

Proposed Amendments to the NDNY Local Rules For Adoption and Publication in January, 2014

Executive Summary

Substantive Changes

The proposed amendments detailed below were submitted or derived from comments received from Northern District practitioners, judges, and court staff during the May–July 2013 suggestion period. Some proposed amendments seek to improve clarity and accuracy of existing rules, while others seek to alter practice based on new legal or policy considerations.

These proposed amendments and their reasoning are individually accessible through links provided in the leftmost column in the [summary table](#) below. If a proposed amendment alters an existing rule, the proposed alterations appear in **highlighted text** below the current language of the rule. Each proposed amendment also includes two convenient “[[back to top](#)]” links that lead back to the summary table.

Comment Period.

If you wish to submit a comment on a proposed modification to the Local Rules of Practice, you may do so via email at LocalRules2014@nynd.uscourts.gov or by regular mail 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 **October 15, 2013** to receive consideration. All comments will be compiled and advanced to the Northern District of New York Board of Judges for consideration at its September meeting.

Table of Proposed Changes to the NDNY Local Rules

Rule Number	Topic	Description of Change
Civ. R. 5.5	Filing by e-mail	Prohibits filing by e-mail as well as facsimile.
Civ. R. 7.1(a)(1)	Parallel citations	Removes requirement to provide parallel citations within Memorandums of law
Civ.R. 7.1(a)(1)	Decision exclusively reported on computerized databases	Removes requirement to include copies of decisions exclusively reported on computerized databases.
Civ. R.7.1 (a)(1)(B)	Memorandums of Law	Requires Memorandums of Law be filed for motions to amend or supplement pleadings.
Civ. R. 54.1(D)	Taxation of Costs	Prohibits the recovery of printing costs associated with pleadings for pro se litigants.

Local Civil Rule 5.5

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Current Text:

5.5 Filing by Facsimile

Neither the Court nor the Clerk's Office will accept for filing any facsimile transmission without prior authorization from the Court. The party using facsimile transmission to file its papers must accompany any such documents with a cover letter stating that the Court authorized such transmission and the date on which the Court provided that authorization. Violations of this Rule subject the offending party to the Court's full disciplinary powers.

Proposed Text:

5.5 Filing by Facsimile or E-mail

Neither the Court nor the Clerk's Office will accept for filing any facsimile or e-mail transmission without prior authorization from the Court. The party using facsimile or e-mail transmissions to file its papers must accompany any such documents with a cover letter stating that the Court authorized such transmissions and the date on which the Court provided that authorization. Violations of this Rule subject the offending party to the Court's full disciplinary powers.

Reason:

This proposal was generated as a result of several parties attempting to file their papers via e-mail without prior approval from the Court.

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Local Civil Rule 7.1(a)(1)

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Current Text:

1. Memorandum of Law. No party shall file or serve a memorandum of law that exceeds twenty-five(25) pages in length, unless that party obtains leave of the judge hearing the motion prior to filing. All memoranda of law shall contain a table of contents and, wherever possible, parallel citations. Memoranda of law that contain citations to decisions exclusively reported on computerized databases, e.g., Westlaw, Lexis, Juris, shall include copies of those decisions.

Proposed Text:

1. Memorandum of Law. No party shall file or serve a memorandum of law that exceeds twenty-five(25) pages in length, unless that party obtains leave of the judge hearing the motion prior to filing. All memoranda of law shall contain a table of contents. ~~and, wherever possible, parallel citations.~~ Memoranda of law that contain citations to decisions exclusively reported on computerized databases, e.g., Westlaw, Lexis, Juris, shall include copies of those decisions.

Reason:

A proposal was received to remove this requirement as being an unnecessary burden given the ease in which parallel citations can be identified via computerized legal research tools.

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Local Civil Rule 7.1(a)(1)

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1. Memorandum of Law. No party shall file or serve a memorandum of law that exceeds twenty-five(25) pages in length, unless that party obtains leave of the judge hearing the motion prior to filing. All memoranda of law shall contain a table of contents and, wherever possible, parallel citations. Memoranda of law that contain citations to decisions exclusively reported on computerized databases, e.g., Westlaw, Lexis, Juris, shall include copies of those decisions.

Proposed Text:

1. Memorandum of Law. No party shall file or serve a memorandum of law that exceeds twenty-five(25) pages in length, unless that party obtains leave of the judge hearing the motion prior to filing. All memoranda of law shall contain a table of contents. and, wherever possible, parallel citations. ~~Memoranda of law that contain citations to decisions exclusively reported on computerized databases, e.g., Westlaw, Lexis, Juris, shall include copies of those decisions.~~ Copies of decisions exclusively reported on computerized databases, e.g. Westlaw, Lexis, Juris, are not required to be submitted to the Court. However, copies of these decisions shall be provided to the opposing side upon request.

Reason:

A proposal was received to remove this requirement as being an unnecessary burden given the ease in which these decisions can be obtained via computerized legal research tools. Included within this proposal is language to allow opposing counsel or parties the ability to request a copy of these decisions should they not have the ability to obtain them by other means.

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Local Civil Rule 7.1(a)(1)(B)

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Current Text:

A memorandum of law is required for all motions except the following:

- (A) a motion pursuant to Fed. R. Civ. P. 12(e) for a more definite statement;
- (B) a motion pursuant to Fed. R. Civ. P. 15 to amend or supplement a pleading;
- (C) a motion pursuant to Fed. R. Civ. P. 17 to appoint next friend or guardian *ad litem*;
- (D) a motion pursuant to Fed. R. Civ. P. 25 for substitution of parties;
- (E) a motion pursuant to Fed. R. Civ. P. 37 to compel discovery; and
- (F) a motion pursuant to Fed. R. Civ. P. 55 for default.

Proposed Text:

A memorandum of law is required for all motions except the following:

- (A) a motion pursuant to Fed. R. Civ. P. 12(e) for a more definite statement;
- ~~(B) a motion pursuant to Fed. R. Civ. P. 15 to amend or supplement a pleading;~~
- (B) a motion pursuant to Fed. R. Civ. P. 17 to appoint next friend or guardian *ad litem*;
- (C) a motion pursuant to Fed. R. Civ. P. 25 for substitution of parties;
- (D) a motion pursuant to Fed. R. Civ. P. 37 to compel discovery; and
- (E) a motion pursuant to Fed. R. Civ. P. 55 for default.

Reason:

It is common practice for litigants to file memorandums of law when filing motions to amend and/or supplement their pleadings. Court personnel have found these memorandums to be beneficial in the determination process and accordingly have requested this amendment to the Local Rules.

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Local Civil Rule 54.1: Taxation of Costs

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Current Text:

No current text addressing this issue.

Proposed Text:

(d) Printing Costs Associated with serving Pro Se litigants with Pleadings.

Absent prior approval from the Court, printing costs associated with pleadings served upon pro se litigants are not recoverable under this section.

Reason:

Recently the court has bills of costs which have included printing costs for pleadings served upon pro se litigants. Because the Northern District of New York severely limits the ability of pro se litigant to file or receive documents via the Court's CM/ECF system, it is inequitable to impose upon them the printing costs associated with providing them hard copies of the pleadings.

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