



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

LAWRENCE K. BAERMAN
CLERK

John M. Domurad
Chief Deputy

James T. Foley Courthouse
445 Broadway
Albany, New York 12207

(518) 257-1809

Notice:

After reviewing all proposed modifications to the Local Rules of Practice of the Northern District of New York, the Local Rules Committee has determined the following proposed Local Rule modifications shall be advanced for consideration by the Board of Judges at their September 2009 meeting.

Local Rule Number	Proposed Change	
10.1(c)(2)	Strengthen the requirement that attorneys update their information via the CM/ECF system.	Click here to view full text of proposed change.
10.1(e)	Clarify that all documents must be in English or accompanied by a certified English translation.	Click here to view full text of proposed change.
41.2(b)	Reference to Local rule 10.1(b) is now 10.1(c)(2).	Click here to view full text of proposed change.
47.1	Change Malone to Malone/Plattsburgh	Click here to view full text of proposed change.
47.2	Include a provision protecting the privacy interests of potential jurors during voir dire.	Click here to view full text of proposed change.
67.1(d)	Modify time frames from (5-10) to (6-10) and from (10 to 15) to (11 to 15).	Click here to view full text of proposed change.
83.1(b)	Eliminate the requirement that attorneys from outside of New York maintain an office in the state for which they are admitted.	Click here to view full text of proposed change.
Local Rule 83.1(e)	Update language to reflect the requirement that address changes should be done via the CM/ECF system.	Click here to view full text of proposed change.
Local Rule 83.1(g)	Clarify the requirements for an Assistant United States Attorneys to seek admission to Northern District of New York.	Click here to view full text of proposed change.
Local Rule E(10).	Update Local Rules of Procedure for Admiralty and Maritime Cases- Section XII Rule E (e) 10 per changes within General Order # 36.	Click here to view full text of proposed change.

Should you wish to submit a comment on the proposed amendments to the Local Rules of Practice, you may do so via e-mail at LocalRules2010@nynd.uscourts.gov.

Alternatively, you may send written correspondences to:

John M. Domurad
Chief Deputy
James T. Foley U.S. Courthouse
445 Broadway
Albany, NY 12207

All comments must be received no later than the close of business on **September 11, 2009** to receive consideration. If the proposed amendments are adopted by the Rules Committee and the Northern District of New York Board of Judges, they will become effective **December 1, 2009**.

Local Rule 10.1(c)(2)

Current Language:

2.

Each document must identify the person filing the document. This identification must include an original signature of the attorney or *pro se* litigant; the typewritten name of that person; the address of a *pro se* litigant; and the bar roll number, office address, telephone number, e-mail address and fax number of the attorney. **All attorneys of record and *pro se* litigants must immediately notify the Court of any change of address.** Parties must file the notice of change of address with the Clerk and serve the same on all other parties to the action. The notice must identify each and every action to which the notice shall apply.

Attorneys shall also file a new registration statement within ten days of a change of address, firm name, telephone number, e-mail address and fax number. Attorneys may obtain registration forms at the Court's webpage at "www.nynd.uscourts.gov;" see also L.R. 41.2(b); L.R. 83.1(e).

Proposed Language:

2.

Each document must identify the person filing the document. This identification must include an original signature of the attorney or *pro se* litigant; the typewritten name of that person; the address of a *pro se* litigant; and the bar roll number, office address, telephone number, e-mail address and fax number of the attorney. **All attorneys of record and *pro se* litigants must immediately notify the Court of any change of address.** Parties must file the notice of change of address with the Clerk and serve the same on all other parties to the action. The notice must identify each and every action to which the notice shall apply.

Attorneys shall update their e-mail address, telephone or fax number through CM/ECF within 10 days of a change. Detailed instructions are available on the Court's website, <http://www.nynd.uscourts.gov/>. Attorneys shall notify the Court within 10 days of any change to their mailing address by completing the automated Update My Information form located on the Court's website: <http://www.nynd.uscourts.gov/e-filingregistration/procform13.cfm>.

Failure to keep this information current will result in removal from the roll of the Court.

Local Rule 10.1(e)

Current Language:

(e) All documents including exhibits must be in the English language or be accompanied by an English translation.

Proposed Language:

(e) The Court conducts its reviews and deliberations in English. Unless otherwise directed by the Court, any document that a party transmits to the Court (including one in the record on appeal) that is in a language other than English must be accompanied by an English translation that the translator has certified as true and accurate, pursuant to 28 U.S.C. § 1746. Any party who disputes a translation must file notice of its intention to challenge the translation with the Court and all other parties within seven (7) days of receiving the Notice of Electronic Filing for the translation, or, if a non-Filing User, within seven (7) days of receiving the translation. Upon receipt of a notice to challenge a translation, the Court shall establish the procedure and applicable time periods for the challenge to be heard.

Local Rule 41.2(b)

Current Language:

- (b) Failure to notify the Court of a change of address in accordance with L.R. 10.1(b) may result in the dismissal of any pending action.

Proposed Language:

- (b) Failure to notify the Court of a change of address in accordance with L.R. 10.1(c) (2) may result in the dismissal of any pending action.

Local Rule 47.1

Current Language:

47.1 Grand and Petit Jurors

Grand and petit jurors to serve at stated and special sessions of the Court shall be summoned pursuant to the Jury Selection and Service Act of 1968, as amended, codified in Sections 1861 - 1867 of Title 28 of the United States Code, and the Plan adopted and approved by the judges of this Court and approved by the Judicial Council for the Court of Appeals for the Second Circuit. The selection of grand and petit jurors is made by random selection from voter registration lists and supplemented by, if available, lists of licensed drivers from the New York State Department of Motor Vehicles. Court sessions, pursuant to 28 U.S.C. § 112, are designated to be held in the Northern District of New York in the cities of Albany, Auburn, Binghamton, Malone, Syracuse, Utica, and Watertown. For jury selection purposes under § 1869(c) of the Act, this District is divided into divisions from which jurors are selected for the particular place where jury sessions are to be held. The divisions are as follows:

Proposed Language:

47.1 Grand and Petit Jurors

Grand and petit jurors to serve at stated and special sessions of the Court shall be summoned pursuant to the Jury Selection and Service Act of 1968, as amended, codified in Sections 1861 - 1867 of Title 28 of the United States Code, and the Plan adopted and approved by the judges of this Court and approved by the Judicial Council for the Court of Appeals for the Second Circuit. The selection of grand and petit jurors is made by random selection from voter registration lists and supplemented by, if available, lists of licensed drivers from the New York State Department of Motor Vehicles. Court sessions, pursuant to 28 U.S.C. § 112, are designated to be held in the Northern District of New York in the cities of Albany, Auburn, Binghamton, Malone, Syracuse, Utica, Watertown **and Plattsburgh**. For jury selection purposes under § 1869(c) of the Act, this District is divided into divisions from which jurors are selected for the particular place where jury sessions are to be held. The divisions are as follows:

Local Rule 47.2

Current Language:

47.2 Jury Selection

(a) **Voir Dire.** The Court, the attorneys, or both shall conduct voir dire examination as the Court shall determine. The court, in its sound discretion, may limit the attorneys' examination in time and subject matter.

(b) **Impanelment of the Jury.** In its discretion, the Court shall impanel the jury by use of either the "Strike" or "Jury Box" selection method unless the Court determines otherwise.

(c) **Peremptory Challenges.** Unless the Court orders otherwise, all parties shall alternately exercise their peremptory challenges.

(d) **Waiver of Peremptory Challenges.** Except when using the strike method, if a party passes or refuses to exercise a peremptory challenge, such action shall constitute a waiver of the right to exercise the challenge.

Proposed Language:

47.2 Jury Selection

(a) **Voir Dire.** The Court, the attorneys, or both shall conduct voir dire examination as the Court shall determine. The court, in its sound discretion, may limit the attorneys' examination in time and subject matter.

(b) **Impanelment of the Jury.** In its discretion, the Court shall impanel the jury by use of either the "Strike" or "Jury Box" selection method unless the Court determines otherwise.

(c) **Peremptory Challenges.** Unless the Court orders otherwise, all parties shall alternately exercise their peremptory challenges.

(d) **Waiver of Peremptory Challenges.** Except when using the strike method, if a party passes or refuses to exercise a peremptory challenge, such action shall constitute a waiver of the right to exercise the challenge.

(e) **Names of Potential Jurors during Voir Dire.** During the voir dire process, potential jurors shall be referred to by their assigned juror number. Should an issue develop where the name of the potential juror is germane, the requesting party shall submit a written request to the presiding judicial officer for release of the potential juror's name.

Local Rule 67.1(d)

Current Language:

(d) Fee. (Amended effective January 1, 2009)

Unless the Court orders otherwise, the Clerk shall deduct from income earned on registry funds invested in interest-bearing accounts or instruments a fee of ten percent (10%) on amounts that are invested that are less \$100 million and held for up to 5 years. For amounts that are invested and held for 5-10 years, the fee decreases to seven and one-half percent (7.5%); for amounts that are invested and held for 10-15 years, the fee decreases to five percent (5%); and for amounts that are invested and held for 15 years or more, the fee decreases to two and one-half percent (2.5%). The Clerk shall deduct the fee before any other distribution of the account and shall deposit the fee in the Treasury of the United States, without further order of this Court. This assessment shall apply to all registry fund investments.

Proposed Language:

(d) Fee. (Amended effective January 1, 2010)

Unless the Court orders otherwise, the Clerk shall deduct from income earned on registry funds invested in interest-bearing accounts or instruments a fee of ten percent (10%) on amounts that are invested that are less \$100 million and held for up to 5 years. For amounts that are invested and held for 6-10 years, the fee decreases to seven and one-half percent (7.5%); for amounts that are invested and held for 11-15 years, the fee decreases to five percent (5%); and for amounts that are invested and held for 15 years or more, the fee decreases to two and one-half percent (2.5%). The Clerk shall deduct the fee before any other distribution of the account and shall deposit the fee in the Treasury of the United States, without further order of this Court. This assessment shall apply to all registry fund investments.

Local Rule 83.1(b)

Current Language:

(b) Applicants who are not admitted to another United States District Court in New York State must appear with their sponsor for formal admission unless the Court, in the exercise of its discretion, waives such appearance. If the applicant is admitted to practice in New York State, the Certificate of Good Standing submitted with the application for admission must be from the appropriate New York State Appellate Division. All requirements of subdivision (a) apply.

If the applicant is from outside New York State, the Certificate of Good Standing may be from the highest court of the state or from a United States District Court. All requirements of subdivision (a) apply. An out-of-state applicant must maintain an office in the state in which they are admitted. Upon ceasing to maintain an office in that state, they automatically cease to be members of the bar of this Court.

Proposed Language:

(b) Applicants who are not admitted to another United States District Court in New York State must appear with their sponsor for formal admission unless the Court, in the exercise of its discretion, waives such appearance. If the applicant is admitted to practice in New York State, the Certificate of Good Standing submitted with the application for admission must be from the appropriate New York State Appellate Division. All requirements of subdivision (a) apply.

If the applicant is from outside New York State, the Certificate of Good Standing may be from the highest court of the state or from a United States District Court. All requirements of subdivision (a) apply. ~~An out-of-state applicant must maintain an office in the state in which they are admitted. Upon ceasing to maintain an office in that state, they automatically cease to be members of the bar of this Court.~~

Local Rule 83.1(e)

Current Language:

- (e) **Registration Form Changes.** Every attorney must file a supplemental statement setting forth any change in the information on the Registration Form within ten (10) days of the change. The attorney should make this supplemental statement by filing a new Registration Form which reflects the new information and which identifies which information changed. Failure to timely file a supplemental Registration Form may result in the Court's inability to notify that attorney of developments in the case or other sanctions in the Court's discretion. See L.R. 41.2(b). A copy of the Attorney Registration Form is available on the Court's webpage at "www.nynd.uscourts.gov."

Proposed Language:

- (e) **Registration Form Changes.** Every attorney must update their e-mail address, telephone or fax number through CM/ECF within 14 days of a change. Detailed instructions are available on the Court's website, <http://www.nynd.uscourts.gov/>. Attorneys shall notify the Court within 10 days of any change to their mailing address by completing the automated Update My Information form located on the Court's website: <http://www.nynd.uscourts.gov/e-filingregistration/procform13.cfm>

Failure to keep this information current will result in removal from the roll of the Court.

Local Rule 83.1(g)

Current Language:

(g) United States Attorney's Office. An attorney appointed by the United States Attorney General as a United States Attorney, an Assistant United States Attorney, or as a Special Assistant United States Attorney under 28 U.S.C. §§ 541-543, who has been admitted to practice before any United States District Court, shall be admitted to practice in this Court upon motion of a member of the bar of this Court. Thereafter, the attorney may appear before this Court on any matter on behalf of the United States.

Proposed Language:

(g) United States Attorney's Office. An attorney appointed by the United States Attorney General as a United States Attorney, an Assistant United States Attorney, or as a Special Assistant United States Attorney under 28 U.S.C. §§ 541-543, who has been admitted to practice before any United States District Court, shall be admitted to practice in this Court upon motion of a member of the bar of this Court. Thereafter, the attorney may appear before this Court on any matter on behalf of the United States. **Prior to admission, applicants are required to complete and submit an oath of admission, a verified petition for admission to practice and an attorney E-filing registration form.**

Local Rule E(10).

Current Language:

(e) 10. Security Deposit for Seizure of Vessels.

The first party who seeks arrest or attachment of a vessel or property aboard a vessel shall deposit \$1,000 with the Marshal to cover the Marshal's expenses, including, but not limited to, dockage, keepers, maintenance and insurance. The Marshal is not required to execute process until the deposit is made. The Marshal may also require the party to arrange, in advance of the seizure, for a private security company to maintain security over the vessel or property after attachment. Parties requesting the attachment of a vessel or property are advised to contact the local Marshal's office for further information regarding this requirement. The party shall advance additional sums from time to time as requested to cover the Marshal's estimated expenses until the property is released or disposed of as provided in Supplemental Rule E. Any party who fails to advance such additional costs that the Marshal requires may not participate further in the proceedings, except by order of the Court. The Marshal may, upon notice to all parties, petition the Court for an order to be issued forthwith releasing the vessel if additional sums are not advanced within three business days of the initial request for additional sums.

Proposed Language:

(e) 10. Security Deposit for Seizure of Vessels.

The first party who seeks arrest or attachment of a vessel or property aboard a vessel shall make a minimum advance deposit with the United States Marshal's Service of \$5,000.00, or other such amount as determined appropriate by the United States Marshal. The deposit will be held by the Marshal to cover the Marshal's expenses, including, but not limited to, dockage keepers, maintenance and insurance. The Marshal is not required to execute process until the deposit is made. The Marshal may also require the party to arrange, in advance of the seizure, for a private security company to maintain security over the vessel or property after attachment. Parties requesting the attachment of a vessel or property are advised to contact the local Marshal's office for further information regarding this requirement. The party shall advance additional sums from time to time as requested to cover the Marshal's estimated expenses until the property is released or disposed of as provided in Supplemental Rule E. Any party who fails to advance such additional costs that the Marshal requires may not participate further in the proceedings except by order of the Court. The Marshal may, upon notice to all parties, petition the Court for an order to be issued forthwith releasing the vessel if additional sums are not advanced within seven (7) business days of the initial request for additional sums.