

Amendments to the NDNY Local Rules

Effective January 1, 2021

The proposed amendments detailed below were submitted or derived from comments received from the public, practitioners, judges and court staff during the May–July 2020 suggestion period. The changes were approved by the Board of Judges on October 8, 2020 subject to the review and approval of the Second Circuit Council. On November 9, 2020, 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, 2021 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
3.1	Case Assignment System	Civil L.R. 40.1 has been renumbered and relocated to Civil L.R. 3.1 to correlate to Fed.R.Civ.P. Rule 3. No change to the rule.
Former 3.1	Civil Cover Sheet	Civil L.R. 3.1 has been renumbered as L.R. 3.2 to accommodate the new L.R. 3.1. No change to the rule.
Former 3.2	Venue	Civil L.R. 3.2 has been renumbered as L.R. 3.3 to accommodate the new L.R. 3.1. No change to the rule.
Former 3.3	Complex and Multi-District Litigation	Civil L.R. 3.3 has been renumbered as L.R. 3.4 to accommodate the new L.R. 3.1. No change to the rule.
3.5	Non-Incarcerated Pro Se Litigant	General Order 49 has been incorporated into L.R. 3.5, and G.O. #49 will be abrogated.
3.6	Incarcerated Pro Se Litigant	General Order 46 has been incorporated into L.R. 3.6, and G.O. #46 will be abrogated.
3.7	Transfer of Cases to Another District	Civil L.R. 83.6 has been renumbered and relocated to Civil L.R. 3.7 to correlate with Fed.R.Civ.P. Rule 3. No change to the rule.
4.1	Service of Process	Section (a) was modified to include exceptions to service rules, as well as to remove clerk's ability to appoint persons to serve process. Section (d) has been removed. Section (f) has been updated to clarify that individuals, corporation or association defendant are subject to this waiver rule, and it also allows for reasonable expenses, including attorneys' fees for bringing a motion, where a defendant fails to return a signed waiver of service.

5.1(e)	Service and Filing of Papers	The phrase “and if the plaintiff so requests” has been removed from this rule. If defendant(s) fails to sign and return a waiver of service, the USMS will automatically attempt personal service without plaintiff having to request personal service.
5.2	Personal Privacy Protection	Civil L.R. 8.1 has been renumbered and relocated to Civil L.R. 5.2 to correlate with Fed.R.Civ.P. Rule 5.2. Updates made to this section correspond with the Federal Rule.
Former 5.2	Prepayment of Fees	Civil L.R. 5.2 has been renumbered as L.R. 5.1.2 to accommodate the new L.R. 5.2. No change to the rule.
5.3	Sealed Matters	Civil L.R. 83.13 has been renumbered and relocated to Civil Local Rule 5.3 which correlates with Fed.R.Civ.P. Rule 5.2.
Former 5.3	Schedule of Fees	Civil L.R. 5.3 has been renumbered as L.R. 5.1.3 to accommodate the new L.R. 5.2. No change to the rule.
Former 5.4	Civil Actions Filed In Forma Pauperis	Civil L.R. 5.4 has been renumbered as L.R. 5.1.4 to accommodate the new L.R. 5.2. No change to the rule.
Former 5.5	Filing by Facsimile	Civil L.R. 5.5 has been renumbered as L.R. 5.1.5 to accommodate the new L.R. 5.2. No change to the rule.
5.6	Service of Writ in Exclusion & Deportation Cases	This Local Rule has been omitted as the corresponding Federal Rule was repealed.
Former 5.7	Documents to be provided to the Clerk	Civil L.R. 5.7 has been renumbered as L.R. 5.1.6 to accommodate the new L.R. 5.2. No change to the rule.
Former 5.8	Recording of Proceedings	Civil L.R. 5.8 has been renumbered as L.R. 5.1.7 to accommodate the new L.R. 5.2. No change to the rule.
6.1	Calculation of Time Periods	Provides a reference to Local Rule 7.1 for calculating time for the briefing schedule of motions.
7.1	Motion Practice	Civil L.R. 7.1 has been dissected, and various subsections have been renumbered and relocated to correspond with the appropriate Federal Rule. No oral argument will be held on any motions without Court approval. The calculation of response/reply deadlines to motions has been revised.

Former 8.1	Personal Privacy Protection	Civil L.R. 8.1 has been renumbered and relocated to Civil L.R. 5.2 to correlate with Fed.R.Civ.P. Rule 5.2. Updates made to this section correspond with the Federal Rule.
11.1	Appearance and Withdrawal of Attorney	Civil L.R. 83.2 has been renumbered and relocated to Civil L.R. 11.1 to correspond with Federal Rule. No change to the rule.
12.1	Defenses and Objections/Motions under Fed.R.Civ.P. Rule 12	This section from Civil L.R. 7.1 has been relocated to L.R. 12.1 to correlate with Fed.R.Civ.P. Rule 12.
15.1	Amended and Supplemental Pleadings	This section from Civil L.R. 7.1(a)(4) has been relocated to L.R. 15.1 to correlate with Fed.R.Civ.P. Rule 15. The title of this section was updated to correlate to Rule 15.
37.1	Discovery Motions	This section from Civil L.R. 7.1(d) has been relocated to L.R. 37.1 to correlate with Fed.R.Civ.P. Rule 37.
Former 40.1	Case Assignment System	Civil L.R. 40.1 has been renumbered and relocated to Civil L.R. 3.1 to correlate to Fed.R.Civ.P. Rule 3. No change to the rule.
Former 40.2	Preferences	Civil L.R. 40.2 has been renumbered as L.R. 40.1 as L.R. 40.1 has been moved to L.R. 3. No change to the rule.
Former 40.3	Trial Calendar	Civil L.R. 40.3 has been renumbered as L.R. 40.2 as L.R. 40.1 has been moved to L.R. 3. No change to the rule.
47.2(b)	Jury Selection	Section (b) has been updated to include a sentence explaining the jury selection process via "strike method".
54.4	Motion for Attorneys' Fees under 42 U.S.C. 406(b)	This local rule was added to extend the time frame to file a motion for attorneys' fees under 42 U.S.C. §406(b) to 60 days.
56.1	Summary Judgment Procedure	This section from Civil Local Rule 7.1(a)(3) was relocated to Civil L.R. 56.1 to correlate with Fed.R.Civ.P. Rule 56.
60.1	Relief from Judgment or Order	This section from Civil Local Rule 7.1 was relocated to Civil L.R. 60.1 to correlate with Fed.R.Civ.P. Rule 60.
64.1	Seizure of Property	This Local Rule was updated to provide guidance to attorneys with regard to clerk's office procedure for seizure of property, including applications under the Fair Debt Collection Act.

65.1	Injunctions and Temporary Restraining Orders	This section from Civil Local Rule 7.1 was relocated to Civil L.R. 65.1 to correlate with Fed.R.Civ.P. Rule 65. It includes the required paperwork for a Temporary Restraining Order/Preliminary injunction.
65.2	Temporary Restraining Orders	This Local Rule has been omitted as it is contained in L.R. 65.1.
68.1	Settlement Conferences	This Local Rule has been omitted as it references L.R. 16.1 which encompasses Rule 16 conferences.
Former 68.2	Settlement Procedures	Civil Local Rule 68.2 has been renumbered as Civil L.R. 68.1 as that rule has been omitted.
Former 72.4	Habeas Corpus	Civil Local Rule 72.4 has been relocated to its own Section XIII, Rule 1.1, for Habeas Corpus petitions. The new Rule 1.1(d) removes any reference to bound documents as all documents are filed electronically.
Former 72.5	Habeas Corpus Petitions Involving the Death Penalty	Civil Local Rule 72.5 has been relocated to its own Section XIII, Rule 1.2, for Habeas Corpus petitions involving the death penalty. The addition of Rule 1.1(f) includes the requirement of the Court to issue or deny a certificate of appealability in decisions on Habeas Corpus petitions.
Former 72.5(e)	Filing.	Civil Local Rule 72.5 has been renumbered and relocated as Habeas Corpus Local Rule 1.2(e). The requirement to provide 3 copies has been removed as it is no longer required.
74.1	Method of Appeal to District Judge in Consent Cases	This rule is omitted as Fed.R.Civ.P. Rule 74 was abrogated.
75.1	Proceedings on Appeal from Magistrate Judge to District Judge under Rule 73(d)	This rule is omitted as Fed.R.Civ.P. Rule 75 was abrogated
76.1	Bankruptcy Cases	Civil Local Rule 76.1 has been renumbered and relocated to L.R. 81.1. No change to the rule.
76.2	Bankruptcy Appeals	Civil Local Rule 76.2 has been renumbered and relocated to L.R. 81.2 and it replaced L.R. 81.2 which is being omitted. Section (b) has been modified to indicate that service upon interested parties is done electronically via ECF.
77.3	Sessions of Court	This rule is updated to include Plattsburgh as a location where Court is held in NDNY.

78.1	Motion Days	This Local Rule has been omitted as the Court will no longer hold oral argument on motions without prior approval of the Court.
79.2	Books and Records of the Clerk	This Local Rule has been removed as there is no corresponding Federal rule.
81.1	Bankruptcy Cases	Civil Local Rule 76.1 has been renumbered and relocated to L.R. 81.1. No change to the rule.
81.2	Bankruptcy Appeals	Civil Local Rule 76.2 has been renumbered and relocated to L.R. 81.2 and it replaced L.R. 81.2 which is being omitted. Section (b) has been modified to indicate that service upon interested parties is done electronically via ECF.
Former 81.1	Removal Bonds	This Local Rule has been removed as there is no corresponding Federal rule.
Former 81.2	Copies of State Court Proceedings in Removed Actions	This Local Rule has been removed as there is no corresponding Federal rule.
Former 81.3	Removed Cases, Demand for Jury Trial	Civil Local Rule 81.3 will be renumbered as L.R. 81.4 to follow new Local Rules 81.1 and 81.2 (formerly L.R. 76.1 and 76.2). No change to the rule.
Former 81.4	Actions removed pursuant to 28 U.S.C. §1452	Civil Local Rule 81.4 will be renumbered as L.R. 81.3 to follow new Local Rules 81.1 and 81.2 (formerly L.R. 76.1 and 76.2). No change to the rule.
83.1	Admission to the Bar	This rule was updated to require attorneys seeking admission to the NDNY as well as when paying the biennial fee, to affirm that he/she has not been convicted of a crime, or if so, to explain; as well as the requirement to notify the Court within 14 days of a conviction of misdemeanor or felony. The court fee for standard admission to the bar was updated to \$238.00 in accordance with District Court Miscellaneous Fee Schedule.
Former 83.2	Appearance and Withdrawal of Attorney	Civil Local Rule 83.2 has been renumbered and relocated to L.R. 11.1 to correlate to Fed.R.Civ.P. Rule 11. No change to the rule.
Former 83.3	Pro Bono Service	Civil Local Rule 83.3 has been renumbered as L.R. 83.2 as L.R. 83.2 has been relocated. It also includes a statement that pro bono attorneys may request the Clerk's office regenerate documents so as to avoid the cost of viewing the documents on PACER.

Former 83.4	Discipline of Attorneys	Civil L.R. 84.4 has been renumbered as L.R. 83.3. (L.R. 83.2 has been relocated to L.R. 11.1, and L.R. 83.3 has been renumbered as L.R. 83.2). This Local Rule was revised to incorporate General Order 57 which shall be abrogated, including but not limited to, reporting requirements of a conviction of a misdemeanor or felony; as well as a procedure for filing a motion to vacate a disciplinary order; and a procedure for applying for reinstatement 1 year after the disciplinary order was issued.
Former 83.5	Contempt	Civil Local Rule 83.5 has been renumbered as L.R. 83.4 as L.R. 83.2 has been relocated. No change to the rule.
Former 83.6	Transfer of Cases to Another District	Civil L.R. 83.6 has been renumbered and relocated to Civil L.R. 3.7 to correlate with Fed.R.Civ.P. Rule 3. No change to the rule.
Former 83.7	Mandatory Mediation Plan	Civil Local Rule 83.7 has been renumbered as L.R. 83.5 as L.R. 83.2 and 83.6 have been relocated. No change to the rule.
Former 83.8	Assisted Mediation Program	Civil Local Rule 83.8 has been renumbered as L.R. 83.6 as L.R. 83.2 and 83.6 have been relocated. The appointment of pro bono counsel for assisted mediation is no longer optional.
Former 83.9	Judicial Mediation in Prisoner Civil Rights Cases	Civil Local Rule 83.9 has been renumbered as L.R. 83.7 as L.R. 83.2 and 83.6 have been relocated. No change to the rule.
Former 83.10	Commission to Take Testimony	Civil Local Rule 83.10 has been omitted as corresponding the federal rule was repealed.
Former 83.11	Student Practice	Civil Local Rule 83.11 has been renumbered as L.R. 83.8 as L.R. 83.2 and 83.6 have been relocated and 83.10 has been repealed. No change to the rule.
Former 83.12	Production and Disclosure of Document and Testimony of Judicial Personnel in Legal Proceedings	Civil Local Rule 83.12 has been renumbered as L.R. 83.9 as L.R. 83.2 and 83.6 have been relocated and 83.10 has been repealed. No change to the rule.
Former 83.13	Sealed Matters	Civil Local Rule 83.13 has been renumbered and relocated as L.R. 5.3 to correspond with Fed.R.Civ.P. Rule 5.2. No change to the rule.
Former 83.14	Appearances of Former Judicial Officers	Civil Local Rule 83.11 has been renumbered as L.R. 83.8 as L.R. 83.2, 83.6, and 83.13 have been relocated and 83.10 has been repealed. No change to the rule.

Former Criminal L.R. 1.3	Personal Privacy Protection	Criminal Local Rule 1.3 has been renumbered and relocated to Crim.L.R. 49.1 to correlate with Fed.R.Crim.P. Rule 49. Updates made to this section correspond with the Federal Rule.
Criminal L.R. 12.1	Motions and Other Papers	No oral argument will be held on any motions, without Court approval. The calculation of response/reply deadlines to motions has been revised.
Former Criminal L.R. 13.1	Sealed Matters	Criminal Local Rule 13.1 has been renumbered and relocated to Criminal L.R. 49.2 to correlate with Fed.R.Crim.P. Rule 49.1. Paragraph (a) has been revised to clarify exceptions to this rule.
Criminal L.R. 46.2	Release of Bond	Criminal Local Rule 57.2 has been renumbered and relocated to Criminal L.R. 46.2 to correlate with Fed.R.Crim.P. Rule 46. No change to the rule.
Criminal L.R. 49.1	Personal Privacy Protection	Criminal Local Rule 1.3 has been renumbered and relocated to Crim.L.R. 49.1 to correlate with Fed.R.Crim.P. Rule 49. Updates made to this section correspond with the Federal Rule.
Criminal L.R. 49.2	Sealed Matters	Criminal Local Rule 13.1 has been renumbered and relocated to Criminal L.R. 49.2 to correlate with Fed.R.Crim.P. Rule 49.1. Paragraph (a) has been revised to clarify exceptions to this rule.
Criminal L.R. 57.2	Release of Bond	Criminal Local Rule 57.2 has been renumbered and relocated to Criminal L.R. 46.2 to correlate with Fed.R.Crim.P. Rule 46. No change to the rule.
Former Criminal L.R. 58.1	Magistrate Judges	Criminal Local Rule 58.1 has been renumbered as Criminal L.R. 59.1 to correlate with Fed.R.Crim.P. Rule 59. No change to the rule.
Former Criminal L.R. 58.2	Forfeiture of Collateral in Lieu of Appearance	Criminal Local Rule 58.2 has been renumbered as Criminal L.R. 58.1 as former Criminal L.R. 58.1 has been relocated.
Local Admiralty & Maritime Rule E(7)	Actions In Rem and Quasi In Rem- General Provisions	Rule E(7) has been updated to include a required security amount of \$1,000.00.
Former Local Rule for Admiralty & Maritime – Rule G(1) & (2)	Special Rules	Local Rules for Admiralty and Maritime Cases Rules G(1) and G(2) has been renumbered and relocated to Rules A(5) and A(6), respectively. No change to the rules.
Local Rule for Admiralty & Maritime –Rule G	Forfeiture Actions In Rem	This rule was added to correlate with Federal Admiralty and Maritime Rule G and to make reference to General Order 15 which governs forfeiture actions.