

Amendments to the NDNY Local Rules

Effective January 1, 2022

The proposed amendments detailed below were submitted or derived from comments received from the public, practitioners, judges and court staff during the February – April 2021 suggestion period. The changes were approved by the Board of Judges on October 1, 2021 subject to the review and approval of the Second Circuit Council. On October 5, 2021, the Second Circuit Judicial Council approved these changes. In addition, several of the Rules were modified to reflect citation, grammatical and/or administrative changes which do not materially alter the current rule. These amendments will become effective January 1, 2022 and supersede and/or supplement the specific sections set forth below.

Summary Table of Changes to the NDNY Local Rules

| Rule Number | Topic | Description of Change |
|-------------|--|---|
| | Bankruptcy Judges | Updated Hon. Diane Davis to Chief Judge; removed Judge Cangilos-Ruiz; and added Judge Kinsella |
| | U.S. Attorney | Updated to Carla B. Freedman, U.S. Attorney |
| 5.1(b) | Orders | Paragraph 77.2(b) was relocated to Local Rule 5.1(b) |
| 5.1.2 | Prepayment of Fees | Modified to reflect that all civil cases filed will be opened, regardless of payment of filing fee or IFP application, but will be reviewed for an Order Administratively closing the case. |
| 5.1.4(b) | Civil Actions Filed <i>In Forma Pauperis</i> | Modified to reflect that after a filing fee was paid or IFP has been filed after a case was administratively closed, the Clerk will reopen the same case, and if an IFP was filed, the Clerk will refer to the judicial officer for review. |
| 7.1(a)(1) | Reply memorandum of law | Updated to reflect that a reply memorandum of law may not exceed 10 pages in length. |
| 7.1(b)(1) | Memorandum of Law | Modified to reflect that a memorandum of law shall not exceed 25 pages in length, double spaced, and shall contain numbered pages. |

| | | |
|---------------|-----------------------------------|---|
| 9.1 | Request for Three-Judge Court | Modified to reflect that three paper copies of documents are no longer necessary. |
| 10.1(d) | Form of Papers | Removed paragraph (d) which required transcripts to be bound in book format, as transcripts are electronically filed on ECF; and renumbered paragraph (e) as paragraph (d). |
| 26.5 | Privilege Log | Addition of requirements for Privilege Log |
| 41.2(a) | Dismissal of Actions | Removed language with regard to dismissal calendar and hearing. |
| 55.2 | Default Judgment | Modified to remind filers that a Clerk's Entry of Default is required before filing a motion for default judgment. |
| 58.1 | Entry of Judgment | Grammatical changes made |
| 64.1(a) | Seizure of Person or Property | Updated name of U.S. Customs and Border Protection, and the address where special process servers are located. |
| 67.1 and 67.2 | Deposits/ Withdrawals in Court | General Order 56 was incorporated into Local Rules 67.1 and 67.2 regarding deposits and withdrawals of funds into the Court's interest-bearing account. |
| 72.2(d) | Duties of Magistrate Judges | Removed Paragraph (d)(3) because this Act was repealed. |
| 72.3(e) | Federal Debt Collection Act Cases | Modified to reflect that Magistrate Judges are assigned in accordance with General Order 12. |
| 77.2 | Orders | Modified to remove orders the Clerk of Court may issue. |
| 77.2(b) | Orders | Paragraph 77.2(b) was relocated to Local Rule 5.1(b) |

| | | |
|------------------------|--|---|
| 77.5 | Official Newspapers | Updated Newspaper names and locations. |
| 83.1(a)(5) | Admission to Bar | Updated to reflect that attorneys removed from the NDNY Bar will not require a sponsor affidavit when submitting attorney admission paperwork for readmittance for failure to pay the biennial fee. |
| 83.3(b)(7)(G) | Complaints alleging Misconduct in this Court | Paragraph (G) was added to reciprocate an Appellate Division Rule allowing the sharing of information regarding attorney misconduct with a NYS Court. |
| Criminal 5.1 | Notice of Arrest | Paragraph (b) was updated to reflect the USMS to advise Probation of date of arrest and place of confinement. |
| Criminal 12.1(e) | Motions and Other Papers | Modified to reflect that regardless if the parties agree to a suppression hearing, it is at the discretion of the Court to determine if a suppression hearing is necessary. |
| Criminal 17.1 | Subpoenas | Modified to reflect that attorneys may request subpoena signed by judicial officer or Clerk; and paragraph (d) was added with regard to Grand Jury subpoenas which is language from General Order 11. |
| Criminal 17.1.1 | Pretrial Conferences | Paragraph (e) was updated to reflect that the USAO is responsible for securing an interpreter for Governmental witnesses. |
| Criminal 20.1 | Transfer from a District for Plea and Sentence | Updated the language “minor offense” to “petty offense or misdemeanor”. |
| Criminal 32.1 | Presentence Report | Updated to reflect that a Statement of Reasons will rule on unresolved objections, not the Presentence Report |
| Criminal 59.1(a)(2)(C) | Magistrate Judges Powers and Duties | Incorporated language from General Order 9 regarding oversight and administration of each seated grand jury. |
| Appendix | Patent Deadlines | Updated deadline to file Accused Non-Infringement/Invalidity/Unenforceability Contentions to 30 days after service of the disclosure of asserted claims and infringement contentions |