

## Amendments to the NDNY Local Rules Effective January 1, 2024

The proposed amendments detailed below were submitted or derived from comments received from the public, practitioners, judges and court staff during the March-May 2023 suggestion period. The changes were approved by the Board of Judges on [REDACTED], 2023 subject to the review and approval of the Second Circuit Council. On [REDACTED], 2023, 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, 2024, and supersede and/or supplement the specific sections set forth within this handout.

### Summary Table of Requested Changes to the NDNY Local Rules

Rule Number	Topic	Description of Requested Change
7.1(a)(1)	Dispositive Motions	Modified to reflect that all motion papers must be filed and served upon <i>pro se</i> litigants in the same manner as non-dispositive motions.
7.1(b)(5)	Notice of Motion	Modified to remove the requirement that the NOM include the name of the person who plans to argue the case when requesting oral argument.
7.1(k)	Amicus Curiae	New rule to reflect that prior leave of court is required before filing an amicus curiae brief.
10.1(c)(2)	Form of Papers	Modified to reflect that the telephone number of non-prisoner <i>pro se</i> litigants is required to be displayed on the docket for purposes of scheduling court proceedings.
11.1(b)	Appearance and Withdrawal of Attorney	Modified to reflect when two attorneys from the same law firm represent a party, and one attorney leaves the firm, only a letter is required to be filed on the docket indicating the attorney has left the firm.
72.1(b)	Appeal of Magistrate Decision	Modified to remove reference to L.R. 7.1(a)(2) as Reply Briefs are permitted in an appeal of a Magistrate Order.
72.3(d)	Assignment of Duties to Magistrate Judges: Pro Se Non-Prisoner Cases	Modified to reflect that any civil action commenced by a non-prisoner <i>pro se</i> litigant shall be referred to a Magistrate Judge for purpose of review under 28 U.S.C. §1915(e)(2) and 28 U.S.C. §1915A when an application to proceed <i>in forma pauperis</i> is filed.

72.3(f)(3)	Federal Debt Collection Act Cases	Renumbered as paragraph 72.3(f)(4).
72.3(f)(4)	Federal Debt Collection Act Cases	Renumbered as paragraph 72.3(f)(5) and modified to permit a Magistrate Judge to make a final decision on a request for a Final Order of Garnishment.
72.3(f)(5)	Federal Debt Collection Act Cases	Renumbered as paragraph 72.3(f)(6).
72.3(f)(6)	Federal Debt Collection Act Cases	Renumbered and relocated as paragraph 72.3(f)(3) as a pre-judgment remedy and modified to reflect a hearing will be held within 5 days only when a request is made by the debtor, or as soon as practicable.
83.1(g)	Pro Bono Service	Modified to reflect that that every member of the bar of this Court shall be required, upon the Court's request, to accept one pro bono assignment.
83.3(i)	Application for Reinstatement	Modified to afford an attorney the opportunity to reapply for admission one year from the date of the denial of an application for reinstatement.
Criminal L.R. 12.1(a)	Motions and Other Papers	Modified to remove the distinction between dispositive and non-dispositive motions. All criminal motions shall allow reply papers to be filed within 7 days after service of the response.
Criminal L.R. 12.1(h)	Motion for Reconsideration	New Rule added to reflect that any motion for reconsideration of a criminal Court Order shall be filed within fourteen days of the date of the decision.
Criminal L.R. 44.2	Appearance and Withdrawal of Counsel – Motion to Withdraw as Counsel	Modified to include headings for each subsection. Subsection (b) was modified to clarify that an attorney who is granted permission to withdraw as counsel shall serve the order upon the Defendant and file an affidavit of service.
Criminal L.R. 44.2(c)	Consent to Change Attorney	Modified to reflect that when a defendant consents to substitution of counsel, the incoming attorney shall file a consent to change attorney signed by the Defendant, outgoing counsel and incoming counsel, and the newly retained attorney shall serve a copy on the Defendant and file an affidavit of service.

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 Change to Civil Local Rule 7.1(a)

### Current Text:

#### 7.1 Motion Practice (amended January 1, 2021)

(a) **Briefing Schedule.** Motions are decided without oral argument unless scheduled by the Court. Parties may make a written request for oral argument, which is subject to the discretion of the presiding judge. In any such requests for oral argument, the parties should specify the ground(s) for the request (e.g., the need of an inexperienced lawyer to gain experience in the courtroom, the need to respond to arguments presented in the last-filed brief, the need to advise the Court of recently occurring events or arguments regarding new controlling or persuasive case law, and/or the need to help familiarize the Court with the case's complex facts and/or procedural history given the length of time that has passed since the Court last reviewed the case or the fact that the case has recently been transferred from another judge, etc.). In accordance with [Local Rule 7.1\(b\)\(5\)](#), a movant requesting oral argument must state the grounds therefore in its Notice of Motion.

1. **Dispositive Motions.** Unless otherwise ordered by the Court, the opposing party must file and serve its opposition papers no more than **TWENTY ONE (21) DAYS** after service of the motion. The moving party must file and serve its reply papers, if any, including a memorandum of law that may not exceed (10) pages in length, no more than **SEVEN (7) DAYS** after service of the response papers. A surreply is not permitted.

### Proposed Text:

#### 7.1 Motion Practice (amended January 1, 2023)

- (a) **Briefing Schedule.** Motions are decided without oral argument unless scheduled by the Court. Parties may make a written request for oral argument, which is subject to the discretion of the presiding judge. In any such requests for oral argument, the parties should specify the ground(s) for the request (e.g., the need of an inexperienced lawyer to gain experience in the courtroom, the need to respond to arguments presented in the last-filed brief, the need to advise the Court of recently occurring events or arguments regarding new controlling or persuasive case law, and/or the need to help familiarize the Court with the case's complex facts

and/or procedural history given the length of time that has passed since the Court last reviewed the case or the fact that the case has recently been transferred from another judge, etc.). In accordance with [Local Rule 7.1\(b\)\(5\)](#), a movant requesting oral argument must state the grounds therefore in its Notice of Motion.

**1. Dispositive Motions.** Unless the Court orders otherwise, the moving party must file all motion papers with the Court and serve them upon any *pro se* parties. Unless otherwise ordered by the Court, the moving opposing party must file and serve its opposition papers no more than **TWENTY ONE (21) DAYS** after service of the motion. The moving party must file and serve its reply papers, if any, including a memorandum of law that may not exceed (10) pages in length, no more than **SEVEN (7) DAYS** after service of the response papers. A surreply is not permitted.

## **Proposed Change to Civil Local Rule 7.1(b)(5)**

### **Current Text:**

**7.1(b) (5) Notice of Motion.** A Notice of Motion shall identify the following information: the case caption and docket number, if then known; the supporting papers upon which the motion is based; and the relief demanded and the grounds therefor. If publicly filed, the Notice of Motion shall be the main document filed on ECF, with the supporting documents filed as attachments. Relief in the alternative or of several different types may be demanded. If oral argument is requested, the Notice of Motion should so state and should identify the reason(s) argument is requested and who plans to argue the case.

### **Proposed Text:**

**7.1(b) (5) Notice of Motion.** A Notice of Motion shall identify the following information: the case caption and docket number, if then known; the supporting papers upon which the motion is based; and the relief demanded and the grounds therefor. If publicly filed, the Notice of Motion shall be the main document filed on ECF, with the supporting documents filed as attachments. Relief in the alternative or of several different types may be demanded. If oral argument is requested, the Notice of Motion should so state and should identify the reason(s) argument is requested ~~and who plans to argue the case.~~

**Proposed new Civil Local Rule 7.1(k)**

**Proposed Text:**

**7.1 (k) Amicus Curiae.** An amicus curiae brief may not be filed without prior leave of the Court.

## Proposed Change to Civil Local Rule 10.1(c)

### Current Text:

(c) **Information required.** The following information must appear on each document that a party files:

1. Each document must contain a caption for the specific case to which it pertains. The caption must include the title of the Court, the title of the action, the civil action number of the case, the initials of the assigned judge(s), and the name or nature of the paper in sufficient detail for identification. If a litigant has more than one action pending in this Court, any and all papers filed in a case must contain and pertain to one civil action number, unless the civil actions have been consolidated by the Court. Any motion or other papers purporting to relate to more than one action will not be accepted for filing and may be stricken by the Court. This Rule shall not apply, as noted below, to notices of change of address filed by attorneys of record and pro se litigants. **The parties must separately caption affidavits and declarations and must not physically attach them to the Notice of Motion or Memorandum of Law.**
2. Each document must identify the person filing the document. This identification must include an original or electronic signature of the attorney or *pro se* litigant; the typewritten name of that person; the address of a *pro se* litigant, including zip code; and the bar roll number, office address, telephone number, and e-mail address of the attorney. A *pro se* litigant's complete mailing address in the signature block as required on all documents filed with the court shall also appear on the face of the docket. Telephone numbers of non-prisoner *pro se* parties may be provided voluntarily or may be required upon request of the Court. See [General Order # 22](#) for signature requirements.

**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. In addition, the notice shall be clearly entitled, "Notice of Change of Address." **Attorneys shall update their bar record within (14) days of a change, including their address, email address, and**

telephone number through [www.pacer.gov](http://www.pacer.gov). Detailed instructions to update the bar record are available on the Court's website at [www.nynd.uscourts.gov](http://www.nynd.uscourts.gov).

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

### **Proposed Text:**

**(c) Information required.** The following information must appear on each document that a party files:

1. Each document must contain a caption for the specific case to which it pertains. The caption must include the title of the Court, the title of the action, the civil action number of the case, the initials of the assigned judge(s), and the name or nature of the paper in sufficient detail for identification. If a litigant has more than one action pending in this Court, any and all papers filed in a case must contain and pertain to one civil action number, unless the civil actions have been consolidated by the Court. Any motion or other papers purporting to relate to more than one action will not be accepted for filing and may be stricken by the Court. This Rule shall not apply, as noted below, to notices of change of address filed by attorneys of record and pro se litigants. **The parties must separately caption affidavits and declarations and must not physically attach them to the Notice of Motion or Memorandum of Law.**
2. Each document must identify the person filing the document. This identification must include an original or electronic signature of the attorney or *pro se* litigant; the typewritten name of that person; the address of a *pro se* litigant, including zip code; and the bar roll number, office address, telephone number, and e-mail address of the attorney. A *pro se* litigant's complete mailing address in the signature block as required on all documents filed with the court shall also appear on the face of the docket. Telephone numbers of non-prisoner *pro se* parties ~~may be provided voluntarily or may be required upon request of the Court~~ **are required to be displayed on the docket for purposes of scheduling court proceedings.** See [General Order # 22](#) for signature requirements.



**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. In addition, the notice shall be clearly entitled, “Notice of Change of Address.” **Attorneys shall update their bar record within (14) days of a change, including their address, email address, and telephone number through [www.pacer.gov](http://www.pacer.gov).** Detailed instructions to update the bar record are available on the Court's website at [www.nynd.uscourts.gov](http://www.nynd.uscourts.gov).

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

## Proposed Change to Civil Local Rule 11.1

### Current Text:

#### **11.1 Appearance and Withdrawal of Attorney** (Amended January 1, 2023)

**(a) Appearance.** An attorney appearing for a party in a civil case shall promptly file with the Clerk a written notice of appearance; however, an attorney does not need to file a notice of appearance if the attorney who would be filing the notice of appearance is the same individual who has signed the complaint, notice of removal, pre-answer motion, or answer. A consent to change attorney form must be signed by the withdrawing attorney, the substituting attorney and the party, subject to the approval of the Court. If the Court grants the substitution of counsel, the withdrawing attorney must serve a copy of the order upon the affected party and file an affidavit of service.

**(b) Withdrawal.** An attorney who has appeared may withdraw only upon notice to the client and all parties to the case and an order of the Court, upon a finding of good cause, granting leave to withdraw. If the Court grants leave to withdraw, the withdrawing attorney must serve a copy of the order upon the affected party and file an affidavit of service.

If the client whose attorney seeks to withdraw has consented to substitution of new counsel, the attorney who seeks to withdraw must file a consent to change attorney that bears the withdrawing attorney's signature, as well as the signatures of the attorney who is to be substituted as counsel and the client who has consented to this substitution. Upon receipt of this document, the Court shall review the same and determine whether to grant the substitution. If the Court grants the substitution of counsel, the withdrawing attorney must serve a copy of the order upon the affected party and file an affidavit of service.

Where new counsel is appearing for a party and where the firm representing the client remains the same, a notice of appearance is all that is required to be filed and a motion or consent to substitute counsel need not be filed.

Unless the Court orders otherwise, withdrawal of counsel, with or without the consent of the client, shall not result in the extension of any of the deadlines contained in any case management orders, including the Uniform Pretrial Scheduling Order, see [L.R. 16.1\(e\)](#), or the adjournment of a trial ready or trial date.

### **Proposed Text:**

**(a) Appearance.** An attorney appearing for a party in a civil case shall promptly file with the Clerk a written notice of appearance; however, an attorney does not need to file a notice of appearance if the attorney who would be filing the notice of appearance is the same individual who has signed the complaint, notice of removal, pre-answer motion, or answer. A consent to change attorney form must be signed by the withdrawing attorney, the substituting attorney and the party, subject to the approval of the Court. If the Court grants the substitution of counsel, the withdrawing attorney must serve a copy of the order upon the affected party and file an affidavit of service.

**(b) Withdrawal.** An attorney who has appeared may withdraw only upon notice to the client and all parties to the case and an order of the Court, upon a finding of good cause, granting leave to withdraw. If the Court grants leave to withdraw, the withdrawing attorney must serve a copy of the order upon the affected party and file an affidavit of service.

If the client whose attorney seeks to withdraw has consented to substitution of new counsel, the attorney who seeks to withdraw must file a consent to change attorney that bears the withdrawing attorney's signature, as well as the signatures of the attorney who is to be substituted as counsel and the client who has consented to this substitution. Upon receipt of this document, the Court shall review the same and determine whether to grant the substitution. If the Court grants the substitution of counsel, the withdrawing attorney must serve a copy of the order upon the affected party and file an affidavit of service.

Where new counsel is appearing for a party and where the firm representing the client remains the same, a notice of appearance is all that is required to be filed and a motion or consent to substitute counsel need not be filed. **Where two attorneys from the same firm represent a client, and one attorney leaves the firm, only a letter is required to be filed on the docket indicating that the attorney has left the firm and should be removed from the docket.**

Unless the Court orders otherwise, withdrawal of counsel, with or without the consent of the client, shall not result in the extension of any of the deadlines contained in any case management orders, including the Uniform Pretrial Scheduling Order, see [L.R. 16.1\(e\)](#), or the adjournment of a trial ready or trial date.

## Proposed Changes to Civil Local Rule 72.1

### Current Text:

#### **72.1 Authority of Magistrate Judges** (Amended January 1, 2023)

(a) A full-time Magistrate Judge is authorized to exercise all powers and perform all duties permitted by [28 U.S.C. § 636\(a\), \(b\), and \(c\)](#) and any additional duties that are consistent with the Constitution and laws of the United States. Part-time Magistrate Judges are authorized to exercise all of those duties, except that only those Magistrate Judges whom the Court specifically designates are authorized to perform duties allowed under 28 U.S.C. § 636(c) and any additional duties consistent with the Constitution and laws of the United States.

(b) **Appeal of a Magistrate Decision.** Any party may file an appeal from a Magistrate Judge's decision of a non-dispositive matter to the District Judge by filing with the Clerk and serving upon all parties their appeal to the decision. There is no filing fee. The party must file and serve its notice of appeal and appellant's brief within fourteen (14) days after being served with the Magistrate Judge's order, and must specifically designate the order or part of the order from which the party seeks relief and the basis for the appeal. The parties shall file all supporting and opposition papers in accordance with [L.R. 7.1\(a\)\(2\)](#).

Opposition papers are due 14 days after the appellant's brief is filed and shall also include a memorandum of law responsive to the appellant's arguments. Appellant's reply brief is due 7 days after the appellee's brief is filed. Unless the Court directs otherwise, it will decide all appeals on submission of the papers without oral argument.

(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:**

#### **72.1 Authority of Magistrate Judges** (Amended January 1, 2023)

(a) A full-time Magistrate Judge is authorized to exercise all powers and perform all duties permitted by [28 U.S.C. § 636\(a\), \(b\), and \(c\)](#) and any additional duties that are consistent with the Constitution and laws of the United States. Part-time Magistrate Judges are authorized to exercise all of those duties, except that only those Magistrate Judges whom the Court specifically designates are authorized to perform duties allowed under 28 U.S.C. § 636(c) and any additional duties consistent with the Constitution and laws of the United States.

(b) **Appeal of a Magistrate Decision.** Any party may file an appeal from a Magistrate Judge's decision of a non-dispositive matter to the District Judge by filing with the Clerk and serving upon all parties their appeal to the decision. There is no filing fee. The party must file and serve its notice of appeal and appellant's brief within fourteen (14) days after being served with the Magistrate Judge's order and must specifically designate the order or part of the order from which the party seeks relief and the basis for the appeal. ~~The parties shall file all supporting and opposition papers in accordance with [L.R. 7.1\(a\)\(2\)](#).~~

Opposition papers are due 14 days after the appellant's brief is filed and shall also include a memorandum of law responsive to the appellant's arguments. Appellant's reply brief is due 7 days after the appellee's brief is filed. Unless the Court directs otherwise, it will decide all appeals on submission of the papers without oral argument.

(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 Change to Civil Local Rule 72.3

### Current Text:

#### **72.3 Assignment of Duties to Magistrate Judges** (amended January 1, 2023)

(a) Immediately upon the filing of a civil action or proceeding, the Clerk shall assign the action or proceeding to a District Judge and may also assign the action or proceeding to a Magistrate Judge pursuant to the Court's Assignment Plan. When a civil action or proceeding is assigned to a Magistrate Judge, the Magistrate Judge shall conduct proceedings in accordance with these Rules and [28 U.S.C. § 636](#) as directed by the District Judge. See [L.R. 3.1](#).

(b) All civil cases in which the parties have executed and filed consent forms pursuant to [28 U.S.C. § 636\(c\)](#) and [L.R. 72.2\(b\)](#) shall be transmitted to the assigned District Judge for approval and referral of the case to a Magistrate Judge, who shall then have the authority to conduct all proceedings and to direct the Clerk to enter final judgment. See [L.R. 72.2\(b\)\(3\)](#).

(c) **Prisoner Cases.** Unless the Court orders otherwise, any proceeding that an unrepresented prisoner commences, and any proceeding commenced under [28 U.S.C. §§ 2241](#) and [2254](#), may, unless the Court orders otherwise, be referred to a Magistrate Judge for the purpose of reviewing applications, petitions and motions in accordance with these Rules and [28 U.S.C. §636](#).

(d) **Pro Se Non-Prisoner Cases.** Unless the Court orders otherwise, any civil action that a non-prisoner pro se litigant commences may, unless the Court orders otherwise, be referred to a Magistrate Judge for the purpose of review under 28 U.S.C. §1915(e)(2) and 28 U.S.C. §1915A.

(e) **Social Security Appeal Cases.** (Amended January 1, 2020). Upon the filing of the complaint, the Clerk shall randomly assign social security appeal cases in rotation directly to a Magistrate Judge pursuant to [General Order 18](#). The Clerk shall promptly notify plaintiff's counsel or *pro se* plaintiff of plaintiff's right to consent to Magistrate Judge jurisdiction pursuant to [28 U.S.C. § 636\(c\)](#). Plaintiff has 21 days from receipt of the clerk's notice to file a consent or declination to consent to the jurisdiction of the Magistrate Judge. If plaintiff timely consents, and if the United States does not timely withdraw consent, the case shall be deemed assigned to the Magistrate Judge without the necessity of an order of referral. In the event that the plaintiff does not timely consent, or if the United States timely withdraws its consent, the Clerk shall reassign the

case to a U.S. District Judge consistent with [General Order #12](#). Such reassigned cases shall be referred to the same Magistrate Judge to whom the case was originally assigned for all pretrial, non-dispositive matters and for issuance of a report and recommendation.

**(f) Federal Debt Collection Act Cases.** (modified January 1, 2021)

1. The Clerk shall assign a District Judge and a Magistrate Judge in accordance with [General Order #12](#).
2. Any action brought pursuant to the Federal Debt Collection Act, [28 U.S.C. § 3001 et seq.](#), shall be handled on an expedited basis and brought before a Magistrate Judge in Syracuse, New York, or to a District Judge if no Magistrate Judge is available, for an initial determination.
3. If appropriate, the Court shall issue an order directing the Clerk to issue the writ being sought, except that an application under [28 U.S.C. § 3203](#) for a writ of execution in a post-judgment proceeding shall not require an order of the Court.
4. The assigned Magistrate Judge shall conduct any hearing that may be requested, decide all non-dispositive issues, and issue a report-recommendation on any and all dispositive issues.
5. The parties shall file any written objections to the report-recommendation within fourteen (14) days of the filing of same. Without oral argument, the assigned District Judge shall review the report-recommendation along with any objections that the parties have filed.
6. If a party requests a hearing, the Clerk shall make a good faith effort to schedule the hearing within seven (7) days of the receipt of the request or “as soon after that as possible” pursuant to [28 U.S.C. § 3101\(d\)\(1\)](#).



## Proposed Text:

### 72.3 Assignment of Duties to Magistrate Judges (amended January 1, 2023)

(a) Immediately upon the filing of a civil action or proceeding, the Clerk shall assign the action or proceeding to a District Judge and may also assign the action or proceeding to a Magistrate Judge pursuant to the Court's Assignment Plan. When a civil action or proceeding is assigned to a Magistrate Judge, the Magistrate Judge shall conduct proceedings in accordance with these Rules and [28 U.S.C. § 636](#) as directed by the District Judge. See [L.R. 3.1](#).

(b) All civil cases in which the parties have executed and filed consent forms pursuant to [28 U.S.C. § 636\(c\)](#) and [L.R. 72.2\(b\)](#) shall be transmitted to the assigned District Judge for approval and referral of the case to a Magistrate Judge, who shall then have the authority to conduct all proceedings and to direct the Clerk to enter final judgment. See [L.R. 72.2\(b\)\(3\)](#).

(c) **Prisoner Cases.** Unless the Court orders otherwise, any proceeding that an unrepresented prisoner commences, and any proceeding commenced under [28 U.S.C. §§ 2241](#) and [2254](#), may, unless the Court orders otherwise, be referred to a Magistrate Judge for the purpose of reviewing applications, petitions and motions in accordance with these Rules and [28 U.S.C. §636](#).

(d) **Pro Se Non-Prisoner Cases.** Unless the Court orders otherwise, any civil action that a non-prisoner pro se litigant commences ~~shall~~ **may, unless the Court orders otherwise**, be referred to a Magistrate Judge for the purpose of review under 28 U.S.C. §1915(e)(2) **when an application to proceed *in forma pauperis* is filed**.

(e) **Social Security Appeal Cases.** (Amended January 1, 2020). Upon the filing of the complaint, the Clerk shall randomly assign social security appeal cases in rotation directly to a Magistrate Judge pursuant to [General Order 18](#). The Clerk shall promptly notify plaintiff's counsel or *pro se* plaintiff of plaintiff's right to consent to Magistrate Judge jurisdiction pursuant to [28 U.S.C. § 636\(c\)](#). Plaintiff has 21 days from receipt of the clerk's notice to file a consent or declination to consent to the jurisdiction of the Magistrate Judge. If plaintiff timely consents, and if the United States does not timely withdraw consent, the case shall be deemed assigned to the Magistrate Judge without the necessity of an order of referral. In the event that the plaintiff does not timely consent, or if the United States timely withdraws its consent, the Clerk shall reassign the case to a U.S. District Judge consistent with [General Order #12](#). Such reassigned cases shall be referred to the same Magistrate Judge to whom the case was originally

assigned for all pretrial, non-dispositive matters and for issuance of a report and recommendation.

**(f) Federal Debt Collection Act Cases.** (modified January 1, 2021)

1. The Clerk shall assign a District Judge and a Magistrate Judge in accordance with [General Order #12](#).
2. Any action brought pursuant to the Federal Debt Collection Act, [28 U.S.C. § 3001 et seq.](#), shall be handled on an expedited basis and brought before a Magistrate Judge ~~in Syracuse, New York~~, or to a District Judge if no Magistrate Judge is available, for an initial determination.
3. If a party requests a hearing, the Clerk shall make a good faith effort to schedule the hearing **as soon as practicable, or if requested by the debtor, within five (5) ~~seven (7)~~ days** of the receipt of the request, or “as soon after that as possible” pursuant to [28 U.S.C. § 3101\(d\)\(1\)](#).
- ~~3.4.~~ If appropriate, the Court shall issue an order directing the Clerk to issue the writ being sought, except that an application under [28 U.S.C. § 3203](#) for a writ of execution in a post-judgment proceeding shall not require an order of the Court.
- ~~4.5.~~ The assigned Magistrate Judge shall conduct any hearing that may be requested, decide all non-dispositive issues, **including a decision on a request for a Final Order of Garnishment**, and issue a report-recommendation on any and all dispositive issues.
- ~~5.6.~~ The parties shall file any written objections to the report-recommendation within fourteen (14) days of the filing of same. Without oral argument, the assigned District Judge shall review the report-recommendation along with any objections that the parties have filed.
- ~~6.~~ **Renumbered as subparagraph 3.** ~~If a party requests a hearing, the Clerk shall make a good faith effort to schedule the hearing within seven (7) days of the receipt of the request or “as soon after that as possible” pursuant to [28 U.S.C. § 3101\(d\)\(1\)](#).~~

## Proposed change to Civil Local Rule 83.1(g)

### Current Text:

(g) **Pro Bono Service.** Every member of the bar of this Court shall be available upon the Court's request for appointment to represent or assist in the representation of indigent parties. The Court shall make appointments under this Rule in a manner such that the Court shall not request any attorney to accept more than one appointment during any twelve-month period. Attorneys employed by the Federal, State or Municipal Government are exempt from this *pro bono* requirement.

### Proposed Text:

(g) **Pro Bono Service.** Every member of the bar of this Court shall be ~~available~~ **required** upon the Court's request for appointment to represent or assist in the representation of an indigent party. The Court shall make appointments under this Rule in a manner such that the Court shall not request any attorney to accept more than one appointment during any twelve-month period. Attorneys employed by the Federal, State or Municipal Government are exempt from this *pro bono* requirement.

## Proposed Change to Civil Local Rule 83.3(i)

### Current Text:

(i) **Application for Reinstatement**: Any attorney who has been suspended or precluded from appearing in this Court or whose name has been struck from the roll of the members of the bar of this Court may apply in writing to the Chief Judge, for good cause shown, for the lifting of the suspension or preclusion or for reinstatement to the rolls no earlier than one (1) year from the date the disbarment order, suspension order, or disciplinary order was issued. The application shall be filed in a miscellaneous action assigned to the Chief Judge. The attorney has the burden of demonstrating by clear and convincing evidence that he/she has the moral qualifications, candor, competency and learning in the law required for admission to practice law before this Court and that his/her resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or injurious to the public interest.

### Proposed Text:

(i) **Application for Reinstatement**: Any attorney who has been suspended or precluded from appearing in this Court or whose name has been struck from the roll of the members of the bar of this Court may apply in writing to the Chief Judge, for good cause shown, for the lifting of the suspension or preclusion or for reinstatement to the rolls no earlier than one (1) year from the date the disbarment order, suspension order, ~~or~~ disciplinary order, **or denial of the application for reinstatement** was issued. The application shall be filed in a miscellaneous action assigned to the Chief Judge. The attorney has the burden of demonstrating by clear and convincing evidence that he/she has the moral qualifications, candor, competency and learning in the law required for admission to practice law before this Court and that his/her resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or injurious to the public interest.

## Proposed Change to Criminal Local Rule 12.1

### Current Text:

#### 12.1 Motions and Other Papers (amended January 1, 2022)

(a) **Briefing Schedule.** Motions are decided without oral argument unless scheduled by the Court. Parties may make a written request for oral argument or hearing, which is subject to the discretion of the presiding judge.

1. **Dispositive Motions.** The opposing party must file and serve its opposition papers no more than **TWENTY-ONE (21) DAYS** after service of the motion, unless otherwise ordered by the Court. The moving party must file and serve its reply papers, which may not exceed (10) pages in length, no more than **SEVEN (7) DAYS** after service of the response papers, unless otherwise ordered by the Court. A sur-reply is not permitted. The moving party must specifically articulate the relief requested and must set forth a factual basis which, if proven true, would entitle the moving party to the requested relief.
2. **Non-dispositive motions:** The opposing party must file and serve its opposition papers no more than **TWENTY-ONE (21) DAYS** after service of the motion, unless otherwise ordered by the Court.

**Reply papers and adjournments are not permitted without the Court's prior permission. Permission to file a reply does not exist simply because CM/ECF generates a deadline for a reply on a non-dispositive motion.**

The parties shall not file, or otherwise provide to the assigned judge, a courtesy copy of the motion papers unless the assigned judge specifically requests that they do so.

In addition, no party shall file or serve a memorandum of law which exceeds twenty-five (25) pages in length, unless the party obtains permission from the Court to do so prior to filing. All memoranda of law exceeding five (5) pages shall contain a table of contents and, wherever possible, parallel citations. A separate memorandum of law is unnecessary when the case law may be concisely cited (i.e., several paragraphs) in the body of the motion.

**Proposed text:**

**12.1 Motions and Other Papers** (amended January 1, 2022)

(a) **Briefing Schedule.** Motions are decided without oral argument unless scheduled by the Court. Parties may make a written request for oral argument or hearing, which is subject to the discretion of the presiding judge.

**1. Dispositive Motions.**

The opposing party must file and serve its opposition papers no more than **TWENTY-ONE (21) DAYS** after service of the motion, unless otherwise ordered by the Court. The moving party must file and serve its reply papers, which may not exceed (10) pages in length, no more than **SEVEN (7) DAYS** after service of the response papers, unless otherwise ordered by the Court. A sur-reply is not permitted. The moving party must specifically articulate the relief requested and must set forth a factual basis which, if proven true, would entitle the moving party to the requested relief.

~~2. Non-dispositive motions: The opposing party must file and serve its opposition papers no more than TWENTY-ONE (21) DAYS after service of the motion, unless otherwise ordered by the Court.~~

~~[Should this be modified to add replies permitted on criminal non-dispositive motions] Reply papers and adjournments are not permitted without the Court's prior permission. EXCEPTION: Reply papers are permitted/required on Motions to Suppress evidence. Permission to file a reply does not exist simply because CM/ECF generates a deadline for a reply on a non-dispositive motion.~~

~~The parties shall not file, or otherwise provide to the assigned judge, a courtesy copy of the motion papers unless the assigned judge specifically requests that they do so.~~

In addition, no party shall file or serve a memorandum of law which exceeds twenty-five (25) pages in length, unless the party obtains permission from the Court to do so prior to filing. All memoranda of law exceeding five (5) pages shall contain a table of contents and, wherever possible, parallel citations. A separate memorandum of law is unnecessary when the case law may be concisely cited (i.e., several paragraphs) in the body of the motion.

### **Proposed New Criminal Local Rule 12.1(h)**

(h) **Motion for Reconsideration.** A motion for reconsideration of a Court Order shall be filed within fourteen (14) days of the date of the decision. The motion shall be accompanied by a memorandum of law setting forth concisely the matters or controlling decisions that the party believes the Court has overlooked or misapplied.

## Proposed Change to Criminal Local Rule 44.2

Current text:

### 44.2 Appearance and Withdrawal of Counsel

(a) An attorney appearing for a defendant in a criminal case, whether retained or appointed, shall promptly file a written appearance with the Clerk. That written appearance shall certify that the attorney has either completed six credit hours in federal criminal defense continuing education within the past two years or, if not, that the attorney will complete the required continuing education within 30 days of filing the notice of appearance. An attorney who has appeared shall thereafter withdraw only upon notice to the defendant and all parties to the case and an order of the Court finding that good cause exists and granting leave to withdraw. Failure of a defendant to pay agreed compensation shall not be deemed good cause unless the Court determines otherwise.

If the Defendant whose attorney seeks to withdraw has consented to substitution of new counsel, the attorney who seeks to withdraw must file a consent to change attorney that bears his signature, as well as the signatures of the attorney who is to be substituted as counsel and the Defendant who has consented to this substitution. Upon receipt of this document, the Court shall review the same and determine whether to grant the substitution. If the Court grants the substitution of counsel, the withdrawing attorney must serve a copy of the order upon the Defendant and file an affidavit of service.

(b) Unless leave is granted, the attorney shall continue to represent the defendant until the case is dismissed, the defendant is acquitted or convicted, or the time for making post-trial motions and for filing a notice of appeal, as specified in [Fed. R. App. P. 4\(b\)](#), has expired. If an appeal is taken, the attorney, whether retained or appointed, shall continue to serve pursuant to [Local Appellate Rule 4.1\(a\)](#) until the court having jurisdiction of the case grants leave to withdraw or until that court has appointed another attorney as provided in [18 U.S.C. § 3006A](#) and other applicable provisions of law.

Proposed Text:

### 44.2 Appearance and Withdrawal of Counsel

(a) **Notice of Attorney Appearance.** An attorney appearing for a defendant in a criminal case, whether retained or appointed, shall promptly file a written



appearance with the Clerk. That written appearance shall certify that the attorney has either completed six credit hours in federal criminal defense continuing education within the past two years or, if not, that the attorney will complete the required continuing education within 30 days of filing the notice of appearance.

**(b) Motion to Withdraw as Counsel.** An attorney who has appeared for a defendant shall thereafter withdraw only upon notice of a motion to withdraw as counsel to the defendant and all parties to the case and an order of the Court finding that good cause exists and granting leave to withdraw. Failure of a defendant to pay agreed compensation shall not be deemed good cause unless the Court determines otherwise. If the Court grants the substitution of counsel, the withdrawing attorney must serve a copy of the order upon the Defendant and file an affidavit of service.

**(c) Consent to Change Attorney.** If the Defendant ~~whose attorney seeks to withdraw~~ has consented to substitution of new counsel, the incoming attorney ~~who seeks to withdraw~~ must file a consent to change attorney that bears his signature, as well as the signature of the attorney ~~who is to be substituted~~ being replaced as counsel and the Defendant who has consented to this substitution. A form Consent to Change attorney can be found on the court's website at [www.nynd.uscourts.gov](http://www.nynd.uscourts.gov). Upon receipt of this document, the Court shall review the same and determine whether to grant the substitution. If the Court grants the substitution of counsel, the ~~withdrawing~~ newly-retained attorney must serve a copy of the order upon the Defendant and file an affidavit of service.

**(b)(d) Representation until Relieved by the Court.** Unless leave is granted, the attorney shall continue to represent the defendant until the case is dismissed, the defendant is acquitted or convicted, or the time for making post-trial motions and for filing a notice of appeal, as specified in [Fed. R. App. P. 4\(b\)](#), has expired. If an appeal is taken, the attorney, whether retained or appointed, shall continue to serve pursuant to [Local Appellate Rule 4.1\(a\)](#) until the court having jurisdiction of the case grants leave to withdraw or until that court has appointed another attorney as provided in [18 U.S.C. § 3006A](#) and other applicable provisions of law.