

Proposed Amendments to the NDNY Local Rules Effective January 1, 2027

The proposed amendments detailed below were submitted or derived from comments received from the public, practitioners, judges and court staff during the February – April 2026 suggestion period. The changes were approved by the Board of Judges on [REDACTED], subject to the review and approval of the Second Circuit Council. On [REDACTED], 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 are effective January 1, 2027, and supersede and/or supplement the specific sections set forth within this handout.

Rule Number	Topic	Description of Requested Change
5.3(d)	Sealed Matters	Subsection (d) was modified to reflect that documents not sealed will be treated as withdrawn, unless otherwise directed by the Court.
72.1(c)	Authority of Magistrate Judges	Clarifies that a Report and Recommendation is not a final decision appealable to the Second Circuit.
81.2	Bankruptcy Appeals	Modified to reflect the Record on Appeal may be electronically certified by Bankruptcy Court, in lieu of transmitting PDF documents, and outlining procedure for same.
83.1(g)	Attorney Admissions	Modified to recommend attorneys whitelist the Court's email addresses to permit delivery of email blasts, often blocked by the attorney's email security settings or firewall, with Court announcements, CLEs, Local Rules updates, Biennial Registration, etc.
83.3(b), (g)	Attorney Discipline	Modified to delay the effective date of an attorney discipline order until 21 days after issuance to provide attorney time to file a motion to stay.
Crim L.R. 41.1	Search and Seizure Warrants	Modified to reflect an application for a sealed search warrant shall include a proposed Sealing Order with an expiration date to unseal the case not to exceed 180 days after the last search warrant is filed, unless an extension has been granted by the Court.
Crim. L.R. 59.1(a)(3) and (c)(3)	Magistrate Judges: Powers and Duties	Modified to include a requirement that a Notice of Appeal of a Magistrate Judge Pretrial Order or Judgment filed with an emergency motion for a stay and/or a request for expedited briefing must be accompanied by an affidavit setting forth the reasons for the stay and/or why the standard briefing schedule is insufficient, and requires counsel to contact the Clerk's Office to advise that an emergency Notice of Appeal of a Magistrate Judge's Pretrial Order or Judgment was filed.

Habeas Corpus 1.1(f)	Habeas Corpus	Modified to include a requirement that counsel contact chambers to advise of the filing of an emergency Petition for Writ of Habeas Corpus, or if no existing case, to contact the Clerk's Office to notify of the emergency petition having been filed.
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The full text version of the proposed changes are set forth below. If a proposed amendment alters an existing rule, the proposed alterations appear in **highlighted text** below the current language of the rule or are ~~redlined~~ within the text.

Proposed Changes to Civil Local Rule 5.3(d)

5.3 Sealed Matters

Current Text:

(d) Should an application to seal be denied, the documents sought to be sealed will be treated as withdrawn and will not be considered by the Court. Any documents submitted in non-electronic form will be returned to the party advancing the request. The requesting party shall retain all submitted documents for a period of not less than sixty days after all dates for appellate review have expired.

Proposed Text:

(d) Should an application to seal be denied, the documents sought to be sealed will be treated as withdrawn and will not be considered by the Court, unless the Court directs otherwise. Any documents submitted in non-electronic form will be returned to the party advancing the request. The requesting party shall retain all submitted documents for a period of not less than sixty days after all dates for appellate review have expired.

Proposed Changes to Civil Local Rule 72.1(c)

Current Text:

72.1 Authority of Magistrate Judges

(c) **Objections to a Magistrate's Report and Recommendation.** Any party may object to a Magistrate Judge's proposed findings, recommendations, or report issued pursuant to [28 U.S.C. § 636\(b\)\(1\)\(B\) and \(C\)](#) within fourteen (14) days after being served with a copy of the Magistrate Judge's recommendation. The party must file with the Clerk and serve upon all parties written objections which specifically identify the portions of the proposed findings, recommendations, or report to which it has an objection and the basis for the objection. The party shall file with the Clerk a transcript of the specific portions of any evidentiary proceedings to which it has an objection. Objections may not exceed twenty-five (25) pages without the Court's prior approval. The opposing party may file and serve its response to the objections within fourteen (14) days after being served with a copy of the objections. The objecting party may not file a reply. The Court will proceed in accordance with [Fed. R. Civ. P. 72\(b\)](#) or [Rule 8\(b\) of the Rules Governing Section 2254 Petitions](#), as applicable.

Proposed Text:

(c) **Objections to a Magistrate's Report and Recommendation.** **A Report and Recommendation issued by a Magistrate Judge is not a final decision appealable to the Second Circuit Court of Appeals. However,** any party may object to a Magistrate Judge's proposed findings, recommendations, or report issued pursuant to [28 U.S.C. § 636\(b\)\(1\) \(C\)](#) within fourteen (14) days after being served with a copy of the Magistrate Judge's recommendation. The party must file with the Clerk and serve upon all parties written objections which specifically identify the portions of the proposed findings, recommendations, or report to which it has an objection and the basis for the objection. The party shall file with the Clerk a transcript of the specific portions of any evidentiary proceedings to which it has an objection. Objections may not exceed twenty-five (25) pages without the Court's prior approval. The opposing party may file and serve its response to the objections within fourteen (14) days after being served with a copy of the objections. The objecting party may not file a reply. The Court will proceed in accordance with [Fed. R. Civ. P. 72\(b\)](#) or [Rule 8\(b\) of the Rules Governing Section 2254 Petitions](#), as applicable.

Proposed Changes to Civil Local Rule 81.2

Current Text:

81.2 Bankruptcy Appeals (formerly L.R. 76.2) (Amended January 1, 2023)

(a) When a party files a notice of appeal with the bankruptcy court clerk, and the notice is not timely filed in accordance with [Fed. R. Bankr. P. 8002\(a\)](#); and the party did not file a motion for extension of time in accordance with [Fed. R. Bankr. P. 8002\(c\)](#), the bankruptcy court clerk shall forward the notice of appeal together with a “Certification of Noncompliance” to the Clerk without assembling the record as provided for in [Fed. R. Bankr. P. 8010\(b\)](#). The Clerk shall file the notice and certificate, assign a civil action number, and forward the file to a District Judge to determine whether the party timely filed the notice of appeal or whether to dismiss the appeal as untimely. If the District Judge determines that the party timely filed the appeal or that the appeal should otherwise be perfected, the Clerk shall notify the bankruptcy court clerk to complete the record promptly in accordance with [Fed. R. Bankr. P. 8010\(b\)](#).

(b) The Clerk shall issue a standard bankruptcy appeal scheduling notice at the time of the filing of the record on appeal, a copy of which the Clerk shall serve on the parties via CM/ECF, or by regular mail on a *pro se* party. There will be no oral argument unless the court notifies the parties that oral argument is necessary.

- i. Appellant’s brief, not to exceed 25 pages, is due forty (40) days from the filing of the Court’s Scheduling Notice.
- ii. Appellee’s brief, not to exceed 25 pages, is due forty (40) days from the filing of the appellant’s brief.
- iii. Appellant’s reply brief, not to exceed 10 pages, is due twenty (20) days from the filing of the appellee’s brief.

(c) Appeals from a decision of the bankruptcy court shall be in accordance with [28 U.S.C. § 158](#) and applicable bankruptcy rules. The time to file briefs shall be in accordance with the District Court’s Bankruptcy Appeal Scheduling Order.

(d) No party shall file a memorandum of law that exceeds twenty-five (25) pages in length, unless that party obtains leave of the judge hearing the appeal prior to filing.

Proposed Text:

81.2 Bankruptcy Appeals (formerly L.R. 76.2) (Amended January 1, 2023)

(a) **Notice of Appeal:** The Bankruptcy Court clerk shall file the Notice of Appeal with a copy of the Decision and Order being appealed with the District Court pursuant to Fed. R. Bankr. P. 8003(d).

(b) **Certificate of Compliance and Record on Appeal:** When the record is complete, the Bankruptcy Court clerk shall file the following with the District Court clerk pursuant to [Fed. R. Bankr. P. 8010\(b\)](#): (1) Certificate of Compliance; (2) an Electronic Notice and Certification of the Record on Appeal, indicating which documents, if any, are not available electronically; and (3) the Designation(s) of the Record on Appeal filed by the parties, within 10 days, upon finalization of the designation of the Record on Appeal.

(c) **Certificate of Non-Compliance:** When a party files a notice of appeal with the bankruptcy court clerk, and the notice is not timely filed in accordance with [Fed. R. Bankr. P. 8002\(a\)](#); and the party did not file a motion for extension of time in accordance with [Fed. R. Bankr. P. 8002\(c\)](#), the bankruptcy court clerk shall forward the notice of appeal together with a “Certification of Noncompliance” to the Clerk without assembling the record as provided for in [Fed. R. Bankr. P. 8010\(b\)](#). The Clerk shall file the notice and certificate, assign a civil action number, and forward the file to a District Judge to determine whether the party timely filed the notice of appeal or whether to dismiss the appeal as untimely. If the District Judge determines that the party timely filed the appeal or that the appeal should otherwise be perfected, the Clerk shall notify the bankruptcy court clerk to complete the record promptly in accordance with [Fed. R. Bankr. P. 8010\(b\)](#). (d) **Scheduling Order:** The Clerk shall issue a standard bankruptcy appeal scheduling notice at the time of the filing of the record on appeal, a copy of which the Clerk shall serve on the parties via CM/ECF, or by regular mail on a *pro se* party. There will be no oral argument unless the court notifies the parties that oral argument is necessary. All briefs shall properly cite to the correct Bankruptcy Court docket number in their papers and differentiate any reference to a District Court docket number vs. Bankruptcy Court docket number.

- i. Appellant’s brief, not to exceed 25 pages, is due forty (40) days from the filing of the Court’s Scheduling Notice.
- ii. Appellee’s brief, not to exceed 25 pages, is due forty (40) days from the filing of the appellant’s brief.
- iii. Appellant’s reply brief, not to exceed 10 pages, is due twenty (20) days from the filing of the appellee’s brief.

(e) **Jurisdiction:** Appeals from a decision of the bankruptcy court shall be in accordance with [28 U.S.C. § 158](#) and applicable bankruptcy rules. The time to file briefs shall be in accordance with the District Court’s Bankruptcy Appeal Scheduling Order.

~~No party shall file a memorandum of law that exceeds twenty-five (25) pages in length, unless that party obtains leave of the judge hearing the appeal prior to filing.~~

Proposed Changes to Civil Local Rule 83.1(g)

Current Text:

(g) Biennial Registration. Every member of the bar of the Northern District of New York shall submit an application for biennial registration pursuant to notice from the Clerk of Court. A \$50.00 biennial registration fee will be required unless the Board of Judges directs otherwise. Should the payment of this biennial fee present a significant financial hardship, an attorney may request, by submitting an application to the Chief Judge, that the biennial registration fee be waived. The biennial registration fee is waived for all attorneys employed full-time by federal, state and local public sector entities.

1. Failure to comply with the biennial registration and remit the biennial fee, unless waived, will result in the automatic removal of the attorney from the Court's bar roll. Unless excused by the Chief Judge to gain readmittance to the Northern District of New York Bar, attorneys removed from the bar for failure to comply with the biennial registration must satisfy all of the admission requirements set forth in Local Rule 83.1(a).
2. The Clerk shall deposit the additional **\$50.00** fee required for admission to the bar and the **\$50.00** biennial registration fee into the District Court Fund. The Clerk shall be the trustee of the Fund, and the monies deposited in the Fund shall be used only for the benefit of the bench and bar in the administration of justice. All withdrawals from the Fund require the approval of the Chief Judge or a judge designated by the Chief Judge to authorize the withdrawals.
3. In the application for biennial registration, the member must certify whether or not, within the time period since his/her admission to this bar or most recent biennial registration, he/she (1) has been convicted of a felony or misdemeanor; (2) has been held in contempt of court, disbarred, suspended, censured, sanctioned, or otherwise disciplined by any Federal, State or Local Court or attorney disciplinary authority; and (3) has resigned from the bar of any jurisdiction while a professional misconduct investigation was pending. Where the member provides notice of such occurrence, he/she shall also disclose the relevant circumstances in writing. Failure to provide notice of such an occurrence may result in removal from the roll of the Court. In response to such notice, the Court may take further action in accordance with Local Rule 83.3, including, where the Chief Judge determines good cause exists, provisional denial of the application for biennial registration pending further investigation or proceedings.

Proposed Text:

(g) Biennial Registration. Every member of the bar of the Northern District of New York shall submit an application for biennial registration pursuant to notice from the Clerk of Court. A \$50.00 biennial registration fee will be required unless the Board of Judges directs otherwise. Should the payment of this biennial fee present a significant financial hardship, an attorney may request, by submitting an application to the Chief Judge, that the biennial registration fee be waived. The biennial registration fee is waived for all attorneys employed full-time by federal, state and local public sector entities.

1. Failure to comply with the biennial registration and remit the biennial fee, unless waived, will result in the automatic removal of the attorney from the Court's bar roll. Unless excused by the Chief Judge, to gain readmittance to the Northern District of New York Bar, attorneys removed from the bar for failure to comply with the biennial registration must satisfy all of the admission requirements set forth in Local Rule 83.1(a).

Notification of Biennial Registration requirements will be emailed to all bar members, posted on the Court's website, and posted on social media. Failure to receive the Court's email blasts with instructions and the deadline to complete the biennial registration is not an acceptable excuse for failure to complete the biennial registration. Members of the bar are expected to confirm their email security settings and/or spam filters will permit delivery of a mass email from both of the Court's following email addresses: biennial@nynd.uscourts.gov or uscourts@updates.uscourts.gov, including manually whitelisting the Court's email addresses in their email settings.

2. The Clerk shall deposit the additional **\$50.00** fee required for admission to the bar and the **\$50.00** biennial registration fee into the District Court Fund. The Clerk shall be the trustee of the Fund, and the monies deposited in the Fund shall be used only for the benefit of the bench and bar in the administration of justice. All withdrawals from the Fund require the approval of the Chief Judge or a judge designated by the Chief Judge to authorize the withdrawals.
3. In the application for biennial registration, the member must certify whether or not, within the time period since his/her admission to this bar or most recent biennial registration, he/she (1) has been convicted of a felony or misdemeanor; (2) has been held in contempt of court, disbarred, suspended, censured, sanctioned, or otherwise disciplined by any Federal, State or Local Court or attorney disciplinary authority; and (3) has resigned from the bar of any jurisdiction while a professional misconduct investigation was pending. Where the member provides notice of such occurrence, he/she shall also disclose the relevant circumstances in writing. Failure to provide notice of such an occurrence may result in removal from the roll of the Court. In

response to such notice, the Court may take further action in accordance with Local Rule 83.3, including, where the Chief Judge determines good cause exists, provisional denial of the application for biennial registration pending further investigation or proceedings.

Proposed Changes to Civil Local Rule 83.3(b)(3)

Current Text:

83.3 Discipline of Attorneys (formerly L.R. 83.4) (amended January 1, 2025)

...

(b) **Grounds for Discipline or Sanction**: Any member of the bar of the Northern District of New York may be censured, suspended, disbarred or otherwise disciplined for cause shown pursuant to subsections (1) through (7) of this section, after judicial review of the papers submitted, oral argument, and/or an evidentiary hearing in the Court's discretion. The Chief Judge may appoint one or more judges to investigate, review, hear and report findings and a recommendation as to any disciplinary matter, including any grievances or complaints lodged from any source and any notice or application made by an attorney relating to discipline. Complaints or grievances, and any related documents, shall be treated as confidential. Discipline shall be imposed only upon order of the Court, and the Court, in its discretion, shall determine whether the order will be made available to the public, or published, or circulated.

...

- (3) **Disbarment/Suspension/Disciplinary Action by Another Court**: Any member of the bar of the Northern District of New York who has been disbarred, suspended, and/or disciplined by a court or attorney disciplinary authority in any federal jurisdiction, state, commonwealth, territory, possession, recognized tribe, or any legal subdivision thereof, shall be disbarred, suspended, and/or disciplined on comparable terms and conditions by this Court unless an examination of the record resulting in the disbarment, suspension, or discipline discloses one or more of the following:
- (A) that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;
 - (B) that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this Court should not accept as final the conclusion on that subject;
 - (C) that this Court's imposition of the same discipline would result in grave injustice; or
 - (D) that this Court has held, or these Rules provide, that the misconduct warrants substantially different discipline.

The attorney shall deliver a copy of any such order of disbarment, suspension, or discipline to the Clerk of this Court within fourteen (14) days after the entry of the order. Failure to provide such notice may result in removal from the roll of the Court.

After receiving notice of such an order, the Chief Judge will issue an order disbarring, suspending and/or disciplining the attorney on comparable terms and conditions as those imposed in the other jurisdiction. The Chief Judge's order shall be mailed to the last known business address of the attorney by certified mail. Within twenty (20) days of service on the attorney of the Chief Judge's order of discipline, the attorney may file an application to vacate the disciplinary order pursuant to (g) below.

Proposed Text:

83.3 Discipline of Attorneys (formerly L.R. 83.4) (amended January 1, 2025)

...

(b) **Grounds for Discipline or Sanction:** Any member of the bar of the Northern District of New York may be censured, suspended, disbarred or otherwise disciplined for cause shown pursuant to subsections (1) through (7) of this section, after judicial review of the papers submitted, oral argument, and/or an evidentiary hearing in the Court's discretion. The Chief Judge may appoint one or more judges to investigate, review, hear and report findings and a recommendation as to any disciplinary matter, including any grievances or complaints lodged from any source and any notice or application made by an attorney relating to discipline. Complaints or grievances, and any related documents, shall be treated as confidential. Discipline shall be imposed only upon order of the Court, and the Court, in its discretion, shall determine whether the order will be made available to the public, or published, or circulated.

...

(3) **Disbarment/Suspension/Disciplinary Action by Another Court:** Any member of the bar of the Northern District of New York who has been disbarred, suspended, and/or disciplined by a court or attorney disciplinary authority in any federal jurisdiction, state, commonwealth, territory, possession, recognized tribe, or any legal subdivision thereof, shall be disbarred, suspended, and/or disciplined on comparable terms and conditions by this Court unless an examination of the record resulting in the disbarment, suspension, or discipline discloses one or more of the following:

- (A) that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;
- (B) that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this Court should not accept as final the conclusion on that subject;
- (C) that this Court's imposition of the same discipline would result in grave injustice; or
- (D) that this Court has held, or these Rules provide, that the misconduct warrants substantially different discipline.

The attorney shall deliver a copy of any such order of disbarment, suspension, or discipline to the Clerk of this Court within fourteen (14) days after the entry of the order. Failure to provide such notice may result in removal from the roll of the Court.

After receiving notice of such an order, the Chief Judge will issue an order to become effective twenty-one (21) days after the date of service on the attorney, disbarring, suspending and/or disciplining the attorney on comparable terms and conditions as those imposed in the other jurisdiction. The Chief Judge's order shall be mailed to the last known business address of the attorney by certified mail. Within twenty (20) days of service on the attorney of the Chief Judge's order of discipline, the attorney may file an application to vacate the disciplinary order pursuant to (g) below.

Proposed Changes to Local Rule 83.3(g)

Current Text:

83.3 Discipline of Attorneys (formerly L.R. 83.4) (amended January 1, 2025)

(g) **Application to Vacate Disciplinary Order:** An attorney who is the subject of an order of suspension, disbarment, or other disciplinary action may file an application with the Clerk of Court to vacate any such order within twenty (20) days from the date of issuance of the order, except for an order issued pursuant to section (b)(5) above. The application shall be filed in a miscellaneous action assigned to the Chief Judge. The application shall set forth with specificity the facts and principles relied upon by the attorney as showing cause why a different disposition should be ordered by this Court. The Court, in its discretion, may consider the application on the papers submitted, schedule oral argument, or hold an evidentiary hearing. The Chief Judge may appoint one or more judges to investigate, review, hear and report findings and recommendation as to whether the disciplinary order should be vacated. If the Chief Judge determines, on good cause, that an evidentiary hearing is not required, the Chief Judge may proceed to impose discipline or take such other action as justice and this rule may require upon the majority vote of the District Judges. Upon good cause shown, a majority vote of the District Judges may vacate the disciplinary order when it is in the interest of justice to do so. A copy of the order on the application to vacate a disciplinary order shall be served upon the attorney by certified mail.

Proposed Text:

83.3 Discipline of Attorneys (formerly L.R. 83.4) (amended January 1, 2025)

(g) **Application to Vacate Disciplinary Order:** An attorney who is the subject of an order of suspension, disbarment, or other disciplinary action may file an application with the Clerk of Court to vacate any such order within twenty (20) days from the date of issuance of the order. **The timely filing of this motion will stay the effectiveness of the Order until a further order by this Court.** The application shall be filed in a miscellaneous action assigned to the Chief Judge. The application shall set forth with specificity the facts and principles relied upon by the attorney as showing cause why a different disposition should be ordered by this Court. The Court, in its discretion, may consider the application on the papers submitted, schedule oral argument, or hold an evidentiary hearing. The Chief Judge may appoint one or more judges to investigate, review, hear and report findings and recommendation as to whether the disciplinary order should be vacated. If the Chief Judge determines, on good cause, that an evidentiary hearing is not required, the Chief Judge may proceed to impose discipline or take such other action as justice and this rule may require upon the majority vote of the District Judges. Upon good cause shown, a majority vote of the District Judges may vacate the disciplinary order when it is in the interest of justice to do so. A copy of the order on the application to vacate a disciplinary order shall be served upon the attorney by certified mail.

Proposed Changes to Criminal Local Rule 41.1(d)

Current Text:

41.1 Search and Seizure Warrants (amended January 1, 2025)

(a) An Application and Affidavit for a Search Warrant, Seizure Warrant, Tracking Warrant, etc. (hereinafter “Search Warrants”) must include a proposed Warrant. Any application to file the documents in a Sealed case shall also include an Application to Seal the case, a Public Sealing Order and a proposed Sealing Order with an expiration date to unseal the case not to exceed 180 days after the last search warrant return is filed, unless an extension has been granted by the Court.

(b) The search warrant return shall be filed within 30 days after the execution of the warrant. Tracking warrant returns are due within 10 days after the use of the tracking device has ended pursuant to [Fed.R.Crim.P. Rule 41\(f\)\(2\)\(B\)](#). If a delayed notice has been granted, a search warrant return is due 30 days after the expiration of the delayed notice deadline.

(c) The Government must file a request for an extension of the deadline to unseal the case no later than 180 days after the search warrant return is filed or 30 days after the delayed notification deadline has expired.

(d) The Government must file a motion to unseal a search warrant case no later than 180 days after the search warrant return is filed or 30 days after the delayed notification deadline has expired. Upon the unsealing of the case, if the Government seeks to have any of the individually filed documents remain under seal and/or be redacted, the Government shall include in its motion to unseal the docket number, the proposed redactions, if applicable, and the reason(s) that the referenced material should remain under seal and/or redacted under the governing legal standard pursuant to [Criminal Local Rule 49.2](#).

Proposed Text:

41.1 Search and Seizure Warrants (amended January 1, 2025)

(a) An Application and Affidavit for a Search Warrant, Seizure Warrant, Tracking Warrant, etc. (hereinafter “Search Warrants”) must include a proposed Warrant. Any application to file the documents in a Sealed case shall also include an Application to Seal the case, a Public Sealing Order and a proposed Sealing Order with an expiration date to unseal the case not to exceed 180 days after the last search warrant is filed, unless an extension has been granted by the Court.

(b) The search warrant return shall be filed within 30 days after the execution of the warrant. Tracking warrant returns are due within 10 days after the use of the tracking device has

ended pursuant to [Fed.R.Crim.P. Rule 41\(f\)\(2\)\(B\)](#). If a delayed notice has been granted, a search warrant return is due 30 days after the expiration of the delayed notice deadline.

(c) The Government must file a request for an extension of the deadline to unseal the case no later than 180 days after the **last** search warrant is filed or 30 days after the delayed notification deadline has expired.

(d) The Government must file a motion to unseal a search warrant case no later than 180 days after the **last** search warrant is filed or 30 days after the delayed notification deadline has expired. Upon the unsealing of the case, if the Government seeks to have any of the individually filed documents remain under seal and/or be redacted, the Government shall include in its motion to unseal the docket number, the proposed redactions, if applicable, and the reason(s) that the referenced material should remain under seal and/or redacted under the governing legal standard pursuant to [Criminal Local Rule 49.2](#).

Proposed Changes to Criminal Local Rule 59.1(a)(3)

Current Text:

59.1 Magistrate Judges (formerly Criminal L.R. 58.1) (amended January 1, 2022)

(a) Powers and Duties.

...

3. A party seeking review of a Magistrate Judge's release or detention order pursuant to [18 U.S.C. § 3145\(a\) and \(b\)](#) shall file a Notice of Appeal of Magistrate Judge Pretrial Order pursuant to [Fed.R.Crim.P. 58\(g\)\(2\)\(A\)](#) within fourteen (14) days of the date of entry. If the release or detention order appealed from is filed in a Magistrate case, the Clerk shall immediately randomly assign a District Judge and open a criminal case. The Appellant shall be responsible for obtaining a copy of any transcript, if requested by the Court. Unless otherwise ordered,
 - (A) The appellant's brief shall be filed within fourteen (14) days following the filing of the notice of appeal;
 - (B) The appellee's brief shall be filed within fourteen (14) days following submission of the appellant's brief;
 - (C) Any reply brief shall be filed within seven (7) days following the submission of the appellee's brief; and
 - (D) Unless the Court orders otherwise, the appeal shall be taken on submission without oral argument.

The Court shall promptly determine the motion based upon the submitted papers without oral argument.

Proposed Text:

59.1 Magistrate Judges (formerly Criminal L.R. 58.1) (amended January 1, 2022)

(a) Powers and Duties.

...

3. **Appeal of Magistrate Judge's Release or Detention Order:** A party seeking review of a Magistrate Judge's release or detention order pursuant to [18 U.S.C. § 3145\(a\) and \(b\)](#) shall file a Notice of Appeal of Magistrate Judge Pretrial Order pursuant to [Fed.R.Crim.P. 58\(g\)\(2\)\(A\)](#) within fourteen (14) days of the date of entry. If the release or detention order appealed from is filed in a Magistrate case, the Clerk shall immediately randomly assign a District Judge and open a criminal case. The Appellant shall be responsible for obtaining a copy of any transcript, if requested by the Court. Unless otherwise ordered,
 - (A) The appellant's brief shall be filed within fourteen (14) days following the filing of the notice of appeal;
 - (B) The appellee's brief shall be filed within fourteen (14) days following submission of the appellant's brief;
 - (C) Any reply brief shall be filed within seven (7) days following the submission of the appellee's brief; and
 - (D) Unless the Court orders otherwise, the appeal shall be taken on submission without oral argument.

The Court shall promptly determine the motion based upon the submitted papers without oral argument. Any Notice of Appeal filed with an emergency motion for a stay and/or a request for expedited briefing must be accompanied by an affidavit setting forth the reasons for the stay and/or why the standard briefing schedule is insufficient. Counsel are further required to call the Clerk's Office to advise that an emergency Notice of Appeal of a Magistrate Judge's Pretrial Order has been filed.

Proposed Changes to Criminal Local Rule 59.1(c)(3)

Current Text:

59.1 Magistrate Judges (formerly Criminal L.R. 58.1) (amended January 1, 2022)

...

(c) Misdemeanors.

...

3. Procedures on appeal of a Magistrate Judge's judgment of conviction to a District Judge in a consent case pursuant to [18 U.S.C. § 3401](#) shall be as provided in [Fed. R. Crim. P. 58\(g\)\(2\)\(B\)](#). The appellant must pay the current filing fee via pay.gov. Unless otherwise ordered,
 - (A) The appellant's brief shall be filed within fourteen (14) days following the filing of the notice of appeal;
 - (B) The appellee's brief shall be filed within fourteen (14) days following submission of the appellant's brief;
 - (C) Unless the Court orders otherwise, the appeal shall be taken on submission without oral argument.

Proposed Text:

(c) Misdemeanors.

...

3. **Appeal of Magistrate Judge's Final Order or Judgment of Conviction:**
Procedures on appeal of a Magistrate Judge's **final order or** judgment of conviction to a District Judge in a consent case pursuant to [18 U.S.C. § 3401](#) shall be as provided in [Fed. R. Crim. P. 58\(g\)\(2\)\(B\)](#). The appellant must pay the current filing fee via pay.gov. Unless otherwise ordered,
 - (A) The appellant's brief shall be filed within fourteen (14) days following the filing of the notice of appeal;
 - (B) The appellee's brief shall be filed within fourteen (14) days following submission of the appellant's brief;
 - (C) Unless the Court orders otherwise, the appeal shall be taken on submission without oral argument.
 - (D) **Any Notice of Appeal filed with an emergency motion for a stay and/or a request for expedited briefing must be accompanied by an affidavit setting forth the reasons for the stay and/or why the standard briefing schedule is**

insufficient. Counsel are further required to call the Clerk's Office to advise that an emergency Notice of Appeal of a Magistrate Judge's Order or Judgment has been filed.

**Proposed Changes to Rule 1.1 of the Local Rules of Procedure
for Section 2254 Cases and Section 2255 Proceedings**

Current Text:

1.1 Habeas Corpus (formerly Civil L.R. 72.4)

(a) Petitions under [28 U.S.C. §§ 2241, 2254](#) and [2255](#) shall be filed pursuant to the [Rules Governing § 2254 Cases in the United States District Courts and the Rules Governing § 2255 Proceedings](#) in the United States District Courts. No memoranda of law filed in Habeas Corpus proceedings shall exceed twenty-five (25) pages in length, unless the party filing the memorandum of law obtains leave of the judge hearing the motion prior to filing. All memoranda of law shall contain a table of contents. When serving a *pro se* litigant with a memorandum of law or any other paper which contains citations to authorities that are unpublished or published exclusively on electronic databases, counsel shall include a hard copy of those authorities. Although copies of authorities published only on electronic databases are not required to be filed, copies shall be provided upon request to opposing counsel who lack access to electronic databases.

(b) Subject to the requirement of subsection (c), the petitioner shall file the original verified petition with the Clerk. Applications for a writ of habeas corpus made by persons in custody shall be filed, heard and determined in the district court for the district in 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 shall be transferred to any district that the assigned judge finds or determines to be more convenient.

(c) Before a second or successive application is filed in this Court, the applicant shall move in the Second Circuit Court of Appeals for an order authorizing the district court to consider the application.

(d) If the respondent submits the state-court records with its answer to the petition, the respondent must properly identify the records in the answer and arrange them in chronological order. The respondent must also sequentially number the pages of the state-court record so that citations to those records will identify the exact location where the information appears.

(e) Effective for all Habeas Corpus Petitions pursuant to [28 U.S.C. §2254](#) filed after July 1, 2013, service of process shall be done via electronic means, namely via an email Notice of Electronic Filing through the Court's CM/ECF system. Once service is ordered by the Court, the Office of Attorney General for New York State will receive email notification and be given

ninety (90) days within which to file a response. This time will allow the Office of Attorney General to obtain the records from the underlying state court and file their response to the petition.

(f) The District Judge shall issue or deny a certificate of appealability when it enters a final order adverse to the applicant. See [Rule 11](#) of the Rules Governing §2254 Cases and §2255 Proceedings.

Proposed Text:

1.1 Habeas Corpus (formerly Civil L.R. 72.4)

(a) Petitions under [28 U.S.C. §§ 2241, 2254](#) and [2255](#) shall be filed pursuant to the [Rules Governing § 2254 Cases in the United States District Courts and the Rules Governing § 2255 Proceedings](#) in the United States District Courts. No memoranda of law filed in Habeas Corpus proceedings shall exceed twenty-five (25) pages in length, unless the party filing the memorandum of law obtains leave of the judge hearing the motion prior to filing. All memoranda of law shall contain a table of contents. When serving a *pro se* litigant with a memorandum of law or any other paper which contains citations to authorities that are unpublished or published exclusively on electronic databases, counsel shall include a hard copy of those authorities. Although copies of authorities published only on electronic databases are not required to be filed, copies shall be provided upon request to opposing counsel who lack access to electronic databases.

(b) Subject to the requirement of subsection (c), the petitioner shall file the original verified petition with the Clerk. Applications for a writ of habeas corpus made by persons in custody shall be filed, heard and determined in the district court for the district in 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 shall be transferred to any district that the assigned judge finds or determines to be more convenient.

(c) Before a second or successive application is filed in this Court, the applicant shall move in the Second Circuit Court of Appeals for an order authorizing the district court to consider the application.

(d) If the respondent submits the state-court records with its answer to the petition, the respondent must properly identify the records in the answer and arrange them in chronological order. The respondent must also sequentially number the pages of the state-court record so that citations to those records will identify the exact location where the information appears.

(e) Effective for all Habeas Corpus Petitions pursuant to [28 U.S.C. §2254](#) filed after July 1, 2013, service of process shall be done via electronic means, namely via an email Notice of Electronic Filing through the Court's CM/ECF system. Once service is ordered by the Court, the Office of Attorney General for New York State will receive email notification and be given ninety (90) days within which to file a response. This time will allow the Office of Attorney General to obtain the records from the underlying state court and file their response to the petition.

(f) **Emergency Motions or Applications.** Any party filing an emergency motion, including a motion to stay, shall immediately notify chambers for the presiding judge upon filing of the motion or application. If the emergency motion is filed together with a new Petition for Writ of Habeas Corpus, the party shall answer “yes” to the Emergency Motion question in CM/ECF and immediately contact the Clerk’s Office by telephone upon completion of the filing.

(g) The District Judge shall issue or deny a certificate of appealability when it enters a final order adverse to the applicant. See [Rule 11](#) of the Rules Governing §2254 Cases and §2255 Proceedings.