court proceedings, and may sign~~ procedures set forth in *forma pauperis* orders.
- (d) ~~Matters arising under 28 U.S.C. §§ 2254 and 2255 or challenging the conditions of the confinement of prisoners may be referred to a Magistrate Judge by the District Judge to whom the case has been assigned. A Magistrate Judge may perform any or all of the duties imposed upon a District Judge by the rules governing such proceedings~~ Local Rule 73.1. As judicial officers, in the United States district courts. In so doing, a Magistrate Judge may issue performing any duty, a magistrate judge may determine preliminary orders matters, require parties, attorneys and witnesses to appear; require briefs, proofs, and argument; and conduct any necessary evidentiary hearing, conference or other appropriate proceeding and shall submit to a District Judge a report containing proposed findings of fact and recommendations for disposition of the matter by the District Judge. the magistrate judge may deem appropriate.
- (b) Objections to Non-Dispositive Matters. A party may serve and file objections to a magistrate judge's order on non-dispositive matters, as provided in Fed. R. Civ. P. 72(a). If a party files an objection to a magistrate judge's order, another party may serve and file a response to that objection. That response must be served within 14 days after being served with the objection.

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

~~Local Civil Rule 72.2. Local Civil Rule 72.2.~~ **Reference to Magistrate Judge (Eastern District Only) [Withdrawn]**

~~A Magistrate Judge shall be assigned to each case upon the commencement of the action, except in those categories of actions set forth in Local Civil Rule 16.1. In any courthouse in this District in which there is more than one Magistrate Judge such assignment shall be at random on a rotating basis. Except in multi-district cases and antitrust cases, a Magistrate Judge so assigned is empowered to act with respect to all non-dispositive pretrial matters unless the assigned District Judge orders otherwise.~~

~~*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*~~

**Local Civil Rule 73.1. Consent Jurisdiction Procedure**

~~(a) When a civil action is filed with the Clerk, the Clerk shall give the filing party notice of the Magistrate Judge's consent jurisdiction in a form approved by the Court, with sufficient copies to be served with the complaint on adversary parties. A copy of such notice shall be attached to any third party complaint served by a defendant.~~

~~(b) When a completed~~(a) Upon the filing of a complaint in a civil case, the clerk will file on ECF, or in a pro se matter provide in hard copy, a court-approved notice (or a link thereto) informing the parties that they may consent to have a magistrate judge conduct all proceedings in the case and order the entry of final judgment. The notice will include a consent form that the parties or their attorneys must sign if they consent to the exercise of dispositive authority by a magistrate judge.

~~(b) In any case where all parties are represented by counsel, no consent form has been~~may be filed unless it is signed by all parties or their attorneys. In such a case, consent forms may be signed in counterpart fashion, if all signed forms are filed,~~the Clerk shall forward the together.~~

~~(c) For all cases where both a district judge and magistrate judge has been assigned, if the assigned district judge approves the consent form for final approval to the District Judge to whom the case was originally assigned. Once the District Judge has approved the transfer and returned the consent form to the Clerk for filing, the clerk shall,~~the clerk must reassign the case for all purposes to the ~~Magistrate Judge~~magistrate judge previously designated to receive any referrals or to whom

the case has previously been referred for any purpose, except that, in the Eastern District ~~of New York~~, upon application of the parties, the ~~Clerk shall~~ clerk must select a new ~~Magistrate Judge~~ magistrate judge at random. If no designation or referral has been made, the ~~Clerk shall~~ clerk must select a new ~~Magistrate Judge~~ magistrate judge at random.

(d) In the Eastern District, for all cases where only a magistrate judge has been assigned, upon approval of the consent form by the chief judge or a district judge designated to approve the form, the case will remain assigned to the magistrate judge for all purposes.

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

#### **Local Civil Rule 77.1. Submission of Orders, Judgments and Decrees**

Proposed orders, judgments, and decrees ~~shall~~ must be presented as directed by the ECF rules published on the website of each respective ~~Court. Unless~~ court.

For relevant historical context for this local rule, consult the ~~form~~ Appendix of order, judgment or decree is consented to in writing, or unless the Court otherwise directs, four (4) days' notice of settlement is required. One (1) day's notice is required of all counter-proposals. Committee Notes.

#### **Local Civil Rule 81.1. Removal of Cases from State Courts**

If the ~~Court's~~ court's jurisdiction is based ~~upon~~ on diversity of citizenship, and regardless of whether or not service of process has been effected on all parties, the notice of removal ~~shall~~ must set forth

- (1) in the case of each individual named as a party, that party's residence and domicile and any state or other jurisdiction of which that party is a citizen for purposes of 28 U.S.C. § 1332;
- (2) in the case of each party that is a partnership, limited liability partnership, limited liability company, or other unincorporated association, like information for all of its partners or members, as well as the state or other jurisdiction of its formation;

- (3) in the case of each party that is a corporation, its state or other jurisdiction of incorporation, principal place of business, and any state or other jurisdiction of which that party is a citizen for purposes of 28 U.S.C. § 1332;
- (4) in the case of an assigned claim, corresponding information for each original owner of the claim and for each assignee; and
- (5) the date on which each party that has been served was served. ~~If such information or a designated part is unknown to the removing party, the removing party may so state, and in that case plaintiff within twenty one (21) days after removal shall file in the office of the Clerk a statement of the omitted information.~~

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

#### **Local Civil Rule 83.1. Transfer of Cases to Another District**

In a case ordered transferred from ~~this District~~, the ~~Clerk~~ district where the case was filed, the clerk, unless ordered otherwise ~~ordered, shall, must~~ upon the expiration of seven ~~(7)~~ days effectuate the transfer of the case to the transferee court.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

#### **Local Civil Rule 83.2. Settlement of Actions by or on Behalf of Infants or Incompetents, Wrongful Death Actions, and Actions for Conscious Pain and Suffering of the Decedent**

##### **(a) Settlement of Actions by or on Behalf of Infants or Incompetents**

- (1) An action by or on behalf of an infant or incompetent ~~shall~~ must not be settled or compromised, or voluntarily discontinued, dismissed, or terminated, without leave of the ~~Court~~ court embodied in an order, judgment, or decree. The proceeding upon an application to settle or compromise such an action ~~shall~~ must conform, as ~~nearly~~ much as ~~may be possible~~, to the New York State statutes and rules, but the ~~Court~~ court, for cause shown, may dispense with any New York State requirement.
- (2) The ~~Court shall~~ court must authorize payment to counsel for the infant or incompetent of a reasonable attorney's fee and proper disbursements from the

amount recovered in ~~such an~~the action, whether realized by settlement, execution, or otherwise, and ~~shall~~must determine the said fee and disbursements, after due inquiry ~~as to~~into all charges against the fund.

- (3) The ~~Court shall~~court must order the balance of the proceeds of the recovery or settlement to be distributed as it deems may best protect the interest of the infant or incompetent.

(b) Settlement of Wrongful Death Actions and Actions for Conscious Pain and Suffering of the Decedent. In an action for wrongful death or conscious pain and suffering of the decedent:

- (1) Where required by statute or otherwise, the ~~Court shall~~court must apportion the avails of the action, and ~~shall~~must approve the terms of any settlement.
- (2) The ~~Court shall~~court must approve an attorney's fee only upon application in accordance with the provisions of the New York State statutes and rules.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 83.3. Habeas Corpus**

Unless otherwise provided by statute, applications for a writ of habeas corpus made by persons under the judgment and sentence of a court of the State of New York ~~shall~~must be filed, heard, and determined in the ~~District Court~~district court for the district within which they were convicted and sentenced; provided, however, that if the convenience of the parties and witnesses requires a hearing in a different district, such application may be transferred to any district ~~which~~that is found by the assigned ~~Judge~~judge to be more convenient. The ~~Clerks~~clerks of the Southern and Eastern District Courts are authorized and directed to transfer such ~~those~~ applications to the ~~District~~designated district herein designated for filing, hearing, and determination.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 83.4. Publication of ~~Advertisements~~ Required Public Notices**  
**[formerly Local Civil Rule 83.6]**

- (a) Unless otherwise provided by statute, rule, or order of the ~~Court~~ court, all ~~advertisements~~ notices required to be published by a party (except notices of sale of real estate or of any interest in land ~~shall~~) must be published in a newspaper which has a general circulation in ~~this~~ the district where the case was filed or a circulation reasonably calculated to give public notice of a legal publication. The ~~Court~~ court may direct the publication of such additional ~~advertisement~~ notice as it may deem advisable.
- (b) Unless ordered otherwise ~~ordered~~, notices for the sale of real estate or of any interest in land ~~shall~~ must be published in a newspaper of general circulation in the county in which the real estate or the land in question is located.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 83.5. Notice of Sale [formerly Local Civil Rule 83.7]**

In any civil action, the notice of any proposed sale of property directed to be made by any order or judgment of the ~~Court~~ court, unless ordered otherwise ~~ordered~~ by the ~~Court~~ court, need not set out the terms of sale specified in the order or judgment, and the notice will be sufficient if in substantially the following form:

~~UNITED STATES DISTRICT COURT  
.....DISTRICT OF NEW YORK~~

~~{CAPTION},~~

~~{Docket No. and Judge's  
Initials}~~

UNITED STATES DISTRICT COURT  
..... DISTRICT OF NEW YORK

[CAPTION], \_\_\_\_\_ [Docket No. and Judge's Initials]

NOTICE OF SALE

~~Pursuant to~~ ..... ~~(In accordance with~~ ..... ~~(Order or Judgment)~~.....) ..... of the United States District Court for the ..... District of New York, filed in the ~~office~~ Office of the ~~clerk~~ Clerk on ..... ~~(Date)~~.....) ..... in the case ~~entitled~~ ..... ~~(titled~~ ..... ~~(Name and Docket Number)~~.....) ..... the undersigned will sell at ..... ~~(Place of Sale)~~.....) ..... on ..... ~~(Date and Hour of Sale)~~.....) ..... the property in ~~said~~ ..... ~~(the~~ ..... ~~(Order or Judgment)~~.....) ..... described and therein directed to be sold, to which ..... ~~(Order or Judgment)~~.....) ..... reference is made for the terms of sale and for a description of the property ~~which~~ that may be briefly described as follows:

\_\_\_\_\_ Dated: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ [Signature and Official Title]

The notice need not describe the property by metes and bounds or otherwise in detail and will be sufficient if in general terms it identifies the property by specifying its nature and location. ~~However, But~~ it ~~shall~~ must state: the approximate acreage of any real estate outside the limits of any town or city; the street, lot, and block number of any real estate within any town or city; and a general statement of the character of any improvements upon to the property.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 83.6. Contempt Proceedings in Civil Cases [formerly Local Civil Rule 83.9]**

- (a) A proceeding to adjudicate a person in civil contempt, including a case provided for in Fed. R. Civ. P. 37(b)(1) and 37(b)(2)(A)(vii), ~~shall~~must be commenced by the service of a notice of motion or order to show cause. The affidavit ~~upon~~on which ~~such~~the notice of motion or order to show cause is based ~~shall~~must set out with particularity the misconduct complained of, the claim, if any, for damages occasioned thereby, and such evidence as to the amount of damages as may be available to the moving party. A reasonable counsel fee, necessitated by the contempt proceedings, may be included as an item of damage. Where the alleged contemnor has appeared in the action by an attorney, the notice of motion or order to show cause and the papers ~~upon~~on which it is based may be served ~~upon said~~on that attorney; otherwise service ~~shall~~must be made personally, together with a copy of this Local Civil Rule 83.6, in the manner provided for by the Federal Rules of Civil Procedure for the service of a summons. If an order to show cause is sought, ~~such~~the order may, upon necessity shown, embody a direction to the United States marshal to arrest the alleged contemnor and hold ~~such~~that person unless bail is posted in an amount fixed by the order, conditioned on the appearance of ~~such~~that person in all further proceedings on the motion, and further conditioned that the alleged contemnor will hold himself or herself amenable to all orders of the ~~Court~~court for surrender.
- (b) If the alleged contemnor puts in issue his or her alleged misconduct or the damages thereby occasioned, ~~said~~that person ~~shall~~will upon demand be entitled to have oral evidence taken, either before the ~~Court~~court or before a master appointed by the ~~Court~~court. When by law ~~such~~the alleged contemnor is entitled to a trial by jury, ~~said~~that person ~~shall~~must make written demand before the beginning of the hearing on the application; otherwise the alleged contemnor will be deemed to have waived a trial by jury.
- (c) If the alleged contemnor is found to be in contempt of court, an order ~~shall~~must be entered



- (1) ~~reciting or referring to the verdict or findings of fact upon~~ which the adjudication is based;
  - (2) setting forth the amount of damages, if any, to which the complainant is entitled;
  - (3) fixing the fine, if any, imposed by the ~~Court~~court, which fine ~~shall~~must include the damages found and naming the person to whom such fine ~~shall~~will be payable;
  - (4) stating any other conditions, the performance of which will operate to purge the contempt; and
  - (5) directing, where appropriate, the arrest of the contemnor by the United States marshal and confinement until the performance of the condition fixed in the order and the payment of the fine, or until the contemnor be otherwise discharged ~~pursuant to~~under law. A certified copy of the order committing the contemnor ~~shall~~will be sufficient warrant to the marshal for the arrest and confinement of the contemnor. The complainant ~~shall~~must also have the same remedies against the property of the contemnor as if the order awarding the fine were a final judgment.
- (d) If the alleged contemnor is found not guilty of the charges, ~~said~~that person ~~shall~~must be discharged from the proceedings and, in the discretion of the ~~Court~~court, may have judgment against the complainant for costs and disbursements and a reasonable counsel fee.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 83.7. Court-Annexed Arbitration (Eastern District Only) [formerly Local Civil Rule 83.10]**

(a) Certification of Arbitrators

- (1) The ~~Chief Judge~~chief judge or a ~~Judge~~judge or ~~Judges~~judges authorized by the ~~Chief Judge~~chief judge to act (hereafter referred to as the certifying ~~Judge~~judge) ~~shall~~may certify as many arbitrators as may be determined to be necessary under this rule.

- (2) An individual may be certified to serve as an arbitrator if he or she:
  - (A) ~~\_\_~~ has been for at least five years a member of the bar of the highest court of a state or the District of Columbia,
  - (B) ~~is~~ admitted to practice before this court, and
  - (C) ~~\_\_~~ is determined by the certifying ~~Judge~~judge to be competent to perform the duties of an arbitrator.
- (3) Each individual certified as an arbitrator ~~shall~~must take the oath or affirmation required by Title 28, U.S.C. § 453 before serving as an arbitrator.
- (4) A list of all persons certified as arbitrators ~~shall~~must be maintained in the ~~Office~~office of the ~~Clerk~~clerk.
- (b) Compensation and Expenses of Arbitrators. An arbitrator ~~shall~~will be compensated \$250.00 for services in each case. If an arbitration hearing is protracted, the certifying ~~Judge~~judge may entertain a petition for additional compensation. If a party requests a panel of three arbitrators, as described below, then each arbitrator ~~shall~~will be compensated \$100.00 for service. The fees ~~shall~~must be paid ~~by or pursuant to~~in accordance with the order of the ~~Court~~court subject to the limits set by the Judicial Conference of the United States.
- (c) Immunity of Arbitrators. Arbitrators ~~shall~~will be immune from liability or suit with respect to their conduct as ~~sue~~arbitrators to the maximum extent permitted by applicable law.
- (d) Civil Cases Eligible for Compulsory Arbitration
  - (1) The ~~Clerk~~clerk of ~~Court~~ ~~shall, as to court must, for~~ all cases filed after January 1, 1986, designate and process for compulsory arbitration all civil cases (excluding social security cases, tax matters, prisoners' civil rights cases and any action based on an alleged violation of a right secured by the Constitution of the United States or if jurisdiction is based in whole or in part on Title 28, U.S.C. § 1343) wherein only money damages only are being sought in an amount not in excess of \$150,000.00 exclusive of interest and costs.

- (2) The parties may by written stipulation agree that the ~~Clerk~~clerk of ~~Court~~court ~~shall~~will designate and process for court-annexed arbitration any civil case that is not subject to compulsory arbitration hereunder.
- (3) ~~For~~Only for purposes of this ~~Rule~~only rule, in all civil cases damages ~~shall~~must be presumed to be not in excess of \$150,000.00 exclusive of interest and costs, unless:
- (A) ~~\_\_~~\_\_ Counsel for plaintiff, at the time of filing the complaint, or in the event of the removal of a case from state court or transfer of a case from another district to this ~~Court~~court, within ~~thirty~~(30) days of the docketing of the case in this district, files a certification with the ~~Court~~court that the damages sought exceed \$150,000.00, exclusive of interest and costs; or
- (B) ~~Counsel~~Counsel for a defendant, at the time of filing a counterclaim or cross-claim files a certification with the court that the damages sought by the counterclaim or cross-claim exceed \$150,000.00 exclusive of interest and costs.
- (e) Referral to Arbitration
- (1) After an answer is filed in a case determined eligible for arbitration, the arbitration clerk ~~shall~~must send a notice to counsel setting forth the date and time for the arbitration hearing. The date of the arbitration hearing set forth in the notice ~~shall~~must be approximately four months but in no event later than 120 days from the date the answer was filed, ~~except that~~but the arbitration proceeding ~~shall~~must not, in the absence of the consent of the parties, commence until 30 days after the disposition by the ~~District Court~~district court of any motion to dismiss the complaint, motion for judgment on the pleadings, motion to join necessary parties, or motion for summary judgment, if the motion was filed during a time period specified by the ~~District Court~~district court. The 120-day and 30-day periods specified in the preceding sentence may be modified by the court for good cause shown. The notice ~~shall~~must also advise counsel that they may agree to an earlier date for the arbitration hearing ~~provided if~~if the arbitration clerk is notified with 30 days of the date of the notice. The notice ~~shall~~must also advise counsel that they have 90 days to complete discovery unless the ~~Judge~~judge to whom the case has been assigned orders a shorter or

longer period for discovery. The ~~Judge~~district judge may refer the case to a ~~Magistrate Judge~~magistrate judge for purposes of discovery. In the event a third party has been brought into the action, this notice ~~shall~~must not be sent until an answer has been filed by the third party.

- (2) The ~~Court~~shall~~court will~~, sua sponte, or on motion of a party, exempt any case from arbitration in which the objectives of arbitration would not be realized
- (A) ~~—~~— because the case involves complex or novel issues,
- (B) ~~—~~— because legal issues predominate over factual issues, or
- (C) ~~—~~— for other good cause.

Application by a party for an exemption from compulsory arbitration ~~shall~~must be made by written letter to the ~~Court~~court not exceeding three pages in length, outlining the basis for the request and attaching relevant materials, which ~~shall~~must be submitted no later than 21 days after receipt of the notice to counsel setting forth the date and time for the arbitration hearing. Within four days of receiving ~~such a~~the letter, any opposing affected party may submit a responsive letter not exceeding three pages attaching relevant materials.

- (3) Cases not originally designated as eligible for compulsory arbitration, but ~~which~~that in the discretion of the assigned ~~Judge~~judge, are later found to qualify, may be referred to arbitration. ~~A U.S. District Judge~~A district judge or a ~~U.S. Magistrate Judge~~magistrate judge, in cases that exceed the arbitration ceiling of \$150,000.00 exclusive of interest and costs, in their discretion, may suggest that the parties should consider arbitration. If the parties are agreeable, an appropriate consent form signed by all parties or their representatives may be entered and filed in the case ~~prior to~~before scheduling an arbitration hearing.
- (4) The arbitration ~~shall~~must be held before one arbitrator unless a panel of three arbitrators is requested by a party, in which case one of whom ~~shall~~must be designated as chairperson of the panel. If the amount of controversy, exclusive of interest and costs, is \$5,000.00 or less, the arbitration ~~shall~~must be held before a single arbitrator. The arbitration panel ~~shall~~must be chosen at random by the ~~Clerk~~clerk of the ~~Court~~court from the lawyers who have been duly certified as

arbitrators. The arbitration panel ~~shall~~must be scheduled to hear not more than three cases.

- (5) The ~~Judge~~judge to whom the case has been assigned ~~shall~~must, 30 days ~~prior-~~to~~before~~ the date scheduled for the arbitration hearing, sign an order setting forth the date and time of the arbitration hearing and the names of the arbitrators designated to hear the case. If a party has filed a motion for judgment on the pleadings, summary judgment, or similar relief, the ~~Judge shall~~judge must not sign the order before ruling on the motion, but the filing of ~~such a~~that motion on or after the date of the order ~~shall~~must not stay the arbitration unless the ~~Judge~~judge so orders.
- (6) Upon entry of the order designating the arbitrators, the arbitration clerk ~~shall~~will send to each arbitrator a copy of all pleadings, including the order designating the arbitrators, and the guidelines for arbitrators.
- (7) Persons selected to be arbitrators ~~shall~~will be disqualified for bias or prejudice as provided in Title 28, U.S.C. § 144, and ~~shall~~must disqualify themselves in any action ~~which~~that they would be required under title 28, U.S.C. § 455, to disqualify themselves if they were a justice, district judge, or magistrate judge.

(f) Arbitration Hearing

- (1) The arbitration hearing ~~shall~~must take place in the United States Courthouse in a courtroom assigned by the arbitration clerk on the date and at the time set forth in the order of the ~~Court~~court. The arbitrators are authorized to change the date and time of the hearing ~~provided~~if the hearing is commenced within 30 days of the hearing date set forth in the order of the ~~Court~~court. Any continuance beyond this 30-~~day~~ period must be approved by the ~~Judge~~judge to whom the case has been assigned. The arbitration clerk must be notified immediately of any continuance.
- (2) Counsel for the parties ~~shall~~must report settlement of the case to the arbitration clerk and all members of the arbitration panel assigned to the case.
- (3) The arbitration hearing may proceed in the absence of any party who, after notice, fails to be present. In the event, however, that a party fails to participate

in the arbitration process in a meaningful manner, the ~~Court~~court may impose appropriate sanctions, including, but not limited to, the striking of any demand for a trial de novo filed by that party.

~~(4) Rule 45 of the Federal Rules of Civil Procedure shall apply~~ (4) Fed. R. Civ. P. 45 applies to subpoenas for attendance of witnesses and the production of documentary evidence at an arbitration hearing under this ~~Rule~~rule. Testimony at an arbitration hearing ~~shall~~must be under oath or affirmation.

(5) The Federal Rules of Evidence ~~shall~~must be used as guides to the admissibility of evidence. Copies or photographs of all exhibits, except those intended solely for impeachment, must be marked for identification and delivered to adverse parties at least ~~fourteen~~ (14) days ~~prior to~~before the hearing. The arbitrators ~~shall~~must receive exhibits in evidence without formal proof unless counsel has been notified at least seven ~~(7)~~ days ~~prior to~~before the hearing that the adverse party intends to raise an issue concerning the authenticity of the exhibit. The arbitrators may refuse to receive in evidence any exhibit, a copy or photograph of which has not been delivered to the adverse party as provided herein.

(6) A party may have a recording and transcript made of the arbitration hearing, but that party ~~shall~~must make all necessary arrangements and bear all expenses thereof.

(g) Arbitration Award and Judgment

(1) The arbitration award ~~shall~~must be filed with the ~~Court~~court promptly after the hearing is concluded and ~~shall~~must be entered as the judgment of the ~~Court~~court after the 30-day period for requesting a trial de novo ~~pursuant to Section~~under section (h) has expired, unless a party has demanded a trial de novo. The judgment so entered ~~shall~~will be subject to the same provisions of law and ~~shall~~will have the same force and effect as a judgment of the ~~Court~~court in a civil action, except that it ~~shall~~will not be appealable. In a case involving multiple claims and parties, any segregable part of an arbitration award ~~as to~~for which an aggrieved party has not timely demanded a trial de novo shall become part of the final judgment with the same force and effect as a judgment of the ~~Court~~court in a civil action, except that it ~~shall~~will not be appealable.

- (2) The contents of any arbitration award ~~shall~~must not be made known to any ~~Judge~~judge who might be assigned the case,
  - (A) ~~except as unless~~ necessary for the ~~Court~~court to determine whether to assess costs or ~~attorneys~~attorney's fees,
  - (B) ~~until the District Court~~district court has entered final judgment in the action, or the action has been otherwise terminated, or
  - (C) ~~\_\_~~ except for purposes of preparing the report required by section 903(b) of the Judicial Improvement and Access to Justice Act.
- (3) Costs may be taxed as part of any arbitration award ~~pursuant to in accordance~~with 28 U.S.C. § 1920.

(h) Trial De Novo

- (1) Within 30 days after the arbitration award is entered on the docket, any party may demand in writing a trial de novo in the ~~District Court. Such~~district court. That demand ~~shall~~must be filed with the arbitration clerk, and served by the moving party ~~upon~~on all counsel of record or other parties. Withdrawal of a demand for a trial de novo ~~shall~~will not reinstate the arbitrators' award and the case ~~shall~~will proceed as if it had not been arbitrated.
- (2) Upon demand for a trial de novo and the payment to the ~~Clerk~~clerk required by paragraph (4) of this section, the action ~~shall~~must be placed on the calendar of the ~~Court~~court and treated for all purposes as if it had not been referred to arbitration, and any right of trial by jury that a party would otherwise have ~~shall~~will be preserved inviolate.
- (3) At the trial de novo, the ~~Court shall~~court must not admit evidence that there had been an arbitration proceeding, the nature or amount of the award, or any other matter concerning the conduct of the arbitration proceeding.
- (4) Upon making a demand for trial de novo the moving party ~~shall~~must, unless permitted to proceed in forma pauperis, deposit with the ~~Clerk~~clerk of the ~~Court~~court an amount equal to the arbitration fees of the arbitrators as provided in ~~Section~~section (b). The sum so deposited ~~shall~~must be returned to the party

demanding a trial de novo ~~in the event if~~ that party obtains a final judgment, exclusive of interest and costs, that is more favorable than the arbitration award. If the party demanding a trial de novo does not obtain a more favorable result after trial or if the ~~Court~~court determines that the party's conduct in seeking a trial de novo was in bad faith, the sum so deposited ~~shall~~must be paid by the ~~Clerk~~clerk to the Treasury of the United States.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Civil Rule 83.8. Court-Annexed Mediation (Eastern District Only) [formerly Local Civil Rule 83.11]**

#### (a) Description

Mediation is a process in which parties and counsel agree to meet with a neutral mediator trained to assist them in settling disputes. The mediator improves communication across party lines, helps parties articulate their interests and understand those of the other party, probes the strengths and weaknesses of each party's legal positions, and identifies areas of agreement and helps generate options for a mutually agreeable resolution to the dispute. In all cases, mediation provides an opportunity to explore a wide range of potential solutions and to address interests that may be outside the scope of the stated controversy or ~~which~~that could not be addressed by judicial action. A hallmark of mediation is its capacity to expand traditional settlement discussions and broaden resolution options, often by exploring litigant needs and interests that may be formally independent of the legal issues in controversy.

#### (b) Mediation Procedures

##### (1) Eligible cases

Judges and ~~Magistrate Judges~~magistrate judges may designate civil cases for inclusion in the mediation program, and when doing so shall prepare an order to that effect. Alternatively, and subject to the availability of qualified mediators, the parties may consent to participation in the mediation program by preparing and executing a stipulation signed by all parties to the action and so-ordered by the ~~Court~~court.



(2) Mediation deadline

Any court order designating a case for inclusion in the mediation program, however arrived at, may contain a deadline not to exceed six months from the date of entry on the docket of that order. This deadline may be extended upon motion to the ~~Court~~court for good cause shown.

(3) Mediators

Parties whose case has been designated for inclusion in the mediation program shall be offered the options of (a) using a mediator from the ~~Court's~~court's panel, a listing of which is available in the ~~Clerk's Office~~clerk's office; (b) selecting a mediator on their own; or (c) seeking the assistance of a reputable neutral ADR organization in the selection of a mediator.

(A) Court's panel of mediators

When the parties opt to use a mediator from the ~~Court's~~court's panel, the ~~Clerk's Office~~clerk's office will appoint a mediator to handle the case who (i) has been for at least five years a member of the bar of a state or the District of Columbia; (ii) is admitted to practice before this ~~Court~~court; and (iii) has completed the ~~Court's~~court's requirements for mediator training and mediator expertise. If any party so requests, the appointed mediator also ~~shall~~must have expertise in the area of law in the case. The ~~Clerk's-~~Officeclerk's office will provide notice of their appointment to all counsel.

(B) Disqualification

Any party may submit a written request to the ~~Clerk's Office~~clerk's office within ~~fourteen~~14 days from the date of the notification of the mediator for the disqualification of the mediator for bias or prejudice as provided in 28 U.S.C. § 144. A denial of ~~such a~~that request by the ~~Clerk's Office~~clerk's office is subject to review by the assigned ~~Judge~~judge upon motion filed within ~~fourteen~~(14) days of the date of the ~~Clerk's Office~~clerk's office's denial.

(4) Scheduling the mediation

The mediator, however chosen, will contact all attorneys to fix the date and place of the first mediation session, which ~~shall~~must be held within ~~thirty~~30 days of the date the mediator was appointed or at ~~such~~any other time ~~as~~that the ~~Court~~court may establish.

The ~~Clerk's Office~~clerk's office will provide counsel with copies of the ~~Judge's~~judge's order referring the case to the mediation program, the ~~Clerk's Office~~clerk's office's notice of appointment of mediator (if applicable), and a copy of the program procedures.

(5) Written mediation statements

No less than ~~fourteen~~(14) days ~~prior to~~before the first mediation session, each party ~~shall~~must submit directly to the mediator a mediation statement not to exceed ~~ten~~10 pages double-spaced, not including exhibits, outlining the key facts and legal issues in the case. The statement will also include a description of motions filed and their status, and any other information that will advance settlement prospects or make the mediation more productive. Mediation statements are not briefs and are not filed with the ~~Court~~court, nor ~~shall~~may the assigned ~~Judge~~district judge or ~~Magistrate Judge~~magistrate judge have access to them.

(6) Mediation session(s)

The mediator meets initially with all parties to the dispute and their counsel in a joint session. The mediator may hold mediation sessions in his/her office, or at the ~~Court~~court, or at ~~such~~any other place ~~as~~that the parties and the mediator shall agree. At this meeting, the mediator explains the mediation process and gives each party an opportunity to explain his or her views about the matters in dispute. There is then likely to be discussion and questioning among the parties as well as between the mediator and the parties.

(A) ~~—~~ Separate caucuses.

At the conclusion of the joint session, the mediator will typically caucus individually with each party. Caucuses permit the mediator and the parties to explore more fully the needs and interests underlying the stated positions. In

caucuses the mediator strives to facilitate settlement on matters in dispute and the possibilities for settlement. In some cases the mediator may offer specific suggestions for settlement; in other cases the mediator may help the parties generate creative settlement proposals.

(B) ~~Additional sessions~~

The mediator may conduct additional joint sessions to promote further direct discussion between the parties, or she/he may continue to work with the parties in private caucuses.

(C) ~~Conclusion~~

The mediation concludes when the parties reach a mutually acceptable resolution, when the parties fail to reach an agreement, on the date the ~~Judge or Magistrate Judge~~ district judge or magistrate judge specified as the mediation deadline in their designation order, or in the event no such date has been specified by the ~~Court~~ court, at ~~such any~~ other time ~~as that~~ the parties and/or the mediator may determine. The mediator has no power to impose settlement and the mediation process is confidential, whether or not a settlement is reached.

(7) Settlement

If settlement is reached, in whole or in part, the agreement, which ~~shall~~ will be binding ~~upon~~ on all parties, will be put into writing and counsel will file a stipulation of dismissal or such other document as may be appropriate. If the case does not settle, the mediator will immediately notify the ~~Clerk's Office~~ clerk's office, and the case or the ~~portion~~ part of the case that has not settled will continue in the litigation process.

(c) Attendance at Mediation Sessions

- (1) In all civil cases designated by the ~~Court~~ court for inclusion in the mediation program, attendance at one mediation session ~~shall~~ will be mandatory; thereafter, attendance ~~shall~~ will be voluntary. The ~~Court~~ court requires of each party that the attorney who has primary responsibility for handling the trial of the matter attend the mediation sessions.

- (2) In addition, the ~~Court~~court may require, and if it does not, the mediator may require the attendance at the mediation session of a party or its representative in the case of a business or governmental entity or a minor, with authority to settle the matter and to bind the party. This requirement reflects the ~~Court's~~court's view that the principal values of mediation include affording litigants with an opportunity to articulate their positions and interests directly to the other parties and to a mediator and to hear, first hand, the other party's version of the matters in dispute. Mediation also enables parties to search directly with the other party for mutually agreeable solutions.

(d) Confidentiality

- (1) The parties will be asked to sign an agreement of confidentiality at the beginning of the first mediation session to the following effect:
- (A) ~~—~~ Unless the parties otherwise agree, all written and oral communications made by the parties and the mediator in connection with or during any mediation session are confidential and ~~may not~~cannot be disclosed or used for any purpose unrelated to the mediation.
- (B) The mediator ~~shall~~must not be called by any party as a witness in any court proceeding related to the subject matter of the mediation unless related to the alleged misconduct of the mediator.
- (2) Mediators will maintain the confidentiality of all information provided to, or discussed with, them. The ~~Clerk~~clerk of ~~Court~~the court and the ADR Administrator are responsible for program administration, evaluation, and liaison between the mediators and the ~~Court~~court and will maintain strict confidentiality.
- (3) No papers generated by the mediation process will be included in ~~Court~~court files, nor ~~shall~~may the ~~Judge~~district judge or ~~Magistrate Judge~~magistrate judge assigned to the case have access to them. Information about what transpires during mediation sessions will not at any time be made known to the ~~Court~~court, except to the extent required to resolve issues of noncompliance with the mediation procedures. ~~However, communications~~Communications

made in connection with or during a mediation may be disclosed if all parties and, if appropriate as determined by the mediator, the mediator so agree.

Nothing in this section ~~shall~~may be construed to prohibit parties from entering into written agreements resolving some or all of the case or entering and filing with the ~~Court~~court procedural or factual stipulations based on suggestions or agreements made in connection with a mediation.

(e) Oath and Disqualification of Mediator

- (1) Each individual certified as a mediator ~~shall~~must take the oath or affirmation prescribed by 28 U.S.C. § 453 before serving as a mediator.
- (2) No mediator may serve in any matter in violation of the standards set forth in 28 U.S.C. § 455. If a mediator is concerned that a circumstance covered by subparagraph (a) of that section might exist, e.g., if the mediator's law firm has represented one or more of the parties, or if one of the lawyers who would appear before the mediator at the mediation session is involved in a case on which an attorney in the mediator's firm is working, the mediator shall promptly disclose that circumstance to all counsel in writing. A party who believes that the assigned mediator has a conflict of interest ~~shall~~must bring this concern to the attention of the ~~Clerk's Office~~clerk's office in writing, within ~~fourteen~~(14) days of learning the source of the potential conflict, or the objection to ~~such a~~the potential conflict ~~shall~~will be deemed to have been waived. Any objections that cannot be resolved by the parties in consultation with the ~~Clerk's Office~~clerk's office must be referred to the ~~Judge~~district judge or ~~Magistrate Judge~~magistrate judge who has designated the case for inclusion in the mediation program.
- (3) A party who believes that the assigned mediator has engaged in misconduct in ~~such~~that capacity ~~shall~~must bring this concern to the attention of the ~~Clerk's Office~~clerk's office in writing, within ~~fourteen~~(14) days of learning of the alleged misconduct, or the objection to ~~such~~the alleged misconduct ~~shall~~will be deemed to have been waived. Any objections that cannot be resolved by the parties in consultation with the ~~Clerk's Office~~clerk's office must be referred

to the Judge district judge or magistrate judge who has designated the case for inclusion in the mediation program.

(f) Services of the Mediators

- (1) Participation by mediators in the program is on a voluntary basis. Each mediator ~~shall~~will receive a fee of \$600.00 for the first four hours or less of the actual mediation. Time spent preparing for the mediation will not be compensated. Thereafter, the mediator ~~shall~~will be compensated at the rate of \$250.00 per hour. The mediator's fee ~~shall~~must be paid by the parties to the mediation. Any party that is unable or unwilling to pay the fee may apply to the referring judge for a waiver of the fee, with a right of appeal to the district judge in the event the referral was made by a magistrate judge. Each member of the panel will be required to mediate a maximum of two cases pro bono each year, if requested by the ~~Court~~court. Attorneys serving on the ~~Court's~~court's panel will be given credit for pro bono work.
- (2) Appointment to the ~~Court's~~court's panel is for a three-year term, subject to renewal. A panelist will not be expected to serve on more than two cases during any ~~twelve~~12-month period and will not be required to accept each assignment offered. Repeated rejection of assignments will result in the attorney being dropped from the panel.

(g) Immunity of the Mediators

Mediators ~~shall~~bear immune from liability or suit with respect to their conduct as such mediators to the maximum extent permitted by applicable law. \_

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Civil Rule 83.9. Alternative Dispute Resolution (Southern District Only)  
[formerly Local Civil Rule 83.12]**

(a) Alternative Dispute Resolution Options

The U.S. United States District Court for the Southern District of New York provides litigants with opportunities to discuss settlement through judicial settlement conferences and mediation.

(b) Definition of Mediation

In mediation, parties and counsel meet, sometimes collectively and sometimes individually, with a neutral third party (the mediator) who has been trained to facilitate confidential settlement discussions. The parties articulate their respective positions and interests and generate options for a mutually agreeable resolution to the dispute. The mediator assists the parties in reaching their own negotiated settlement by defining the issues, probing and assessing the strengths and weaknesses of each party's legal positions, and identifying areas of agreement and disagreement. The main benefits of mediation are that it can result in an expeditious and less costly resolution of the litigation, and it can produce creative solutions to complex disputes often unavailable in traditional litigation.

Supporting documents can be found at  
<https://nysd.uscourts.gov/programs/mediation-adr>.

(c) Administration of the Mediation Program

- (1) The Mediation Supervisor, appointed by the ~~Clerk~~clerk of ~~the Court~~, ~~shall~~will administer the ~~Court's~~court's mediation program. The ~~Chief Judge~~ ~~shall~~chief judge will appoint one or more ~~District Judges~~district judges or ~~Magistrate Judges~~magistrate judges to oversee the program.
- (2) The Mediation Supervisor, in consultation with other ~~Court~~court personnel, ~~shall~~will ensure that information about the ~~Court's~~court's mediation program is available on the ~~Court's~~court's website ~~which~~and will be updated as needed.
- (3) The mediation program ~~shall~~will be governed by the "Procedures of the Mediation Program for the Southern District of New York," which sets forth specific and more detailed information regarding the mediation program, and which is available on the ~~Court's~~court's official website (<https://nysd.uscourts.gov>) or from the Mediation Office.
- (4) ~~In no event is the~~The scheduling of mediation ~~to~~will not interfere with any scheduling order of the ~~Court~~court.

(d) Consideration of Alternative Dispute Resolution

In all civil cases, including those eligible for mediation ~~pursuant to~~ under paragraph (e), each party ~~shall~~ must consider the use of mediation or a judicial settlement conference and ~~shall~~ must report to the assigned ~~Judge~~ judge at the initial Rule 16(b) case management conference, or subsequently, whether the party believes mediation or a judicial settlement conference may facilitate the resolution of the lawsuit. Judges are encouraged to note the availability of the mediation program and/or a judicial settlement conference before, at, or after the initial Rule 16(b) case management conference.

(e) Mediation Program Eligibility

- (1) All civil cases other than social security, habeas corpus, and tax cases are eligible for mediation, whether assigned to Manhattan or White Plains.
- (2) The Board of Judges may, by Administrative Order, direct that certain specified categories of cases ~~shall~~ will automatically be submitted to the mediation program. The assigned ~~District Judge~~ district judge or ~~Magistrate Judge~~ magistrate judge may issue a written order exempting a particular case with or without the request of the parties.
- (3) For all other cases, the assigned ~~District Judge or Magistrate Judge~~ district judge or magistrate judge may determine that a case is appropriate for mediation and may order that case to mediation, with or without the consent of the parties, before, at, or after the initial Rule 16(b) case management conference. Alternatively, the parties should notify the assigned ~~Judge~~ judge at any time of their desire to mediate.

(f) Judicial Settlement Conferences

Judicial settlement conferences may be ordered by ~~District Judges or Magistrate Judges~~ district judges or magistrate judges with or without the request or consent of the parties.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*



**Local Civil Rule 83.10. Plan for Certain § 1983 Cases Against the City of New York  
(Southern District Only)**

~~Supporting documents can be found at <https://nysd.uscourts.gov/programs/mediation-adr>.~~

Unless ordered otherwise ~~ordered~~, in civil cases filed by a represented plaintiff against the City of New York (“City”) and/or the New York City Police Department (“NYPD”) or its employees alleging the use of excessive force, false arrest, or malicious prosecution by employees of the NYPD in violation of 42 U.S.C. § 1983, the procedures set forth below ~~shall will~~ apply, ~~except that~~ but the procedures and Protective Order identified in paragraphs 3 through 12 ~~shall will~~ not apply to class actions, actions brought by six or more plaintiffs, complaints requesting systemic equitable reform, or actions requesting immediate injunctive relief.

~~(a)~~ Service of Releases with Complaint

- (1) At the same time that plaintiff serves the complaint, plaintiff must serve on the City the release annexed as Exhibit A (“§ 160.50 Release”) for sealed arrest records for the arrest that is the subject of the complaint, and for a list of all prior arrests. In the case of class actions, plaintiff must serve § 160.50 Releases for the named putative class representatives.
- (2) If plaintiff seeks compensation for any physical or mental injury caused by the conduct alleged in the complaint other than “garden variety” emotional distress, plaintiff must serve on the City the medical release annexed as Exhibit B (“Medical Release”) for all medical and psychological treatment records for those injuries at the same time that plaintiff serves the § 160.50 Release. Where plaintiff has a pre-existing physical or mental condition that reasonably appears to be related to the injury for which compensation is sought, plaintiff must at that same time serve Medical Releases on the City for all records of treatment for ~~such~~ the pre-existing condition(s). Failure to so serve the above-described Medical Release(s) will constitute a waiver of plaintiff’s claims for compensation for that physical or mental injury.

(b) ~~Failure to Serve § 160.50 Release~~

If no § 160.50 Release is served on the City with the complaint, the City will promptly send a letter to plaintiff's counsel requesting the § 160.50 Release and attaching a copy of Local Civil Rule 83.10.

(c) ~~Time to Answer~~

If the § 160.50 Release is served on the City at the time the complaint is first served on a defendant, that defendant will have 80 days from the date of such service to answer the complaint. Any subsequently  ~~served~~ defendant will have the greater of (i) 60 days, or (ii) the date by which the first-served defendant must answer, to answer the complaint. If the § 160.50 Release is served on the City after the complaint is first served on a defendant, each defendant will have the greater of (i) 60 days from the date the § 160.50 Release is served on the City, or (ii) 60 days after that defendant is served, to answer the complaint. If any defendant moves to dismiss the entire complaint rather than filing an answer, the deadlines in this ~~Rule~~ rule will be stayed unless the ~~Court~~ court orders otherwise.

(d) ~~Rule 26(f) Conference, Initial Disclosures, and Applying for Exemption from the Rule~~

(1) ~~Within 14 days after the first defendant files its answer, the parties shall meet and must confer pursuant to in accordance with~~ Fed. R. Civ. P. 26(f). The parties ~~shall~~ must also discuss whether to request that the court (i) refer the case for settlement purposes to a magistrate judge; or (ii) exempt the case from Local Civil Rule 83.10. Any such application by a party must be submitted to the presiding judge no later than 21 days after the first defendant files its answer. Absent any such application from a party, the case ~~shall~~ will automatically proceed under the ~~Rule~~ rule and ~~shall~~ will automatically be referred to a mediator selected from the Southern District Mediation Panel.

(2) Within 21 days after the first defendant files its answer, the parties ~~shall~~ must exchange their initial disclosures.

(e) ~~L~~ Limited Discovery

Within 28 days after the first defendant files its answer, the parties must complete production of the following discovery. All other discovery ~~is~~ will be stayed. Unless ordered otherwise ~~ordered~~, the discovery stay ~~shall~~ will expire at the conclusion of the mediation or settlement conference.

(1) ~~T~~ The City ~~shall~~ must serve on plaintiff:

- (A) Subject to any applicable privileges, any items on the list attached as Exhibit C that were not part of the City's initial disclosures; documents received from the District Attorney's office; and documents obtained from the court file.
- (B) Any CCRB records and the IAB closing report regarding the incident that forms the basis of the complaint. If the incident or the conduct of defendants involved in the incident is the subject of an ongoing CCRB investigation, NYPD investigation or disciplinary proceeding, criminal investigation, or outstanding indictment or information, discovery under this paragraph shall be suspended, and the City will produce the investigative records 30 days after the investigation or proceeding has been terminated (whether by completion of the investigation without charges being brought or by disposition of ~~such~~ the charges). This suspension ~~shall~~ will not apply to documents related to any investigation or proceeding that has concluded.
- (C) For each defendant, the CCRB and CPI indices of complaints or incidents that are similar to the incident alleged in the complaint or that raise questions about the defendant's credibility. If the complaint alleges that a defendant officer used excessive force, the City will state whether that defendant officer has been or is on NYPD "force monitoring."
- (D) For each officer named as a defendant, a list identifying all prior ~~Section~~ section 1983 lawsuits filed against and served on the defendant.
- (E) Any records obtained by the City ~~pursuant to~~ from the Medical Releases. Medical records received after this date ~~shall~~ must be produced to plaintiff within ~~7~~ seven days of receipt.

(2) Plaintiff ~~shall~~must serve on the City:

(A) ~~Any~~ documents identified in Exhibit C ~~documents~~ received from the District Attorney's office ~~and~~ documents obtained from the court file.

(B) ~~Any~~ medical records for which plaintiff has served a Medical Release on the City.

(C) ~~Any~~ video and photographs of the incident.

(f) Amended Pleadings

The complaint may be amended to name additional defendants without leave of the presiding judge within six weeks after the first defendant files its answer. The filing of the amended complaint ~~shall~~will not affect any of the duties imposed by Local Civil Rule 83.10.

(g) ~~Settlement Demand and Offer~~

Within six weeks after the first defendant files its answer, plaintiff must serve a written settlement demand on the City. The City must respond in writing to plaintiff's demand within 14 days thereafter. The parties ~~shall~~must thereafter engage in settlement negotiations.

(h) ~~Mediation or Settlement Conference~~

Unless the presiding judge has referred the case to a magistrate judge to conduct a settlement conference, within 14 days after the first defendant files its answer, the Mediation Office will assign a mediator. The mediator ~~shall~~must promptly confer with counsel for the parties to schedule a mediation session to occur no later than 14 weeks after the first defendant files its answer. The mediator ~~shall~~must inform the Mediation Office no later than 60 days after the first defendant files its answer of the schedule for the mediation session. Unless the parties have filed a Stipulation of Dismissal with the ~~Clerk~~clerk of ~~Court~~court, the parties ~~shall~~must appear at the mediation session or at a settlement conference before a magistrate judge. The plaintiff ~~shall~~must attend the mediation or settlement conference. The City's representative must have full authority to settle the case; if the City requires

additional approvals in order to settle, the City must have arranged for telephone access to ~~such~~those persons during the mediation or settlement conference.

(i) ~~Failure to Timely Comply with the Requirements of this Rule~~

If any party fails to comply with any requirement under this ~~Rule~~rule, the other party ~~shall~~must promptly write to the presiding judge indicating the nature of the failure and requesting relief.

(j) ~~Request for Initial Pre-Trial Conference~~

Unless the presiding judge has already scheduled or held an initial pre-trial conference, if the mediation or settlement conference is unsuccessful, the parties ~~shall~~must promptly request that the presiding judge schedule an initial pre-trial conference.

(k) ~~Protective Order~~

The Protective Order attached as Exhibit D ~~shall~~will be deemed to have been issued in all cases governed by this ~~Rule~~rule.

(l) ~~Preservation~~

Local Civil Rule 83.10 does not relieve any party of its obligation to preserve documents and to issue preservation instructions.

**Local Civil Rule 87.1 Civil Rules Emergency**

If a Civil Rules Emergency is declared by the Judicial Conference under Fed. R. Civ. P. 87, then the chief judge of the district may issue any order directed toward that emergency that is not inconsistent with that rule. Any order issued by the chief judge under this local rule must terminate upon termination of the Civil Rules Emergency.

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

## LOCAL ADMIRALTY AND MARITIME RULES

### Local Admiralty Rule A.1. Application of Rules

(a) ~~These~~ Local Admiralty and Maritime Rules apply to the procedure in the claims and proceedings governed by the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure.

(b) ~~The~~ Local Civil Rules also apply to the procedure in ~~such~~these claims and proceedings, except to the extent that they are inconsistent with the Supplemental Rules or with these Local Admiralty and Maritime Rules.

[Source: Former Local Admiralty Rule 1 and Supplemental Rule 1]

### Local Admiralty Rule B.1. Affidavit That Defendant Is Not Found Within the District

The affidavit required by Supplemental Rule B(1) to accompany the complaint, and the affidavit required by Supplemental Rule B(2)-(c), ~~shall~~ must list the efforts made by and on behalf of the plaintiff to find and serve the defendant within the district.

[Source: Maritime Law Association Model Rule (b)(1)]

### Local Admiralty Rule B.2. Notice of Attachment

The plaintiff ~~shall~~must give prompt notice to the defendant of an attachment ~~following plaintiff's being~~after plaintiff is advised of ~~such an~~the attachment by the garnishee. Such ~~notice shall~~Notice must be in writing, and may be given by fax, email, or other verifiable electronic means.

[Source: Former Local Admiralty Rule 10(b)]

### Local Admiralty Rule C.1. Intangible Property

The summons issued ~~pursuant to~~under Supplemental Rule C(3)(c) ~~shall~~must direct the person having control of freight or proceeds of property sold or other intangible property to show cause at ~~a date which shall be at least fourteen~~ (14) days after service (unless the court, for good cause shown, shortens the period) why the intangible property should not be delivered to the court to abide the judgment. The person who is served may deliver or pay over to the marshal the intangible property proceeded

against to the extent sufficient to satisfy the plaintiff's claim. If ~~such~~that delivery or payment is made, the person served is excused from the duty to show cause.

[Source: Former Local Admiralty Rule 2]

### **Local Admiralty Rule C.2. Publication of Notice of Action and Arrest; Sale**

- (a) The notice required by Supplemental Rule C(4) ~~shall~~must be published at least once and ~~shall~~must contain
- (1) the fact and date of the arrest,
  - (2) the caption of the case,
  - (3) the nature of the action,
  - (4) the amount demanded,
  - (5) the name of the marshal,
  - (6) the name, address, and telephone number of the attorney for the plaintiff, and
  - (7) a statement that claimants must file their claims with the clerk of this court within ~~fourteen~~(14) days after notice or first publication (whichever is earlier) or within such additional time as may be allowed by the court and must serve their answers within ~~twenty-one~~(21) days after the filing of their claims. The notice ~~shall~~must also state that all interested persons should file claims and answers within the times so fixed otherwise default will be noted and condemnation ordered.
- (b) Except in the event of private sale ~~pursuant to~~in accordance with 28 U.S.C. §§ 2001 and 2004, or unless ordered otherwise ~~ordered~~ as provided by law, notice of sale of the property after condemnation in suits in rem ~~shall~~must be published daily for at least six ~~(6)~~ days before sale.

[Source: Former Local Admiralty Rule 3(a), ~~(c)~~]

**Local Admiralty Rule C.3. Notice Required for Default Judgment in Action In Rem**

(a) Notice Required in General. A party seeking a default judgment in an action in rem must satisfy the court that due notice of the action and arrest of the property has been given:

- (1) By publication as required in Supplemental Rule C(4) and Local Admiralty Rule C.2;
- (2) By service ~~upon~~ on the master or other person having custody of the property; and
- (3) By service under ~~Federal Rule of Civil Procedure~~ Fed. R. Civ. P. 5(b) ~~upon~~ every other person who has not appeared in the action and is known to have an interest in the property.

(b) Notice Required to Persons ~~With~~with Recorded Interests:

- (1) If the defendant property is a vessel documented under the laws of the United States, plaintiff must attempt to notify all persons named in the certificate of ownership issued by the United States Coast Guard, or other designated agency of the United States, as holding an ownership interest in or as holding a lien in or as having filed a notice of claim of lien with respect to the vessel.
- (2) If the defendant property is a vessel numbered as provided in 46 U.S.C. § 12301(a), plaintiff must attempt to notify the persons named in the records of the issuing authority.
- (3) If the defendant property is of such character that there exists a governmental registry of recorded property interests or security interests in the property, the plaintiff must attempt to notify all persons named in the records of each such registry.

[Source: Maritime Law Association Model Rule (c)(3)]

**Local Admiralty Rule D.1. Return Date in Possessory, Petitory, and Partition Actions**

In an action under Supplemental Rule D, the court may order that the claim and answer be filed on a date earlier than ~~twenty-one (21)~~ days after arrest, and may by order set a



date for expedited hearing of the action. ~~[Source: Maritime Law Association Model Rule (d)(1)]~~

[Source: Maritime Law Association Model Rule (d)(1)]

### **Local Admiralty Rule E.1. Adversary Hearing ~~Following~~After Arrest, Attachment or Garnishment**

The adversary hearing ~~following~~after arrest ~~or~~, attachment, or garnishment that is called for in Supplemental Rule E(4)(f) ~~shall~~must be conducted by a judicial officer within seven ~~(7)~~ days, unless ordered otherwise ~~ordered~~.

[Source: Maritime Law Association Model Rule (e)(8)]

### **Local Admiralty Rule E.2. ~~Intervenors'~~Intervenors' Claims**

- (a) Presentation of Claim. When a vessel or other property has been arrested, attached, or garnished, and is in the hands of the marshal or custodian substituted therefor, anyone having a claim against the vessel or property is required to present the claim by filing an intervening complaint, and not by filing an original complaint, unless ordered otherwise ~~ordered~~ by a judicial officer. Upon the satisfaction of the requirements of ~~Federal Rule of Civil Procedure~~Fed. R. Civ. P. 24, the clerk ~~shall~~forthwith must promptly deliver a conformed copy of the complaint to the marshal, who ~~shall~~must deliver the copy to the vessel or custodian of the property. Intervenors ~~shall~~will thereafter be subject to the rights and obligations of parties, and the vessel or property ~~shall~~will stand arrested, attached, or garnished by the intervenor.
- (b) Sharing ~~Marshal's~~Marshal's Fees and Expenses. An intervenor ~~shall~~have has a responsibility to the first plaintiff, enforceable on motion, consisting of the intervenor's share of the ~~marshal's~~marshal's fees and expenses in the proportion that the intervenor's claim bears to the sum of all the claims. If a party plaintiff permits vacation of an arrest, attachment, or garnishment, remaining plaintiffs share the responsibility to the marshal for the fees and expenses in proportion to the remaining claims and for the duration of the ~~marshal's~~marshal's custody because of each claim.

[Source: Maritime Law Association Model Rule (e)(11)]

### **Local Admiralty Rule E.3. Claims by Suppliers for Payment of Charges**

A person who furnishes supplies or services to a vessel, cargo, or other property in custody of the court who has not been paid and claims the right to payment as an expense of administration ~~shall~~must submit an invoice to the clerk in the form of a verified claim at any time before the vessel, cargo, or other property is released or sold. The supplier must serve copies of the claim on the marshal, substitute custodian if one has been appointed, and all parties of record. The court may consider the claims individually or schedule a single hearing for all claims.

[Source: Maritime Law Association Model Rule (e)(12)(d)]

### **Local Admiralty Rule E.4. Preservation of Property**

Whenever property is attached or arrested ~~pursuant to~~under the provisions of Supplemental Rule E(4)(b) that permit the marshal or other person having the warrant to execute the process without taking actual possession of the property, and the owner or occupant of the property is thereby permitted to remain in possession, the court, on motion of any party or on its own motion, may enter any order necessary to preserve the value of the property, its contents, and any income derived therefrom, and to prevent the destruction, removal or diminution in value of ~~such~~the property, contents and income.

## LOCAL CRIMINAL RULES

### Local Criminal Rule 1.1. Application of Rules

- (a) These Local Criminal Rules apply in all criminal proceedings.
- (b) In addition to Local Civil Rules referenced elsewhere in these Local Criminal Rules, the following Local Civil Rules also apply in criminal proceedings:

~~1.2. Clerk's Office~~1. Application of Rules (except that the Local Criminal Rules are promulgated under 28 U.S.C. § 2071 and Fed. R. Crim. P. 57 and apply in all criminal actions and proceedings governed by the Federal Rules of Criminal Procedure)

~~1.2. Night Depository~~

1.3. Admission to the Bar

1.4. ~~Notice of Appearance;~~ Withdrawal or Displacement of Attorney of Record

1.5. Discipline of Attorneys

1.6. ~~Duty of Attorney~~Attorneys in Related Cases ~~(to the extent cases may be considered related under the Courts' Rules (SDNY) or Guidelines (EDNY) for the Division of Business)~~

1.7. Fees of Court Clerks and Reporters

~~6.1.8. Photographs, Radio, Recordings, Television~~

1.8. Electronic Equipment and Recording, Broadcasting, and Streaming of Court Matters

1.9. Acceptable Substitutes for Affidavits

5.2. Requirements for Electronic Filing and Service ~~and Filing of Documents; Duty to Review Underlying Orders~~

5.3. Service by Overnight Delivery

6.2. Orders on Motions

39.1. Custody of Trial and Hearing Exhibits

58.1. Remand by an Appellate Court

67.1. Order for Deposit in Interest-Bearing Account-

72.1 Powers of Magistrate Judges

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Criminal Rule 1.2. Notice of Appearance**

Attorneys representing defendants in criminal cases ~~shall~~must file a notice of appearance. Once a notice of appearance has been filed, the attorney ~~may not~~cannot withdraw except upon prior order of the ~~Court pursuant to~~court under Local Civil Rule 1.4.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Criminal Rule 12.4. Disclosure Statement**

For purposes of Fed. R. Crim. P. 12.4(b)(2), “promptly” ~~shall mean~~means “within ~~fourteen (14) days,~~””; that is, parties are required to file supplemental disclosure statement within ~~fourteen (14)~~ days of the time there is any change in the information required in a disclosure statement filed ~~pursuant to~~under those rules.

**Local Criminal Rule 16.1. ~~Conference of Counsel~~Good Faith Requirement for Discovery Motions**

No motion addressed to a bill of particulars or any discovery matter ~~shall~~may be heard unless counsel for the moving party files in, or simultaneously with, the moving papers an affidavit certifying that counsel has conferred with counsel for the opposing party in an effort in good faith to resolve by agreement the issues raised by the motion without the intervention of the ~~Court~~court and has been unable to reach agreement. If some of the issues raised by the motion have been resolved by agreement, the affidavit ~~shall~~must specify the issues remaining unresolved.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Criminal Rule 23.1. Free Press- Fair Trial Directives**

(a) It is the duty of the lawyer or law firm, and of non-lawyer personnel employed by a lawyer’s office or subject to a lawyer’s supervision, private investigators acting

under the supervision of a criminal defense lawyer, and government agents and police officers, not to release or authorize the release of non-public information or opinion ~~which~~that a reasonable person would expect to be disseminated by means of public communication, in connection with pending or imminent criminal litigation with which they are associated, if there is a substantial likelihood that ~~such~~the dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

- (b) With respect to a grand jury or other pending investigation of any criminal matter, a lawyer participating in or associated with the investigation (including government lawyers and lawyers for targets, subjects, and witnesses in the investigation) shall refrain from making any extrajudicial statement ~~which~~that a reasonable person would expect to be disseminated by means of public communication that goes beyond the public record or that is not necessary to inform the public that the investigation is underway, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, to warn the public of any dangers, or otherwise to aid in the investigation, if there is a substantial likelihood that ~~such~~the dissemination will interfere with a fair trial or otherwise prejudice the administration of justice.
- (c) During a jury trial of any criminal matter, including the period of selection of the jury, no lawyer or law firm associated with the prosecution or defense shall give or authorize any extrajudicial statement or interview relating to the trial ~~or~~, the parties, or issues in the trial ~~which~~that a reasonable person would expect to be disseminated by means of public communication if there is a substantial likelihood that ~~such~~the dissemination will interfere with a fair trial; ~~except that~~but the lawyer or the law firm may quote from or refer without comment to public records of the ~~Court~~court in the case.
- (d) Statements concerning the following subject matters presumptively involve a substantial likelihood that their public dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice within the meaning of this rule:

- (1) The prior criminal record (including arrests, indictments, or other charges of crime), or the character or reputation of the accused, except that the lawyer or law firm may make a factual statement of the accused's name, age, residence, occupation, and family status; and if the accused has not been apprehended, a lawyer associated with the prosecution may release any information necessary to aid in the accused's apprehension or to warn the public of any dangers the accused may present;
  - (2) The existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;
  - (3) The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;
  - (4) The identity, testimony, or credibility of prospective witnesses, except that the lawyer or law firm may announce the identity of the victim if the announcement is not otherwise prohibited by law;
  - (5) The possibility of a plea of guilty to the offense charged or a lesser offense;
  - (6) Information the lawyer or law firm knows is likely to be inadmissible at trial and would if disclosed create a substantial likelihood of prejudicing an impartial trial; and
  - (7) Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.
- (e) Statements concerning the following subject matters presumptively do not involve a substantial likelihood that their public dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice within the meaning of this rule:
- (1) An announcement, at the time of arrest, of the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit, and use of weapons), the identity of the investigating and arresting officer or agency and the length of investigation;

- (2) An announcement, at the time of seizure, stating whether any items of physical evidence were seized and, if so, a description of the items seized (but not including any confession, admission, or statement);
  - (3) The nature, substance, or text of the charge, including a brief description of the offense charged;
  - (4) Quoting or referring without comment to public records of the ~~Court~~court in the case;
  - (5) An announcement of the scheduling or result of any stage in the judicial process, or an announcement that a matter is no longer under investigation;
  - (6) A request for assistance in obtaining evidence; and
  - (7) An announcement, without further comment, that the accused denies the charges, and a brief description of the nature of the defense.
- (f) Nothing in this rule is intended to preclude the formulation or application of more restrictive rules relating to the release of information about juvenile or other offenders, to preclude the holding of hearings or the lawful issuance of reports by legislative, administrative, or investigative bodies, or to preclude any lawyer from replying to charges of misconduct that are publicly made against ~~said~~that lawyer.
- (g) All ~~Court~~court supporting personnel, including, among others, marshals, deputy marshals, ~~Court Clerks~~court clerks, bailiffs ~~and Court, court~~ reporters, and employees or sub-contractors retained by the ~~Court~~court-appointed official reporters, are prohibited from disclosing to any person, without authorization by the ~~Court~~court, information relating to a pending grand jury proceeding or criminal case that is not part of the public records of the ~~Court~~court. The divulgence by such ~~Court~~court supporting personnel of information concerning grand jury proceedings, in camera arguments ~~and, or~~ hearings held in chambers or otherwise outside the presence of the public is also forbidden.
- (h) The ~~Court~~court, on motion of either party or on its own motion, may issue a special order governing ~~such~~ matters such as extrajudicial statements by parties and witnesses likely to interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news

media representatives, the management and sequestration of jurors and witnesses, and any other matters ~~which~~that the ~~Court~~court may deem appropriate ~~for inclusion in such order.~~ In determining whether to impose such a special order, the ~~Court shall~~court must consider whether ~~such an~~the order will be necessary to ensure an impartial jury and must find that other, less extreme available remedies, singly or collectively, are not feasible or would not effectively mitigate the pretrial publicity and bring about a fair trial. Among the alternative remedies to be considered are: change of venue, postponing the trial, a searching voir dire, emphatic jury instructions, and sequestration of jurors.

- (i) Any lawyer who violates the terms of this rule may be disciplined ~~pursuant to~~under Local Civil Rule 1.5.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

#### **Local Criminal Rule 34.1. Post-Trial Motions**

Post-trial motions in criminal cases, including motions for correction or reduction of sentence under ~~Federal Rule of Criminal Procedure~~Fed. R. Crim. P. 35, or to suspend execution of sentence, or in arrest of judgment under ~~Federal Rule of Criminal Procedure~~Fed. R. Crim. P. 34, ~~shall~~must be referred to the trial ~~Judge~~judge. If the trial ~~Judge~~judge served by designation and assignment under 28 U.S.C. §§ 291-296, and is absent from the district, ~~such~~these motions may be referred to that ~~Judge~~judge for consideration and disposition.

#### **Local Criminal Rule 45.1. Computation of Time [Withdrawn]**

~~In computing any period of time prescribed or allowed by the Local Criminal Rules, the provisions of Federal Rule of Criminal Procedure 45 shall apply unless otherwise stated. In these Local Rules, as in the Federal Rules as amended effective December 1, 2009, Saturdays, Sundays, and legal holidays are no longer excluded in computing periods of time. If the last day of the period is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.~~

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*



### Local Criminal Rule 47.1. Applications for Ex Parte Orders

Any application for an ex parte order ~~shall~~must state whether a previous application for similar relief has been made and, if so, ~~shall~~must state (a) the nature of the previous application, (b) the judicial officer to whom ~~such~~the application was presented, and (c) the disposition of ~~such~~the application.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### Local Criminal Rule 49.1. ~~Service and Filing of Motion Papers~~Deadlines and Reconsideration Motions

~~(a)~~ (a) Deadlines. Unless otherwise provided by statute or rule, or unless ~~otherwise~~ordered ~~otherwise~~ by the ~~Court~~court in a ~~Judge's Individual Practices~~judge's individual practices or in a direction in a particular case, ~~upon any motion, the papers shall be served and the following dates will govern deadlines for motions filed as follows~~in a criminal case:

~~(a)~~ All papers in support of the motion shall be filed and served by the moving party on all other parties that have appeared in the action.

~~(b)~~ (1) Any opposing papers ~~shall~~must be filed ~~and served~~ within ~~fourteen~~ (14) days after service of the motion papers.

~~(c)~~ (2) Any reply papers ~~shall~~must be filed ~~and served~~ within seven (7) days after service of the opposing papers.

~~(d)~~ (b) Motions for Reconsideration. A motion for reconsideration ~~or reargument~~ of a ~~Court~~court order determining a motion ~~shall~~must be filed ~~and served~~ within ~~fourteen~~ (14) days after the ~~Court's~~court's determination of the original motion. A memorandum, no longer than 10 pages in length, setting forth concisely the matters or controlling decisions ~~which~~that counsel believes the ~~Court~~court has overlooked ~~shall~~must accompany the motion. Answering and reply memoranda, if any, must be no longer than 10 and five pages in length, respectively.

(c) Service. Service of motion papers under this rule must be accomplished consistent with Fed. R. Crim. P. 49.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Criminal Rule 58.1. Petty Offenses-- — Collateral and Appearance**

- (a) A person who is charged with a petty offense as defined in 18 U.S.C. § 19, or with violating any regulation promulgated by any department or agency of the United States government, may, in lieu of appearance, post collateral in the amount indicated in the summons or other accusatory instrument, waive appearance before a United States ~~Magistrate Judge~~magistrate judge, and consent to forfeiture of collateral.
- (b) For all other petty offenses the person charged must appear before a ~~Magistrate Judge~~magistrate judge.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

### **Local Criminal Rule 59.1 Powers of Magistrate Judges**

In addition to other powers of magistrate judges:

(a) Magistrate Judges:

- ~~(a) Full-time Magistrate Judges~~judges are hereby specially designated to exercise the jurisdiction set forth in 18 U.S.C. § 3401, *Misdemeanors: application of probation laws.* ~~Unless there is a pending related indictment before a District Judge, the Clerk shall automatically refer misdemeanor cases initiated by information or indictment or transferred to the district under Federal Rule of Criminal Procedure 20 to a Magistrate Judge for arraignment. A petition by the government that the trial of a misdemeanor proceed before a District Judge pursuant to 18 U.S.C. § 3401(f) shall be filed prior to arraignment of the defendant;~~ application of probation laws.
- (b) Magistrate ~~Judges~~judges are hereby authorized to exercise the jurisdiction set forth in 18 U.S.C. § 3184, *Fugitives from foreign country to United States.*
- (c) Local Civil Rule 72.1, *Powers of Magistrate Judges*, also applies in criminal proceedings.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

**Local Criminal Rule 62.1: Criminal Rules Emergency**

If a Criminal Rules Emergency is declared by the Judicial Conference under Fed. R. Crim. P. 62, then the chief judge of the district may issue any order directed toward that emergency that is not inconsistent with that rule. Any order issued by the chief judge under this local rule must terminate upon termination of the Criminal Rules Emergency.

*For relevant historical context for this local rule, consult the Appendix of Committee Notes.*

## LOCAL PATENT RULES

### Local Patent Rule 1. Application of Rules

- (a) These Local Patent Rules apply to patent infringement, validity, and unenforceability actions and proceedings. The ~~Court~~court may modify the obligations or deadlines set forth in these Local Patent Rules based on the circumstances of any particular case, including, without ~~limitation~~limit, the simplicity or complexity of the case as shown by the patents, claims, technology, products, or parties involved.
- (b) The Local Civil Rules also apply to ~~such~~these actions and proceedings, except to the extent they are inconsistent with these Local Patent Rules.

### Local Patent Rule 2. Initial Scheduling Conference

When the parties confer ~~pursuant to~~under Fed. R. Civ. P. 26(f), in addition to the matters covered by Fed. R. Civ. P. 26, the parties must discuss and address in the report filed ~~pursuant to~~under Fed. R. Civ. P. 26(f):

- (a) ~~any~~ proposed modification of the deadlines or proceedings set forth in these Local Patent Rules;
- (b) ~~proposed~~ format of and deadlines for claim construction filings and proceedings, including a proposal for any expert discovery the parties propose to take in connection therewith; and
- (c) ~~proposed~~ format of and deadlines for service of infringement, invalidity and/or unenforceability contentions, including any proposed deadlines for supplementation thereof.

### Local Patent Rule 3. Certification of Disclosures

All statements, disclosures, or charts filed or served in accordance with these Local Patent Rules are deemed disclosures subject to ~~Rule 26(g) of the Federal Rules of Civil Procedure.~~Fed. R. Civ. P. 26(g).

#### **Local Patent Rule 4. Admissibility of Disclosures**

Statements, disclosures, or charts governed by these Local Patent Rules are admissible to the extent permitted by the Federal Rules of Evidence or Civil Procedure. However, the statements and disclosures provided for in Local Patent Rule 11 are not admissible for any purpose other than in connection with motions seeking an extension or modification of the time periods within which actions contemplated by these Local Patent Rules ~~shall~~must be taken.

#### **Local Patent Rule 5. Discovery Objections Based on Local Patent Rules**

A party may object to a mandatory disclosure under Fed. R. Civ. P. 26(a) or to a discovery request as conflicting with or premature under these Local Patent Rules only if the mandatory disclosure or discovery request would require disclosure of information of the kind dealt with by Local Patent Rules 6, 7, 8, 10, 11, and 12.

#### **Local Patent Rule 6. Disclosure of Asserted Claims and Infringement Contentions**

Unless otherwise specified by the ~~Court, not~~court, no later than ~~forty five (45)~~ days after the Initial Scheduling Conference, a party claiming patent infringement must serve on all parties a "Disclosure of Asserted Claims and Infringement Contentions," which identifies for each opposing party, each claim of each patent-in-suit that is allegedly infringed and each product or process of each opposing party of which the party claiming infringement is aware that allegedly infringes each identified claim.

#### **Local Patent Rule 7. Invalidity Contentions**

Unless otherwise specified by the ~~Court~~court, not later than ~~forty five (45)~~ days after service of the "Disclosure of Asserted Claims and Infringement Contentions," each party opposing a claim of patent infringement must serve ~~upon~~upon all parties its "Invalidity Contentions," if any. Invalidity Contentions must identify each item of prior art that the party contends allegedly anticipates or renders obvious each asserted claim, and any other grounds of invalidity, including any under 35 U.S.C. § 101 or § 112, or unenforceability of any of the asserted claims.

### **Local Patent Rule 8. Disclosure Requirement in Patent Cases Initiated by Declaratory Judgment**

In all cases in which a party files a pleading seeking a declaratory judgment that a patent is not infringed, is invalid, or is unenforceable, Local Patent Rule 6 ~~shall~~will not apply with respect to ~~such~~that patent unless and until a claim for patent infringement of ~~such~~the patent is made by a party. If a party does not assert a claim for patent infringement in its answer to the declaratory judgment pleading, unless otherwise specified in the ~~Court's~~court's Scheduling Order, the party seeking a declaratory judgment must serve ~~upon~~on all parties its Invalidity Contentions with respect to ~~such~~the patent that conform to Local Patent Rule 7 not later than ~~forty five (45)~~ days after the Initial Scheduling Conference.

### **Local Patent Rule 9. Duty to Supplement Contentions**

The duty to supplement in Fed. R. Civ. P. 26(e) ~~shall apply~~applies to the Infringement Contentions and the Invalidity Contentions required by Local Patent Rules 6 and 7.

### **Local Patent Rule 10. Opinion of Counsel**

Not later than ~~thirty (30)~~ days after entry of an order ruling on claim construction, each party that will rely on an opinion of counsel as part of a defense to a claim of willful infringement or inducement of infringement, or that a case is exceptional, must produce or make available for inspection and copying the opinion(s) and any other documents relating to the opinion(s) ~~as to~~for which attorney-client or work product protection has been waived as a result of ~~such~~the production.

### **Local Patent Rule 11. Joint Claim Terms Chart**

By a date specified by the ~~Court~~court, the parties ~~shall~~must cooperate and jointly file a Joint Disputed Claim Terms Chart listing the disputed claim terms and phrases, including each party's proposed construction, and cross-reference to each party's identification of the related paragraph(s) of the invalidity and/or infringement contention(s) disclosures under Local Rules 6 and 7.

## Local Patent Rule 12. Claim Construction Briefing

Unless otherwise specified by the ~~Court~~court:

- (a) Not later than ~~thirty~~(30) days after filing of the Joint Disputed Claim Terms Chart ~~pursuant to~~under Local Patent Rule 11, the party asserting infringement, or the party asserting invalidity if there is no infringement issue present in the case, must serve and file an opening claim construction brief and all supporting evidence and testimony.
- (b) Not later than ~~thirty~~(30) days after service of the opening claim construction brief, the opposing party must serve and file a response to the opening claim construction brief and all supporting evidence and testimony.
- (c) Not later than seven ~~(7)~~ days after service of the response, the opening party may serve and file a reply solely rebutting the opposing party's response.