L O C A L R U L E S O F P R A C T I C E

Pertinent to
INMATE LITIGATION

UNITED STATES DISTRICT COURT

FOR THE

NORTHERN DISTRICT OF NEW YORK

Effective January 1, 2020

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

OFFICERS

ACTIVE JUDGES:

Hon. Glenn T. Suddaby, Chief Judge
Federal Building and U.S. Courthouse
P.O. Box 7336
Syracuse, NY 13261-7336

Hon. Brenda K. Sannes
Federal Building and U.S. Courthouse
P.O. Box 7336
Syracuse, NY 13261-7336

Hon. David N. Hurd
Alexander Pirnie Federal Building
10 Broad Street
Utica, NY 13501

Hon. Mae A. D'Agostino
James T. Foley U.S. Courthouse
445 Broadway, First Floor South
Albany, NY 12207

SENIOR JUDGES:

Hon. Thomas J. McAvoy
U.S. Courthouse
15 Henry Street
Binghamton, NY 13901

Hon. Frederick J. Scullin, Jr.
Federal Building and U.S. Courthouse
P.O. Box 7255
Syracuse, NY 13261-7255

Hon. Lawrence E. Kahn
James T. Foley U.S. Courthouse
445 Broadway, Room 424
Albany, NY 12207-2926

Hon. Norman A. Mordue
Federal Building and U.S. Courthouse
P.O. Box 7336
Syracuse, NY 13261-7336

Hon. Gary L. Sharpe
James T. Foley U.S. Courthouse
445 Broadway, First Floor South
Albany, NY 12207

MAGISTRATE JUDGES:

Hon. Andrew T. Baxter
Federal Building & U.S. Courthouse
Syracuse, NY 13261-7346

Hon. Thérèse W. Dancks
Federal Building & U.S. Courthouse
Syracuse, NY 13261-7346

Hon. Christian F. Hummel
James T. Foley U.S. Courthouse
Albany, NY 12207

Hon. Daniel J. Stewart
James T. Foley U.S. Courthouse
Albany, NY 12207

Hon. Miroslav Lovric
U.S. Courthouse
15 Henry Street
Binghamton, NY 13901

Hon. Gary L. Favro
14 Durkee Street- Suite 360
Plattsburgh, NY 12901-2834

Documents to be filed with this Court should be mailed to this address:

John Domurad, Clerk
U.S. District Court, Northern District of New York
P.O. Box 7367
100 South Clinton Street
Syracuse, NY 13261-7367

TABLE OF CONTENTS

Rule No.		Page No.
1.1	Scope of the Rules.	1
1.2	Availability of the Local Rules.	2
3.1	Civil Cover Sheet.	2
3.2	Venue.	2
3.3	Complex and Multi-district Litigation.	2
4.1	Service of Process.	2
5.1	Service and Filing of Papers.	3
5.1.1	Electronic Case Filing.	4
5.2	Prepayment of Fees.	4
5.3	Schedule of Fees.	4
5.4	Civil Actions Filed In Forma Pauperis; Applications for Leave to Proceed In Forma Pauperis.	4
5.5	Filing by Facsimile.	5
5.6	Service of the Writ in Exclusion and Deportation Cases (repealed 1/1/20).	5
5.7	Documents to be provided to the Clerk.	5
7.1	Motion Practice.	5
8.1	Personal Privacy Protection.	12
10.1	Form of Papers.	13
15.1	Form of a Motion to Amend and Its Supporting Documentation.	15
16.2	Discovery Cut-Off.	15
26.1	Form of Certain Discovery Documents.	15
26.2	Filing Discovery.	16
26.3	Production of Expert Witness Information.	16

26.4 Timing of Discovery. . . . 16

38.1 Notation of "Jury Demand" in the Pleading. . . . 16

41.2 Dismissal of Actions. . . . 16

41.3 Actions Dismissed by Stipulation. . . . 17

47.2 Jury Selection. . . . 17

47.3 Assessment of Juror Costs. . . . 18

47.5 Jury Contact Prohibition. . . . 18

48.1 Number of Jurors. . . . 18

52.1 Proposed Findings in Civil Cases. . . . 18

54.1 Taxation of Costs. . . . 18

55.1 Certificate of Entry of Default. . . . 19

55.2 Default Judgment. . . . 19

56.1 Summary Judgment Procedure. . . . 20

56.2 Notice to Pro Se Litigants of the Consequences of Failing to Respond to a Summary Judgment Motion. . . . 20

58.1 Entry of Judgment. . . . 20

58.2 Entering Satisfaction of Judgment or Decree. . . . 20

59.1 New Trial; Amendment of Judgment. . . . 21

72.1 Authority of Magistrate Judges. . . . 21

72.2 Duties of Magistrate Judges. . . . 22

72.3 Assignment of Duties to Magistrate Judges. . . . 23

72.4 Habeas Corpus. . . . 24

72.5 Habeas Corpus Petitions Involving the Death Penalty; Special Requirements. . . . 25

73.1 Magistrate Judges: Trial by Consent. . . . 30

77.2 Orders. . . . 30

1.1 Scope of the Rules

(a) Title and Citation. These are the Local Rules of Practice for the United States District Court for the Northern District of New York. They shall be cited as "L.R.___."

(b) Effective Date; Transitional Provision. These Rules became effective on **January 1, 2020.** Recent amendments are noted with the phrase (Amended January 1, 2020).

(c) Scope of the Rules; Construction. These Rules supplement the Federal Rules of Civil and Criminal Procedure. They shall be construed to be consistent with those Rules and to promote the just, efficient and economical determination of every action and proceeding.

(d) Sanctions and Penalties for Noncompliance. Failure of an attorney or of a party to comply with any provision of these Rules, General Orders of this District, Orders of the Court, or the Federal Rules of Civil or Criminal Procedure shall be a ground for imposition of sanctions.

(e) Definitions.

1. The word "court," except where the context otherwise requires, refers to the United States District Court for the Northern District of New York.

2. The word "judge" refers either to a United States District Judge or to a United States Magistrate Judge.

3. The words "assigned judge," except where the context otherwise requires, refer to the United States District Judge or United States Magistrate Judge exercising jurisdiction with respect to a particular action or proceeding.

4. The words "Chief Judge" refer to the Chief Judge or a judge temporarily performing the duties of Chief Judge under 28 U.S.C. § 136(e).

5. The word "clerk" refers to the Clerk of the Court or to a deputy clerk whom the Clerk designates to perform services of the general class provided for in Fed. R. Civ. P. 77.

6. The word "marshal" refers to the United States Marshal of this District and includes deputy marshals.

7. The word "party" includes a party's representative.

8. Reference in these Rules to an attorney for a party is in no way intended to preclude a party from appearing *pro se*, in which case reference to an attorney applies to the *pro se* litigant.

9. Where appropriate, the "singular" shall include the "plural" and vice versa.

1.2 Availability of the Local Rules

Copies of these Rules are available from the Clerk's office or at the Court's webpage at "www.nynd.uscourts.gov."

3.1 Civil Cover Sheet

A completed civil cover sheet on a form available from the Clerk shall be submitted with every complaint, notice of removal, or other document initiating a civil action. This requirement is solely for administrative purposes, and matters appearing on the civil cover sheet have no legal effect in the action.

3.2 Venue

The Court's Civil Case Assignment Plan as set forth in General Order 12 shall control venue for civil cases filed in the Northern District of New York. When filing a related action, parties must comply with Section G of General Order 12.

3.3 Complex and Multi-district Litigation

(a) If the assigned judge determines, in his or her discretion, that the case is of such a complex nature that it cannot reasonably be trial ready within eighteen months from the date the complaint is filed, the assigned judge may design and issue a particularized case management order that will move the case to trial as quickly as the complexity of the case allows.

(b) The parties shall promptly notify the Court in writing if any action commenced is appropriate for multi-district litigation.

4.1 Service of Process (Amended January 1, 2018).

(a) Service shall be made in the manner specified in the Federal Rules of Civil Procedure or as required or permitted by statute. The party seeking service of papers shall be responsible for arranging the service. The Clerk is authorized to sign orders appointing persons to serve process.

(b) Upon the filing of a complaint, the Clerk shall issue to the plaintiff General Order 25 which requires, among other things, service of process upon all defendants within sixty (60) days of the filing of the complaint. This expedited service requirement is necessary to ensure adequate time for pretrial discovery and motion practice. In no event shall service of process be completed after the time specified in Fed. R. Civ. P. 4.

(c) At the time the complaint or notice of removal is served, the party seeking to invoke the jurisdiction of this Court shall also serve on all parties the following materials:

1. Judicial Case Assignment Form;

2. Joint Civil Case Management Plan Containing Notice of Initial Pretrial Conference;

3. Notice and Consent Form to Proceed Before a United States Magistrate Judge.

The Clerk shall furnish these materials to the party seeking to invoke the jurisdiction of the Court at the time the complaint or notice of removal is filed.

(d) See L.R. 72.4(e).

(e) In cases where an acknowledgment of service by a defendant located within any judicial district of the United States has been properly requested, whether pursuant to Rule 4(d) of the Federal Rules of Civil Procedure or pursuant to N.Y. Civil Practice Law and Rules § 312-a, the defendant shall have sixty days from the date the waiver request was sent to the defendant to answer or file a motion to dismiss plaintiff's complaint.

(f) If a defendant located within the United States fails, without good cause, to sign and return a waiver requested by plaintiff within the United States, that defendant may be required to pay the expenses incurred by serving the summons and complaint in any other manner permitted by law.

5.1 Service and Filing of Papers (Amended January 1, 2020)

(a) All pleadings and other papers shall be served and filed in accordance with the Federal Rules of Civil Procedure and shall be in the form prescribed by L.R. 10.1. The party or its designee shall declare, by affidavit or certification, that it has provided all other parties in the action with all documents it has filed with the Court. See also L.R. 26.2 (discovery material).

(b) In civil actions where the Court has directed a party to submit an order or judgment, that party shall file all such orders or judgments pursuant to paragraph 8.2 of General Order 22.

(c) No paper on file in the Clerk's office shall be removed except pursuant to the Court's order.

(d) A private process server shall serve every summons, except as otherwise required by statute or rule or as the Court directs for good cause shown. A private process server is any person authorized to serve process in an action brought in the New York State Supreme Court or in the court of general jurisdiction of the State in which service is made.

(e) In the case of a prisoner's civil rights action, or any action where a party has been granted leave to proceed *in forma pauperis*, the Marshal shall serve the summons and complaint by regular mail pursuant to Fed. R. Civ. P. 4(c)(3). The Marshal shall file the return or other acknowledgment of service with the Court. The return shall constitute *prima facie* evidence of the service of process. If no acknowledgment of service is filed with the Court, the Marshal shall notify the plaintiff, and, if the plaintiff so requests, and the Marshal shall make personal service as provided in Fed. R. Civ. P. 4.

(f) Where there has been a removal of a New York State action that has been commenced pursuant to N.Y. C.P.L.R. 305(b) (summons with notice), the defendant may file a demand for a complaint. Within twenty (20) days of the service of the demand, the plaintiff shall serve a complaint upon the defendant.

5.1.1 Electronic Case Filing

All cases filed in this Court may be assigned to the Electronic Case Files System ("ECF") in accordance with the *Procedural Order on Electronic Case Filing* (General Order #22), the provisions of which are incorporated herein by reference, and which the Court may amend from time to time. Copies of General Order # 22 are available at the Clerk's office or at the Court's webpage at "www.nynd.uscourts.gov."

5.2 Prepayment of Fees

(a) Filing Fees. A party commencing an action or removing an action from a state court must pay to the Clerk the statutory filing fee before the case will be docketed and process issued. Title 28 U.S.C. § 1915 and L.R. 5.4 govern *in forma pauperis* proceedings.

(b) Miscellaneous Fees. The Clerk is not required to render any service for which a fee is prescribed by statute or by the Judicial Conference of the United States unless the fee for the service is paid in advance.

5.3 Schedule of Fees

Fee schedules are available at the Clerk's office or at the Court's webpage at "www.nynd.uscourts.gov."

5.4 Civil Actions Filed *In Forma Pauperis*; Applications for Leave to Proceed *In Forma Pauperis*

(a) On receipt of a complaint or petition and an application to proceed *in forma pauperis*, and supporting documentation as required for prisoner litigants, the Clerk shall promptly file the complaint or petition without the payment of fees and assign the action in accordance with L.R. 40.1. The Clerk shall then forward the complaint or petition, application and supporting documentation to the assigned judicial officer for a determination of the *in forma pauperis* application and the sufficiency of the complaint or petition and, if appropriate, to direct service by the Marshal. Prior to the Marshal serving process pursuant to 28 U.S.C. § 1915(d) and L.R. 5.1(e), the Court shall review all actions filed pursuant to 28 U.S.C. § 1915(g) to determine whether *sua sponte* dismissal is appropriate. The granting of an *in forma pauperis* application shall not relieve a party of the obligation to pay all other fees for which that party is responsible regarding the action, including but not limited to copying and/or witness fees.

(b) Whenever a fee is due for a civil action subject to the Prison Litigation Reform Act ("PLRA"), the prisoner must comply with the following procedure:

1. **(A)** Submit a signed, fully completed and properly certified *in forma pauperis* application; and

(B) Submit the authorization form issued by the Clerk's office.

2. **(A)** **(i)** If the prisoner **has not** fully complied with the requirements set forth in paragraph 1 above, and the action is not subject to *sua sponte* dismissal, a judicial officer shall, by Court order, inform the prisoner about what he or she must submit in order to proceed with such action in this District ("Order").

(ii) The Order shall afford the prisoner **thirty (30) days** in which to comply with the terms of same. If the prisoner fails to comply fully with the terms of such Order within such period of time, the Court shall dismiss the action.

(B) If the prisoner **has** fully complied with the requirements set forth in paragraph 1 above, and the action is not subject to *sua sponte* dismissal, the judicial officer shall review the *in forma pauperis* application. The granting of the application shall in no way relieve the prisoner of the obligation to pay the full amount of the filing fee.

3. After being notified of the filing of the civil action, the agency having custody of the prisoner shall comply with the provisions of 28 U.S.C. § 1915(b) regarding the filing fee due for the action.

5.5 Filing by Facsimile or E-mail

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

5.6 Service of the Writ in Exclusion and Deportation Cases

Repealed on January 1, 2020.

5.7 Documents to be provided to the Clerk

All pretrial and settlement conference statements shall be provided to the Clerk but not filed. These documents are not for public view. Forms for preparation of pretrial and settlement conference statements are available from the Clerk's office or at the Court's webpage at "www.nynd.uscourts.gov."

7.1 Motion Practice (Amended January 1, 2020)

Introduction - Motion Dates and Times

Unless the Court directs otherwise, the moving party shall make its motion returnable at the **next regularly scheduled motion date at least thirty-one days from the date the moving party files and serves its motion.** The moving party shall select a return date in accordance with the procedures set forth in subdivision (b). If the return date the moving party selects is not the next regularly scheduled motion date, or if the moving party selects no return date, the Clerk will set the proper return date and notify the parties.

Information regarding motion dates and times is specified on the case assignment form that the Court provides to the parties at the commencement of the litigation or the parties may obtain this form from the Clerk's office or at the Court's webpage at "www.nynd.uscourts.gov."

The Court hereby directs the Clerk to set a proper return date in motions that pro se litigants submit for filing that do not specify a return date or fail to allow for sufficient time pursuant to this Rule. Furthermore, the Clerk shall forward a copy of the revised or corrected notice of motion to the parties.

(a) Papers Required. Except as otherwise provided in this paragraph, all motions and opposition to motions require a memorandum of law, supporting affidavit, and proof of service on all the parties. See L.R. 5.1(a). Additional requirements for specific types of motions, including cross-motions, see L.R. 7.1(c), are set forth in this Rule.

1. Memorandum of Law. No party shall file or serve a memorandum of law that exceeds twenty-five (25) pages in length, unless that party obtains leave of the judge hearing the motion prior to filing. All memoranda of law shall contain a table of contents. 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.

When a moving party makes a motion based upon a rule or statute, the moving party must specify in its moving papers the rule or statute upon which it bases its motion.

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

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

2. Affidavit. An affidavit must not contain legal arguments but must contain factual and procedural background that is relevant to the motion the affidavit supports.

An affidavit is required for all motions except the following:

(A) a motion pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted;
(B) a motion pursuant to Fed. R. Civ. P. 12(c) for judgment on the pleadings; and
(C) a motion pursuant to Fed. R. Civ. P. 12(f) to strike a portion of a pleading

3. Summary Judgment Motions. Any motion for summary judgment shall contain a Statement of Material Facts. The Statement of Material Facts shall set forth, in numbered paragraphs, a short and concise statement of each material fact about which the moving party contends there exists no genuine issue. Each fact listed shall set forth a specific citation to the record where the fact is established. The record for purposes of the Statement of Material Facts includes the pleadings, depositions, answers to interrogatories, admissions and affidavits. It does not, however, include attorney's affidavits. Failure of the moving party to submit an accurate and complete Statement of Material Facts shall result in a denial of the motion.

The moving party shall also advise *pro se* litigants about the consequences of their failure to respond to a motion for summary judgment. See also L.R. 56.2.

The opposing party shall file a response to the Statement of Material Facts. The non-movant's response shall mirror the movant's Statement of Material Facts by admitting and/or denying each of the movant's assertions in a short and concise statement, in matching numbered paragraphs. Each denial shall set forth a specific citation to the record where the factual issue arises. The Court shall deem admitted any properly supported facts set forth in the Statement of Material Facts that the opposing party does not specifically controvert. The non-movant's response may also set forth a short and concise statement of any additional material facts that the non-movant contends are in dispute in separately numbered paragraphs, followed by a specific citation to the record where the fact is established.

4. Motions to Amend or Supplement Pleadings or for Joinder or Interpleader. A party moving to amend a pleading pursuant to Fed. R. Civ. P. 14, 15, 19-22 must attach an unsigned copy of the proposed amended pleading to its motion papers. Except if the Court otherwise orders, the proposed amended pleading must be a complete pleading, which will supersede the pleading sought to be amended in all respects. A party shall not incorporate any portion of its prior pleading into the proposed amended pleading by reference.

The motion must set forth specifically the proposed insertions and deletions of language and identify the amendments in the proposed pleading, either through the submission of a redline/strikeout version of the pleading sought to be amended or through other equivalent means.

Where a party seeks leave to supplement a pleading pursuant to Fed. R. Civ. P. 15(d), the party must limit the proposed supplemental pleading to transactions or occurrences or events which have occurred since the date of the pleading that the party seeks to supplement. The party must number the paragraphs in the proposed pleading consecutively to the paragraphs contained in the pleading that it seeks to supplement. In addition to the pleading requirements set forth above, the party requesting leave to supplement must set forth specifically the proposed supplements and identify the supplements in the proposed pleading, either through the submission of a redline/strikeout version of the pleading sought to be supplemented or other equivalent means.

Caveat: The granting of the motion does not constitute the filing of the amended pleading. After the Court grants leave, unless the Court otherwise orders, the moving party

must file and serve the original signed amended pleading within fourteen (14) days of the Order granting the motion.

(b) Motions.

1. Dispositive Motions. The moving party must file all motion papers with the Court and serve them upon the other parties not less than **THIRTY-ONE DAYS** prior to the return date of the motion. The Notice of Motion must state the return date that the moving party has selected.

The party opposing the motion must file its opposition papers with the Court and serve them upon the other parties not less than **SEVENTEEN DAYS** prior to the return date of the motion.

The moving party must file its reply papers, which may not exceed (10) pages with the Court and serve them upon the other parties not less than **ELEVEN DAYS** prior to the return date of the motion.

A surreply is not permitted.

Parties shall file all original motion papers, including memoranda of law and supporting affidavits, if any, in accordance with the *Administrative Procedures for Electronic Case Filing* (General Order #22) and/or the case assignment form provided to the parties at the commencement of the litigation. The parties need not provide a courtesy copy of their motion papers to the assigned judge unless the assigned judge requests a copy.

2. Non-Dispositive Motions. Prior to making any non-dispositive motion before the assigned Magistrate Judge, the parties must make **good faith efforts among themselves to resolve or reduce all differences relating to the non-dispositive issue**. If, after conferring, the parties are unable to arrive at a mutually satisfactory resolution, the party seeking relief must then request a court conference with the assigned Magistrate Judge.

A court conference is a prerequisite to filing a non-dispositive motion before the assigned Magistrate Judge. In the Notice of Motion, the moving party is required to set forth the date that the court conference with the Magistrate Judge was held regarding the issues being presented in the motion. Failure to include this information in the Notice of Motion may result in the Court rejecting the motion papers.

Actions which involve an incarcerated, *pro se* party are not subject to the requirement that a court conference be held prior to filing a non-dispositive motion.

Unless the Court orders otherwise, the moving party must file all motion papers with the Court and serve them upon the other parties not less than **THIRTY-ONE DAYS** prior to the return date of the motion.

The party opposing the motion must file its Opposition papers with the Court and serve them upon the other parties not less than **SEVENTEEN DAYS** prior to the return date of the motion.

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 nondispositive motion.

3. Failure To Timely File or Comply. The Court shall not consider any papers required under this Rule that are not timely filed or are otherwise not in compliance with this Rule unless good cause is shown. Where a properly filed motion is unopposed and the Court determines that the moving party has met its burden to demonstrate entitlement to the relief requested therein, the non-moving party's failure to file or serve any papers as this Rule requires shall be deemed as consent to the granting or denial of the motion, as the case may be, unless good cause is shown.

Any party who does not intend to oppose a motion, or a movant who does not intend to pursue a motion, shall promptly notify the Court and the other parties of such intention. They should provide such notice at the earliest practicable date, but in any event no less than **FOURTEEN DAYS** prior to the scheduled return date of the motion, except for good cause shown. **Failure to comply with this Rule may result in the Court imposing sanctions, and may be deemed sufficient cause for the denial of a motion or the granting of a motion by default.**

(c) Cross-Motions. A party may file and serve a cross-motion (meaning a request for relief that competes with the relief requested by another party against the cross-moving party) at the time it files and serves its opposition papers to the original motion, i.e., not less than **SEVENTEEN DAYS** prior to the return date of the motion. If a party makes a cross-motion, it must join its cross-motion brief with its opposition brief, and this combined brief may not exceed twenty-five (25) pages in length, exclusive of exhibits. A separate brief in opposition to the original motion is not permissible.

The original moving party must join its reply brief in further support of its original motion with its brief in opposition to the cross-motion, and this combined reply/opposition brief may not exceed twenty-five (25) pages in length, exclusive of exhibits. The original moving party must file its reply/opposition papers with the Court and serve them on the other parties not less than **ELEVEN DAYS** prior to the return date of the original motion. The original moving party shall file a response to a Statement of Material Facts contained in a cross-motion for summary judgment, in accordance with L.R. 7.1(a)(3).

The cross-moving party may not reply in further support of its cross-motion without the Court's prior permission.

(d) Discovery Motions. The following steps are required prior to making any discovery motion pursuant to Rules 26 through 37 of the Federal Rules of Civil Procedure.

1. Parties must make good faith efforts among themselves to resolve or reduce all differences relating to discovery prior to seeking court intervention.

2. The moving party must confer in detail with the opposing party concerning the discovery issues between them in a good faith effort to eliminate or reduce the area of controversy and to arrive at a mutually satisfactory resolution. Failure to do so may result in denial of a motion to compel discovery and/or imposition of sanctions.

3. If the parties' conference does not fully resolve the discovery issues, the party seeking relief must then request a court conference with the assigned Magistrate Judge. Incarcerated, *pro se* parties are not subject to the court conference requirement prior to filing a motion to compel discovery. The assigned Magistrate Judge may direct the party making the request for a court conference to file an affidavit setting forth the date(s) and mode(s) of the consultation(s) with the opposing party and a letter that concisely sets forth the nature of the dispute and a specific listing of each of the items of discovery sought or opposed. Immediately following each disputed item, the party must set forth the reason why the Court should allow or disallow that item.

4. Following a request for a discovery conference, the Court may schedule a conference and advise all parties of a date and time. The assigned Magistrate Judge may, in his or her discretion, conduct the discovery conference by telephone conference call, initiated by the party making the request for the conference, by video conference, or by personal appearance.

5. Following a discovery conference, the Court may direct the prevailing party to submit a proposed order on notice to the other parties.

6. If a party fails or refuses to confer in good faith with the requesting party, thus requiring the request for a discovery conference, the Court, at its discretion, may subject the resisting party to the sanction of the imposition of costs, including the attorney's fees of opposing party in accordance with Fed. R. Civ. P. 37.

7. A party claiming privilege with respect to a communication or other item must specifically identify the privilege and the grounds for the claimed privilege. The parties may not make any generalized claims of privilege.

8. The parties shall file any motion to compel discovery that these Rules authorize no later than **FOURTEEN DAYS** after the discovery cut-off date. See L.R. 16.2. A party shall accompany any motion that it files pursuant to Fed. R. Civ. P. 37 with the discovery materials to which the motion relates if the parties have not previously filed those materials with the Court.

(e) Order to Show Cause. All motions that a party brings by Order to Show Cause shall conform to the requirements set forth in L.R. 7.1(a)(1) and (2). **Immediately after filing an Order to Show Cause, the moving party must telephone the Chambers of the presiding judicial officer and inform Chambers staff that it has filed an Order to Show Cause.** Parties may obtain the telephone numbers for all Chambers from the Clerk's office or at the Court's webpage at "www.nynd.uscourts.gov." The Court shall determine the briefing schedule and return date applicable to motions brought by Order to Show Cause.

In addition to the requirements set forth in Local Rule 7.1(a)(1) and (2), a motion brought by Order to Show Cause must include an affidavit clearly and specifically showing good and sufficient cause why the standard Notice of Motion procedure cannot be used. The moving party must give reasonable advance notice of the application for an Order to Show Cause to the other parties, except in those circumstances where the movant can demonstrate, in a detailed and specific affidavit, good cause and substantial prejudice that would result from the requirement of reasonable notice.

An Order to Show Cause must contain a space for the assigned judge to set forth (a) the deadline for filing and serving supporting papers, (b) the deadline for filing and serving opposing papers, and (c) the date and time for the hearing.

(f) Temporary Restraining Order. A party may seek a temporary restraining order by Notice of Motion or Order to Show Cause, as appropriate. Filing procedures and requirements for supporting documents are the same as set forth in this Rule for other motions. The moving party must serve any application for a temporary restraining order on all other parties unless Fed. R. Civ. P. 65 otherwise permits. L.R. 7.1(b)(2) governs motions for injunctive relief, other than those brought by Order to Show Cause. L.R. 7.1(e) governs motions brought by Order to Show Cause.

(g) Motion for Reconsideration. Unless Fed. R. Civ. P. 60 otherwise governs, a party may file and serve a motion for reconsideration or reargument no later than **FOURTEEN DAYS** after the entry of the challenged judgment, order, or decree. All motions for reconsideration shall conform with the requirements set forth in L.R. 7.1(a)(1) and (2). The briefing schedule and return date applicable to motions for reconsideration shall conform to L.R. 7.1(b)(2). A motion for reconsideration of a Magistrate Judge's determination of a non-dispositive matter shall toll the fourteen (14) day time period to file objections pursuant to L.R. 72.1(b). The Court will decide motions for reconsideration or reargument on submission of the papers, without oral argument, unless the Court directs otherwise.

(h) Oral Argument. The parties shall appear for oral argument on all motions that they make returnable before a district court judge, except motions for reconsideration, on the scheduled return date of the motion. A motion may be disposed of without oral argument as described in General Order 25, on consideration of a request of any party, or otherwise at the discretion of the presiding judge. Thus, the parties should be prepared to have their motion papers serve as the sole method of argument on the motion.

The parties shall not appear for oral argument on motions that they make returnable before a Magistrate Judge on the scheduled return date of the motion unless the Magistrate Judge *sua sponte* directs or grants the request of any party for oral argument.

(i) Sanctions for Vexatious or Frivolous Motions or Failure to Comply with this Rule. A party who presents vexatious or frivolous motion papers or fails to comply with this Rule is subject to discipline as the Court deems appropriate, including sanctions and the imposition of costs and attorney's fees to the opposing party.

(j) Adjournments of Dispositive Motions. (Amended January 1, 2020). After the moving party files and serves its motion papers requesting dispositive relief, but before the time that the opposing party must file and serve its opposing papers, the parties may agree to an adjournment of the return date for the motion. However, any such adjournment may not be for more than **THIRTY-ONE DAYS** from the return date that the moving party selected. In addition, the parties may agree to new dates for the filing and service of opposition and reply papers. However, the parties must file all papers with the Court and serve them upon the other parties not less than **ELEVEN DAYS** prior to the newly selected return date of the motion. If the parties agree to such an adjournment, they must file a letter with the Court stating the following: (1) that they have agreed to an adjournment of the return date for the

motion, (2) the new return date, (3) the date on which the opposing party must file and serve its opposition papers, and (4) the date on which the moving party must file and serve its reply papers. The parties may not agree to any further adjournment.

If one of the parties seeks an adjournment of not more than **THIRTY-ONE DAYS** from the return date that the moving party selected, but the other parties will not agree to such an adjournment, the party seeking the adjournment must file a letter request with the Court and serve the same upon the other parties, stating the following: (1) that the parties cannot agree to an adjournment, (2) the reason that the party is seeking the adjournment, and (3) the suggested return date for the motion. All requests for extension of any deadlines must be made at least three business days prior to the expiration of the deadline, absent a showing of cause as to why it could not be made earlier. The Court will then take the request under advisement and, as soon as practicable, will enter an order granting or denying the request and, if granting the request, will set forth new dates for the filing and serving of opposition and reply papers.

If any party seeks an adjournment of the return date that is more than **THIRTY-ONE DAYS** from the return date that the moving party selected, that party must file a letter request with the Court stating the following: (1) why the party needs a longer adjournment and (2) a suggested return date for the motion. The Court will grant such an adjournment only upon a showing of exceptional circumstances. In the alternative or if the Court denies the request for an adjournment, the moving party may **withdraw its motion without prejudice** to refile at a later date. The moving party must refile its motion within the time frame set in the Uniform Pretrial Scheduling Order unless either the assigned District Judge or the assigned Magistrate Judge has granted an extension of the motion-filing deadline.

8.1 Personal Privacy Protection

(a) **Personal Identifiers**: Except as to documents in social security proceedings, pursuant to General Order 22 §§ 11.1 and 11.2, parties shall refrain from including, or shall redact where inclusion is necessary, the following personal identifiers from all filings with the Court, including exhibits thereto, whether filed electronically or in paper form, unless the Court orders otherwise.

1. **Social security numbers.** If an individual's social security number must be included in a document, use only the last four digits of that number.
2. **Names of minor children.** If the involvement of a minor child must be mentioned, use only the initials of that child.
3. **Dates of birth.** If an individual's date of birth must be included in a document, use only the year.
4. **Financial account numbers.** If financial account numbers are relevant, use only the last four digits of those numbers.
5. **Home Addresses.** If a home address must be used, use only the City and State.
6. **Names of Sexual Assault Victims.** If the involvement of a sexual assault victim must be mentioned, use only information that does not tend to identify the victim(s) of sexual assault in habeas corpus proceedings.

In addition, caution shall be exercised when filing documents that contain the following:

1. personal identifying number, such as a driver's license number;
2. medical records, treatment and diagnosis;
3. employment history;
4. individual financial information; and
5. proprietary or trade secret information.

(b) In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may:

1. file an unredacted version of the document under seal in compliance with Local Rule 83.13, or

2. file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal and may be amended as of right.

Counsel is strongly urged to discuss this issue with all their clients so that they can make an informed decision about the inclusion of certain information. The responsibility for redacting these personal identifiers **rests solely with counsel and the parties.** The Clerk will not review each filing for compliance with this Rule. Counsel and the parties are cautioned that failure to redact these personal identifiers may subject them to the Court's full disciplinary power.

Exception: Transcripts of the administrative record in social security proceedings are exempt from this requirement. State court records and other documents filed in habeas corpus proceedings are exempt from this requirement except for proceedings that involve victims of sex crimes. In habeas corpus cases involving sex crimes, the parties must redact the record and supporting papers, or may move to seal, if appropriate.

10.1 Form of Papers

(a) Form Generally. All pleadings, motions, and other documents that a party presents for filing, whether in paper form or in electronic form, shall meet the following requirements:

1. all text, whether in the body of the document or in footnotes, must be a minimum of 12 point type

2. all documents must have one-inch margins on all four sides of the page

3. all text in the body of the document must be double-spaced

4. the text in block quotations and footnotes may be single-spaced

5. extensive footnotes must not be used to circumvent page limitations

6. compacted or other compressed printing features must not be used

7. pages must be consecutively numbered

(b) Additional requirements for all pleadings, motions, and other documents that a party presents for filing in paper form:

1. all documents must be on 8 ½ x 11 inch white paper of good quality

2. all text must be plainly and legibly written, typewritten, printed or reproduced without erasures or interlineations materially defacing them

3. all documents must be in black or blue ink

4. pages of all documents must be stapled (or in some other way fastened) together

5. all documents must be single-sided

6. the Court, at its discretion, may require the electronic submission of any document in a Word-compatible or WordPerfect-compatible format

The Court may strike documents that do not comply with the above-listed requirements.

(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 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, e-mail address and fax number of the attorney. Telephone numbers of non-prisoner *pro se* parties may be provided voluntarily or 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, telephone or fax number through PACER.gov through "Manage my Account." Detailed instructions are available on the Court's website, www.nynd.uscourts.gov.

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

(d) The record on hearings, unless ordered printed, shall be plainly typewritten and bound in book form, paginated and indexed.

(e) The Court conducts its reviews and deliberations in English. Unless otherwise directed by the Court, any document that a party transmits to the Court (including one in the record on appeal) that is in a language other than English must be accompanied by an English translation that the translator has certified as true and accurate, pursuant to 28 U.S.C. § 1746. Any party who disputes a translation must file notice of its intention to challenge the translation with the Court and all other parties within seven (7) days of receiving the Notice of Electronic Filing for the translation, or, if a non-Filing User, within seven (7) days of receiving the translation. Upon receipt of a notice to challenge a translation, the Court shall establish the procedure and applicable time periods for the challenge to be heard.

15.1 Form of a Motion to Amend and Its Supporting Documentation

See L.R. 7.1(a)(4).

16.2 Discovery Cut-Off

The "discovery cut-off" is that date by which all responses to written discovery, including requests for admissions, shall be due according to the Federal Rules of Civil Procedure and by which all depositions shall be concluded. Counsel are advised to initiate discovery requests and notice depositions sufficiently in advance of the cut-off date to comply with this Rule. Discovery requests that call for responses or scheduled depositions after the discovery cut-off will not be enforceable except by order of the Court for good cause shown. Parties shall file and serve motions to compel discovery no later than fourteen (14) days after the discovery cut-off. See L.R. 7.1(d)(8).

26.1 Form of Certain Discovery Documents

The parties shall number each interrogatory or request sequentially, regardless of the number of sets of interrogatories or requests. In answering or objecting to interrogatories, requests for admission, or requests to produce or inspect, the responding party shall first state verbatim the propounded interrogatory or request and immediately thereafter the answer or objection.

26.2 Filing Discovery

Parties shall not file notices to take depositions, transcripts of depositions, interrogatories, requests for documents, requests for admissions, disclosures, and answers and responses to these notices and requests unless the Court orders otherwise; provided, however, that a party shall file any discovery material that it expects to use at trial or to support any motion, including a motion to compel or for summary judgment prior to the trial or motion return date. A party shall include with any motion pursuant to Fed. R. Civ. P. 37 the discovery materials to which the motion relates if the parties have not previously filed those materials with the Court.

26.3 Production of Expert Witness Information

There shall be binding disclosure of the identity of expert witnesses. The parties shall make such disclosure, including a *curriculum vitae* and, unless waived by the other parties, service of the expert's written report pursuant to Fed. R. Civ. P. 26(a)(2)(B), before the completion of discovery in accordance with the deadlines contained in the Uniform Pretrial Scheduling Order or any other Court order. Failure to comply with these deadlines may result in the imposition of sanctions, including the preclusion of testimony, pursuant to Fed. R. Civ. P. 16(f).

If a party expects to call a treating physician as a witness, the party must identify the treating physician in accordance with the timetable provided in the Uniform Pretrial Scheduling Order or other Court order.

26.4 Timing of Discovery

Fed. R. Civ. P. 26(d), which prohibits discovery prior to a meeting and conference between the parties, and Fed. R. Civ. P. 26(f), which directs parties to meet and confer with each other relative to the nature and basis of claims and defenses to a lawsuit, shall not apply to any action in which a party is incarcerated.

38.1 Notation of "Jury Demand" in the Pleading

(a) If a party demands a jury trial as Fed. R. Civ. P. 38(b) permits, the party shall place a notation on the front page of the initial pleading which that party signed , stating "Demand for Jury Trial" or an equivalent statement. This notation shall serve as a sufficient demand under Fed. R. Civ. P. 38(b).

(b) In cases removed from state court, a party may file a "Demand for Jury Trial" that is separate from the initial pleading. See Fed. R. Civ. P. 81(c); L.R. 81.3.

41.2 Dismissal of Actions

(a) Each judge shall from time to time notice for hearing on a dismissal calendar such actions or proceedings assigned to that judge which appear not to have been diligently prosecuted. Whenever it appears that the plaintiff has failed to prosecute an action or proceeding diligently, the assigned judge shall order it dismissed. In the absence of an order by the assigned judge or magistrate judge setting any date for any pretrial proceeding or for trial, the plaintiff's failure to take action for four (4) months shall be presumptive evidence of lack of prosecution. Unless the assigned judge or magistrate judge

otherwise orders, each party shall, not less than fourteen (14) days prior to the noticed hearing date, serve and file a certificate setting forth the status of the action or proceeding and whether good cause exists to dismiss it for failure to prosecute. The parties need not appear in person. No explanations communicated in person, over the telephone, or by letter shall be acceptable. If a party fails to respond as this Rule requires, the Court shall issue a written order dismissing the case for failure to prosecute or providing for sanctions or making other directives to the parties as justice requires. Nothing in this Rule shall preclude any party from filing a motion to dismiss an action or proceeding for failure to prosecute under Fed. R. Civ. P. 41(b).

(b) Failure to notify the Court of a change of address in accordance with L.R. 10.1(c)(2) may result in the dismissal of any pending action.

41.3 Actions Dismissed by Stipulation (Amended January 1, 2020)

Within 30 days after notifying the Court or Clerk that they have settled an action, or within 90 days of such notification in an action involving a municipal defendant, the parties shall file a stipulation of dismissal signed by each attorney and/or pro se litigant appearing in the action. Any such stipulation of dismissal that is submitted by the parties shall contain the following language, if applicable: "That no party hereto is an infant or incompetent." For actions involving an infant or incompetent, see L.R. 17.1. If a stipulation of dismissal is not timely filed, the Judge may enter an order dismissing the case by reason of settlement pursuant to the procedure set forth in L.R. 68.2.

47.2 Jury Selection

(a) Voir Dire. The Court, the attorneys, or both shall conduct voir dire examination as the Court shall determine. The court, in its sound discretion, may limit the attorneys' examination in time and subject matter.

(b) Impanelment of the Jury. In its discretion, the Court shall impanel the jury by use of either the "Strike" or "Jury Box" selection method unless the Court determines otherwise.

(c) Peremptory Challenges. Unless the Court orders otherwise, all parties shall alternately exercise their peremptory challenges.

(d) Waiver of Peremptory Challenges. Except when using the strike method, if a party passes or refuses to exercise a peremptory challenge, such action shall constitute a waiver of the right to exercise the challenge.

(e) Names of Potential Jurors during Voir Dire. During the voir dire process, unless otherwise directed by the presiding judicial officer, potential jurors shall be referred to by their assigned juror number. Should an issue develop where the name of the potential juror is germane, the requesting party shall submit a written request to the presiding judicial officer for release of the potential juror's name.

47.3 Assessment of Juror Costs

Whenever any civil action scheduled for jury trial is postponed, settled or otherwise disposed of in advance of the actual trial, then, except for good cause shown, all juror costs, including marshal's fees, mileage and per diem, shall be assessed against the parties and/or their attorneys as the Court directs, unless the parties or their attorneys notify the Court and the Clerk's office at least one full business day prior to the day on which the action is scheduled for trial, so that the Clerk has time to advise the jurors that it shall not be necessary for them to attend. The parties may request an advance estimate of costs from the Clerk.

47.5 Jury Contact Prohibition

The following rules apply in connection with contact between attorneys or parties and jurors.

(a) At any time after the Court has called a jury panel from which jurors shall be selected to try cases for a term of Court fixed by the presiding judge or otherwise impaneled, no party or attorney, or anyone associated with the party or the attorney, shall have any communication or contact by any means or manner with any juror until such time as the panel of jurors has been excused and the term of court ended.

(b) This prohibition is designed to prevent all unauthorized contact between attorneys or parties and jurors and does not apply when authorized by the judge while court is in session or when otherwise authorized by the presiding judge.

48.1 Number of Jurors

In civil cases, the Court shall determine the number of jurors, which shall not be less than six nor more than twelve.

52.1 Proposed Findings in Civil Cases

(a) In civil non-jury trials, each party shall submit proposed findings of fact and conclusions of law sufficiently detailed that, if the Court adopts them, would form an adequate factual basis, supported by anticipated evidence, for the resolution of the case and the entry of judgment.

(b) When Submitted and Served. See Uniform Pretrial Scheduling Order issued by the Court following the initial pretrial conference. See L.R. 16.1(e).

54.1 Taxation of Costs

(a) Procedure for Taxation in Civil Cases. The party entitled to recover costs shall file, within thirty (30) days after entry of judgment, a verified bill of costs on the forms that the Clerk provides. The party seeking costs shall accompany its request with receipts indicating that the party actually incurred the costs that it seeks. The verified bill of costs shall include the date on which the party shall appear before the Clerk for taxation of the costs and proof of service of a copy on the party liable for the costs. Post-trial motions shall not serve to extend the time within which a party may file a verified bill of costs as provided in this Rule, except on a showing of good cause or an order extending the time. Forms and a handbook for the preparation of a bill of costs are available from the Clerk's office or at the Court's webpage at "www.nynd.uscourts.gov."

(b) To Whom Payable. Except in criminal cases, suits for civil penalties for violations of criminal statutes, and government cases that the Department of Justice does not handle, all costs taxed are payable directly to the party entitled thereto and not to the Clerk, unless the Court orders otherwise.

(c) Waiver of Costs. Failure to file a bill of costs within the time provided for in this Rule shall constitute a waiver of the taxable costs.

(d) Printing Costs Associated with serving Pro Se litigants with Pleadings.
Absent prior approval from the Court, printing costs associated with pleadings served upon *pro se* litigants are not recoverable under this section.

55.1 Certificate of Entry of Default

A party applying to the Clerk for a certificate of entry of default pursuant to Fed. R. Civ. P. 55(a) shall submit an affidavit showing that (1) the party against whom it seeks a judgment of affirmative relief is not an infant, in the military, or an incompetent person (2) a party against whom it seeks a judgment for affirmative relief has failed to plead or otherwise defend the action as provided in the Federal Rules of Civil Procedure and (3) it has properly served the pleading to which the opposing party has not responded.

55.2 Default Judgment

(a) By the Clerk. When a party is entitled to have the Clerk enter a default judgment pursuant to Fed. R. Civ. P. 55(b)(1), the party shall submit, with the form of judgment, **the Clerk's certificate of entry of default**, a statement showing the principal amount due, not to exceed the amount demanded in the complaint, giving credit for any payments, and showing the amounts and dates of payment, a computation of the interest to the day of judgment, a *per diem* rate of interest, and the costs and taxable disbursements claimed. An affidavit of the party or the party's attorney shall be appended to the statement showing that

1. The party against whom it seeks judgment is not an infant or an incompetent person;
2. The party against whom it seeks judgment is not in the military service, or if unable to set forth this fact, the affidavit shall state that the party against whom the moving party seeks judgment by default is in the military service or that the party seeking a default judgment is not able to determine whether or not the party against whom it seeks judgment by default is in the military service;
3. The party has defaulted in appearance in the action;
4. Service was properly effected under Fed. R. Civ. P. 4;
5. The amount shown in the statement is justly due and owing and that no part has been paid except as set forth in the statement this Rule requires; and
6. The disbursements sought to be taxed have been made in the action or will necessarily be made or incurred.

The Clerk shall then enter judgment for principal, interest and costs. If, however, the Clerk determines, for whatever reason, that it is not proper for a default judgment to be entered, the Clerk shall forward the documents submitted in accordance with L.R. 55.2(a) to the assigned district judge for review. The assigned district judge shall then promptly notify the Clerk as to whether the Clerk shall properly enter a default judgment under L.R. 55.2(a).

(b) By the Court. A party shall accompany a motion to the Court for the entry of a default judgment, pursuant to Fed. R. Civ. P. 55(b)(2), with a **clerk's certificate of entry of default** in accordance with Fed. R. Civ. P. 55(a), a **proposed form of default judgment**, and a copy of the pleading to which no response has been made. The moving party shall also include in its application an affidavit of the moving party or the moving party's attorney setting forth facts as required by L.R. 55.2(a).

56.1 Summary Judgment Procedure

See L.R. 7.1(a)(3).

56.2 Notice to Pro Se Litigants of the Consequences of Failing to Respond to a Summary Judgment Motion

When moving for summary judgment against a *pro se* litigant, the moving party shall inform the pro se litigant of the consequences of failing to respond to the summary judgment motion. Counsel for the moving party shall send a notice to the *pro se* litigant that a motion for summary judgment seeks dismissal of some or all of the claims or defenses asserted in their complaint or answer and that the *pro se* litigant's failure to respond to the motion may result in the Court entering a judgment against the *pro se* litigant. Parties can obtain a sample notice from the Court's webpage at "www.nynd.uscourts.gov."

58.1 Entry of Judgment (Amended January 1, 2020)

(a) Upon the verdict of a jury or the decision of the Court, the Clerk shall sign and enter a separate document which shall constitute the judgment. The judgment shall contain no recitals other than a recital of the verdict or any direction of the Court on which the judgment is entered. Unless the Court specifically directs otherwise, the Clerk shall promptly prepare the judgment. The Clerk shall promptly sign and enter the judgment, except that where Fed. R. Civ. P. 58 requires the Court's approval, the Clerk shall first submit the judgment to the Court, which shall manifest approval by signing it or noting approval on the margin. The notation of the judgment in the appropriate docket shall constitute the entry of judgment.

58.2 Entering Satisfaction of Judgment or Decree

The Clerk shall enter satisfaction of a money judgment recovered or registered in the District as follows:

(a) Upon the payment into Court of the amount, plus applicable interest, and the payment of the Marshal's fees, if any;

(b) Upon the filing of a satisfaction-piece executed and acknowledged by

1. The judgment-creditor; or
2. The judgment-creditor's legal representative or assigns, with evidence of the representative's authority; or
3. The judgment-creditor's attorney or proctor, if within two years of the entry of the judgment or decree

(c) If the judgment-creditor is the United States, upon the filing of a satisfaction-piece executed by the United States Attorney.

(d) In admiralty, pursuant to an order of satisfaction; but an order shall not be made on the consent of the proctors only, unless consent is given within two years from the entry of the decree to be satisfied.

(e) Upon the registration of a certified copy of a satisfaction entered in another district.

59.1 New Trial; Amendment of Judgment

[Reserved] See L.R. 7.1(g) (Motions for Reconsideration).

72.1 Authority of Magistrate Judges (Amended January 1, 2020)

(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. The party must file and serve its appeal within fourteen (14) days after being served with the Magistrate Judge's order, must state a return date in accordance with L.R. 7.1(b)(2) 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(b)(2). The supporting papers shall include the following documents:

1. A designation of the contents of the record on appeal, including the documents, exhibits and other materials the Court is to consider; and

2. A memorandum of law.

Opposition papers shall also include a memorandum of law responsive to the appellant's arguments. Unless the Court directs otherwise, it will decide all appeals on submission of the papers without oral argument.

(c) 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.

72.2 Duties of Magistrate Judges

(a) In all civil cases, in accordance with Fed. R. Civ. P. 16, the Magistrate Judge assigned pursuant to L.R. 40.1 is authorized to hold conferences before trial, enter scheduling orders, and modify scheduling orders. The scheduling order may limit the time to join parties, amend pleadings, file and hear motions, and complete discovery. It may also include dates for a final pretrial conference and other conferences, a trial ready date, a trial date, and any other matters appropriate under the circumstances of the case. A schedule cannot be modified except by order of the Court. The Magistrate Judge may explore the possibility of settlement and hold settlement conferences.

(b) The following procedure shall be followed regarding consent of the parties and designation of a Magistrate Judge to exercise civil trial jurisdiction under 28 U.S.C. § 636(c):

1. Upon the filing of a complaint or petition for removal, the Clerk shall promptly provide to the plaintiff, or the plaintiff's attorney, a notice, as approved by the Court, informing the parties of their right to consent to have the full-time Magistrate Judge conduct all proceedings in the case. Proceedings in the case include hearing and determining all pretrial and post-trial motions, including dispositive motions; conducting a jury or non-jury trial; and ordering the entry of a final judgment. The plaintiff shall attach copies of the notice to the copies of the complaint and summons when served. Additional copies of the notice shall be furnished to the parties at later stages of the proceedings and shall be included with pretrial notices and instructions. The consent form will state that any appeal lies directly with the Court of Appeals for the Second Circuit.

2. If the parties agree to consent, the attorney for each party or the party, if *pro se*, must execute the consent form. The parties shall file the executed consent forms directly with the Clerk. No consent form shall be made available, nor shall its contents be made known, to any District Judge or Magistrate Judge, unless all of the parties have executed the consent form. No judge or other court official shall attempt to persuade or induce any party to consent to the reference of any matter to a Magistrate Judge. A District Judge, Magistrate Judge, or other court official may again inform or remind the parties that they have the option of referring the case to a Magistrate Judge. In reminding the parties about the availability of consent to a Magistrate Judge, the judge or other court official must inform the parties that they are free to withhold consent without adverse substantive consequences. The parties may agree to a Magistrate Judge's exercise of civil jurisdiction at any time prior to trial, subject to the approval of the District Judge.

3. When all of the parties have executed and filed the consent forms, the Clerk shall then transmit those forms along with the file to the assigned District Judge for approval and referral of the case to a Magistrate Judge. If the District Judge assigns the case to a Magistrate Judge on consent, authority vests in the Magistrate Judge to conduct all proceedings and to direct the Clerk to enter a final judgment in the same manner as if a District Judge presided over the case.

4. The Clerk shall notify any parties added to an action after consent and reference to a Magistrate Judge of their right to consent to the exercise of jurisdiction by the Magistrate Judge. If an added party does not consent to the Magistrate Judge's jurisdiction, the action shall be returned to the referring District Judge for further proceedings.

(c) Assignment of Magistrate Judges to Serve as Special Masters. A Magistrate Judge shall serve as a special master subject to the procedures and limitations of 28 U.S.C. § 636(b)(2) and Fed. R. Civ. P. 53. Where the parties consent, a Magistrate Judge shall serve as a special master in any civil case without regard to the provisions of Fed. R. Civ. P. 53(b).

(d) Other Duties in Civil Actions. A Magistrate Judge is also authorized to

1. Conduct proceedings for the collection of civil penalties of not more than $200 assessed under the Federal Boat Safety Act of 1971, as amended, in accordance with 46 U.S.C. § 4311(d), 46 U.S.C. §12309(c);

2. Conduct examinations of judgment debtors in accordance with Fed. R. Civ. P. 69;

3. Review petitions in civil commitment proceedings under Title III of the Narcotic Rehabilitation Act;

4. Supervise proceedings conducted pursuant to letters rogatory in accordance with 28 U.S.C. § 1782;

5. Exercise general supervision of the Court's civil calendar, conduct calendar and status calls, and determine motions to expedite or postpone the trial of cases for the judges; and

6. Administer oaths and affirmations and take acknowledgments, affidavits, and depositions.

72.3 Assignment of Duties to Magistrate Judges (Amended January 1, 2020)

(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. 40.1.

(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) 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.

(e) Federal Debt Collection Act Cases.

1. 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.

2. 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.

3. Thereafter, the Clerk shall assign geographically a Magistrate Judge if no Magistrate Judge was previously assigned in accordance with General Order #12.

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).

72.4 Habeas Corpus

(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 at Syracuse, New York. 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. If documents are separately bound and the citation to the documents is easily identifiable, the respondent does not need to repaginate the documents.

(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.

72.5 Habeas Corpus Petitions Involving the Death Penalty; Special Requirements

(a) Applicability. This Rule shall govern the procedures for a first petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 in which a petitioner seeks relief from a judgment imposing the penalty of death. The Court may deem a subsequent filing relating to a particular petition a first petition under this Rule if a court did not dismiss the original filing on the merits. The District Judge or Magistrate Judge to whom the petition is assigned may modify the application of this Rule. This Rule shall supplement the Rules Governing § 2254 Cases and does not in any regard alter or supplant those rules.

(b) Notices From Office of the Attorney General for the State of New York. The Office of the Attorney General for the State of New York ("Attorney General") shall send to the Clerk (1) prompt notice whenever the New York State Court of Appeals affirms a sentence of death; (2) at least once a month, a list of scheduled executions; and (3) at least once a month, a list of the death penalty appeals pending before the New York State Court of Appeals.

(c) Notice From Petitioner's Counsel. Whenever counsel decides to file a petition in this Court, counsel shall promptly file with the Clerk and serve on the Attorney General a written notice of counsel's intention to file a petition. The notice shall state the name of the petitioner, the district in which the petitioner was convicted, the place of the petitioner's incarceration, the status of the petitioner's state-court proceedings, and the scheduled date of execution. The notice is for the Court's information only, and the failure to file the notice shall not preclude the filing of the petition.

(d) Counsel

1. **Appointment of Counsel.** Each indigent petitioner shall be represented by counsel unless petitioner has clearly elected to proceed *pro se* and the Court is satisfied, after a hearing, that petitioner's election is intelligent, competent, and voluntary. Where the Court is to appoint counsel, such appointment shall be made at the earliest practicable time. The active judges of this District will certify a panel of attorneys qualified for appointment in death penalty cases ("qualified panel").

   If state appellate counsel is available to continue representation in the federal courts and the assigned District Judge deems counsel qualified to continue representation, there is a presumption in favor of continued representation except when state appellate counsel was also counsel at trial. In light of this presumption, it is expected that any appointed counsel who is willing to continue representation and whom the assigned District Judge has found qualified to do so, would ordinarily file a motion for appointment of counsel on behalf of his or her client together with the client's federal habeas corpus petition. If, however, counsel for any reason wishes to confirm appointment before preparing the petition, counsel may move for appointment as described above before filing the petition.

   If state appellate counsel is not available to represent the petitioner in the federal habeas corpus proceeding or if appointment of state appellate counsel would be inappropriate for any reason, the Court may appoint counsel upon application of the petitioner. The Clerk shall have available forms for such application. The Court may appoint counsel from the qualified panel. The assigned District Judge may suggest one or more counsel for appointment. If a petitioner makes an application for appointed counsel before filing the petition, the Clerk shall assign the application to a District Judge and Magistrate Judge in the same manner that the Clerk would assign a non-capital petition. The District Judge and Magistrate Judge so assigned shall be the District Judge and Magistrate Judge assigned when counsel files a petition for writ of habeas corpus.

2. **Second Counsel.** The Guide to Judiciary Policies and Procedures, Appointment of Counsel in Criminal Cases shall govern the appointment and compensation of second counsel.

(e) Filing.

1. **General requirement.** Petitioners shall file petitions as to which venue lies in this District in accordance with the applicable Local Rules. Petitioners shall fill in their petitions by printing or typewriting. In the alternative, the petitioner may typewrite or legibly write a petition which contains all of the information that the form requires. All petitions shall (1) state whether the petitioner has previously sought relief arising out of the same matter from this Court or any other federal court, together with the ruling and reasons given for denial of relief; (2) set forth any scheduled execution date; and (3) contain the wording in full caps and underscored "Death Penalty Case" directly under the case number on each pleading. Counsel for petitioner shall file an original and three (3) copies of the petition. A *pro se* petitioner need file only the original.

The Clerk will immediately notify the Attorney General's office when a petition is filed.

When a petitioner who was convicted outside of this District files a petition, the Court will immediately advise the clerk of the district in which the petitioner was convicted.

2. **Emergency motions or applications.** Counsel shall file emergency motions or applications with the Clerk. If time does not permit the filing of a motion or application in person or by mail, counsel may communicate with the Clerk and obtain the Clerk's permission to file the motion by facsimile. Counsel should communicate with the Clerk by telephone as soon as it becomes evident that he or she will seek emergency relief from this Court. The motion or application shall contain a brief account of the prior actions, if any, of this Court and the name of the judge or judges involved in the prior actions.

(f) Assignment to Judges. Notwithstanding the Court's case assignment plan, the Clerk shall assign petitions to judges of the Court as follows: (1) the Clerk shall establish a separate category for these petitions, to be designated with the title "Capital Case"; (2) all active judges of this Court shall participate in the assignments; (3) the Clerk shall assign petitions in the Capital Case category randomly to each of the available active judges of the Court; (4) if a petitioner has previously sought relief in this Court with respect to the same conviction, the petition shall, when practical, be assigned to the judges who were assigned to the prior proceeding; and (5) pursuant to 28 U.S.C. § 636(b)(1)(B), and consistent with law, the Court may designate Magistrate Judges to perform all duties under this Rule, including evidentiary hearings.

(g) Transfer of Venue. Subject to the provisions of 28 U.S.C. § 2241(d), it is the Court's policy that a petition should be heard in the district in which the petitioner was convicted rather than in the district of the petitioner's present confinement. See L.R. 72.4(b). If an order for the transfer of venue is made, the Court will order a stay of execution which shall continue until such time as the transferee court acts upon the petition or the order of stay.

(h) Stays of Execution.

1. **Stay Pending Final Disposition.** Upon the filing of a habeas corpus petition, unless the petition is patently frivolous, the Court shall issue a stay of execution pending final disposition of the matter. Notwithstanding any provision of this paragraph (h), the Court shall not grant or maintain stays of execution, except in accordance with law. Thus, the provisions of this paragraph (h) for a stay shall be ineffective in any case in which the stay would be inconsistent with the limitations of 28 U.S.C. § 2262 or any other governing statute.

2. **Temporary Stay for Appointment of Counsel.** Where counsel in the state-court proceedings withdraws at the conclusion of the state-court proceedings or is otherwise not available or qualified to proceed, the Court may designate an attorney who will assist an indigent petitioner in filing *pro se* applications for appointment of counsel and for a temporary stay of execution. Upon the filing of this application, the Court shall issue a temporary stay of execution and appoint counsel. The temporary stay will remain in effect for forty-five (45) days unless the Court extends this time.

3. **Temporary Stay for Preparation of the Petition.** Where the Court appoints new counsel to the case, upon counsel's application for a temporary stay of execution accompanied by a specification of nonfrivolous issues to be raised in the petition, the Court shall issue a temporary stay of execution unless no nonfrivolous issues are presented. The temporary stay will remain in effect for one hundred twenty (120) days to allow newly appointed counsel to prepare and file the petition. The Court may extend the temporary stay upon a subsequent showing of good cause.

4. **Temporary Stay for Transfer of Venue.** See paragraph (g).

5. **Temporary Stay for Unexhausted Claims.** If the petition indicates that there are unexhausted claims for which a state-court remedy is still available, the Court shall grant the petitioner a sixty (60) day stay of execution in which to seek a further stay from the state court in order to litigate the unexhausted claims in state court. During the proceedings in state court, the Court will stay the proceedings on the petition. After the state-court proceedings have been completed, the petitioner may amend the petition with respect to the newly exhausted claims.

6. **Stay Pending Appeal.** If the Court denies the petition and issues a certificate of appealability, the Court will grant a stay of execution which will continue in effect until the court of appeals acts upon the appeal or the order of stay.

7. **Notice of Stay.** Upon the granting of any stay of execution, the Clerk will immediately notify the appropriate prison superintendent and the Attorney General. The Attorney General shall ensure that the Clerk has a twenty-four (24) hour telephone number for the superintendent.

(i) Procedures for Considering the Petition. Unless the Court summarily dismisses the petition as patently frivolous, the following schedule and procedures shall apply subject to the Court's modification. Requests for enlargement of any time period in this Rule shall comply with these Local Rules.

1. Respondent shall, as soon as practicable, but in any event on or before twenty-one (21) days from the date of service of the petition, file with the Court the following:

   (A) Transcripts of the state trial-court proceedings;
   (B) Appellant's and respondent's briefs on direct appeal to the Court of Appeals, and the opinion or orders of that Court;
   (C) Petitioner's and respondent's briefs in any state-court habeas corpus proceedings and all opinions, orders and transcripts of such proceedings;
   (D) Copies of all pleadings, opinions and orders that the petitioner has filed in any previous federal habeas corpus proceeding which arose from the same conviction; and
   (E) An index of all materials described in paragraphs (A) through (D) above.

Respondent shall mark and number the materials so that they can be uniformly cited. Respondent shall serve this index upon counsel for petitioner or the petitioner *pro se*. If time does not permit, the respondent may file the answer without attachments (A) through (D) above, but the respondent shall file these attachments as soon as possible. If any items identified in paragraphs (A) through (D) above are not available, respondent shall state when, if at all, such missing material can be filed.

2. If counsel for petitioner claims that respondent has not complied with the requirements of paragraph (1), or if counsel for petitioner does not have copies of all the documents that respondent filed with the Court, counsel for petitioner shall immediately notify the Court in writing, with a copy to respondent. The Court will provide copies of any missing documents to the petitioner's counsel.

3. Respondent shall file an answer to the petition with accompanying points and authorities within thirty (30) days from the date of service of the petition. Respondent shall attach to the answer any other relevant documents that the parties have not already filed.

4. Within thirty (30) days after respondent has filed the answer, petitioner may file a traverse.

5. There shall be no discovery without leave of the Court.

6. Either party shall make any request for an evidentiary hearing within fifteen (15) days from the filing of the traverse or within fifteen (15) days from the expiration of the time for filing the traverse. The request shall include a specification of which factual issues require a hearing and a summary of what evidence petitioner proposes to offer. Any opposition to the request for an evidentiary hearing shall be made within fifteen (15) days from the filing of the request. The Court will then give due consideration to whether it will hold an evidentiary hearing.

(j) Evidentiary Hearing. If the Court holds an evidentiary hearing, the Court will order the preparation of a transcript of the hearing, which is to be immediately provided to petitioner and respondent for use in briefing and argument. Upon the preparation of the transcript, the Court may establish a reasonable schedule for further briefing and argument about the issues considered at the hearing.

(k) Rulings. The Court's rulings may be in the form of a written opinion, which will be filed, or in the form of an oral opinion on the record in open court, which shall be promptly transcribed and filed. The Clerk will immediately notify the appropriate prison superintendent and the Attorney General whenever relief is granted on a petition. The Clerk will immediately notify the clerk of the United States Court of Appeals for the Second Circuit by telephone of (1) the issuance of a final order denying or dismissing a petition without a certificate of probable cause for appeal or (2) the denial of a stay of execution. If the petitioner files a notice of appeal, the Clerk will transmit the appropriate documents to the United States Court of Appeals for the Second Circuit immediately.

73.1 Magistrate Judges: Trial by Consent

Upon the consent of the parties, a Magistrate Judge shall conduct all proceedings in any civil case, including a jury or non-jury trial and shall order the entry of a final judgment, in accordance with 28 U.S.C. § 636(c). See L.R. 72.2(b)(2).

77.2 Orders (Amended January 1, 2020)

(a) With these exceptions, all orders, whether by consent or otherwise, shall be presented for approval and execution to the assigned judge. The Clerk may sign without submission to the assigned judge the following orders:

1. Orders specifically appointing persons to serve process in accordance with Fed. R. Civ. P. 4; and

2. Orders restoring an action to the court docket after the filing of a demand for trial *de novo* pursuant to L.R. 83.7; (Mandatory Mediation Plan).

(b) If the assigned judge instructs the prevailing party to do so, the prevailing party shall submit a proposed order which the opposing party has approved and which contains the endorsement of the opposing party: "Approved as to form."

When the parties are unable to agree as to the form of the proposed order, the prevailing party shall, on seven (7) days notice to all other parties, submit a proposed order and a written explanation for the form of that order. The Court may award costs and attorney's fees against a party whose unreasonable conduct the Court deemed to have required the bringing of the motion. The provisions of L.R. 7.1 shall not apply to such motion, and the Court shall not hear oral argument.

(c) Orders may be issued as text-only entries on the docket without an attached, signed document. Such orders are official and binding. The Clerk's Office will send a paper copy of the text-only order to any non-ECF parties in the case. *See* General Order 22, section 8.1.

79.1 Custody of Exhibits and Transcripts. (Amended January 1, 2020)

(a) Unless the Court orders otherwise, the parties shall not file exhibits and transcripts with the Clerk. Rather, the party that produced them in court shall retain them for appeal purposes.