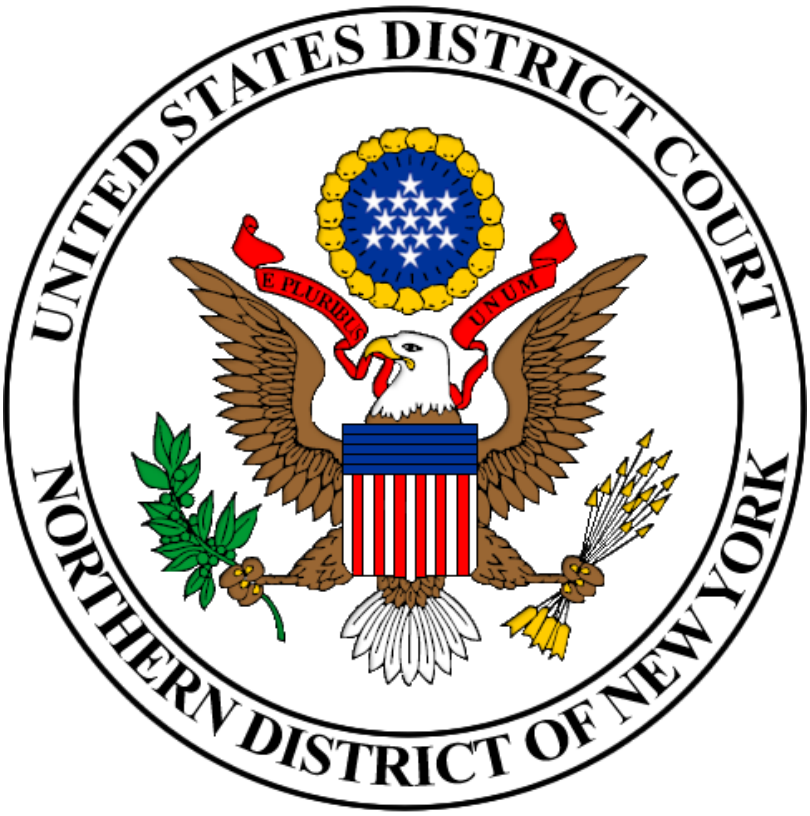
LOCAL RULES OF PRACTICE

Pertinent to

INMATE LITIGATION



UNITED STATES DISTRICT COURT

FOR THE

NORTHERN DISTRICT OF NEW YORK

Effective JANUARY 1, 2026

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Amendments to the NDNY Local Rules

Effective January 1, 2026

The proposed amendments detailed below were submitted or derived from comments received from the public, practitioners, judges and court staff during the February – April 2025 suggestion period. The changes were approved by the Board of Judges on September 18, 2025, subject to the review and approval of the Second Circuit Council. On September 25, 2025, the Second Circuit Judicial Council approved these changes. In addition, several of the Rules were modified to reflect citation, grammatical and/or administrative changes which do not materially alter the current rule. These amendments will become effective January 1, 2026, and supersede and/or supplement the specific sections set forth below.

Summary Table of Changes to the NDNY Local Rules

Rule Number	Topic	Description of Change
5.1	Service and Filing of Papers	Modified to reflect that a certificate of service is only required for non-ECF filers, including documents submitted for filing by pro se litigant on ECF where an NEF is sent to all parties. Subsection (d) removes the requirement of a process server to serve documents.
7.1(a)	Motion Practice	Modified to encourage that less-experienced attorneys to argue motions, if oral argument is permitted, and permit lead counsel to supplement presentations by less-experienced attorneys.
7.1(b)	Motion Practice	Modified to reflect certificate of service is only required on non-ECF parties; and to remove a Motion for Default Judgment pursuant to Fed.R.Civ.P. 55 as an exception to the memorandum of law requirement.
10.1(c)(3)	Form of Papers	New subsection added to include requirements for transmitting documents via MFT; warning that MFT submissions will only be reviewed during regular business hours; and consequences for failing to comply may result in document being stricken.
16.1	Civil Case Management	Modified to include requirements when requesting an extension of existing deadlines in the case management order.
26.6	Protective Orders	New rule with regard to provisions of a Protective Order.
55.1	Clerk's Entry of Default	Modified to clarify when an affidavit regarding military service is required.
55.2	Default Judgment	Modified to include the requirement of a Memorandum of Law and proposed order.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

OFFICERS

DISTRICT JUDGES:	
Hon. Brenda K. Sannes, Chief Judge Federal Building and U.S. Courthouse 100 South Clinton Street Syracuse, NY 13261-7336	Hon. Mae A. D'Agostino James T. Foley U.S. Courthouse 445 Broadway, First Floor South Albany, NY 12207
Hon. Anne M. Nardacci James T. Foley U.S. Courthouse 445 Broadway, First Floor Albany, NY 12207	Hon. Anthony J. Brindisi Alexander Pirnie Federal Building 10 Broad Street Utica, NY 13501
Hon. Elizabeth C. Coombe Federal Building and U.S. Courthouse 100 South Clinton Street Syracuse, NY 13261	
SENIOR DISTRICT JUDGES:	
Hon. Lawrence E. Kahn James T. Foley U.S. Courthouse 445 Broadway, Room 424 Albany, NY 12207-2926	Hon. Frederick J. Scullin, Jr. Federal Building and U.S. Courthouse P.O. Box 7255 Syracuse, NY 13261-7255
Hon. Glenn T. Suddaby 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

MAGISTRATE JUDGES:	
Hon. Thérèse Wiley Dancks Federal Building & U.S. Courthouse Syracuse, NY 13261-7346	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. Mitchell J. Katz Federal Building & U.S. Courthouse Syracuse, NY 13261-7346
Hon. Paul J. Evangelista James T. Foley U.S. Courthouse Albany, NY 12207	Hon. Gary L. Favro 14 Durkee Street- Suite 360 Plattsburgh, NY 12901-2834
DISTRICT COURT CLERK John M. Domurad, Clerk	
Federal Building and U.S. Courthouse P.O. Box 7367 100 South Clinton Street Syracuse, NY 13261-7367 315-234-8500	U.S. Courthouse 15 Henry Street Binghamton, NY 13901 607-773-2893
James T. Foley U.S. Courthouse 445 Broadway Albany, NY 12207 518-257-1800	Alexander Pirnie Federal Building 10 Broad Street Utica, NY 13501 315-793-8151
14 Durkee Street, Suite 360 Plattsburgh, NY 12901 518-247-4501	

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1.1 Scopes 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, 2026**. Recent amendments are noted with the phrase (Amended January 1, 2026).

(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 Case Assignment System (formerly L.R. 40.1)

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 Case 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 General Order #12.

3.2 Civil Cover Sheet (formerly L.R. 3.1)

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.

3.3 Venue (formerly L.R. 3.2)

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.

3.4 Complex and Multi-District Litigation (formerly L.R. 3.3)

(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.

3.6 Incarcerated Pro Se Litigant (added January 1, 2021)

(a) On receipt of a complaint or petition subject to the Prison Litigation Reform Act, the Clerk shall promptly file and assign an action in accordance with L.R. 3.1 so as to ensure that a judicial officer may comply with the requirements set forth in L.R. 5.1.4(b)(2)(A).

(b) This rule shall not limit the Clerk's authority to reject for filing any submission that the Clerk's office cannot manage in the regular execution of its duties because that document is not clear, not properly filed, or otherwise noncompliant with legal filing requirements.

3.7 Transfer of Cases to Another District (formerly L.R. 83.6)

When possible and unless otherwise directed, the Clerk shall electronically transfer all materials in a case to the transferee district fourteen (14) days after the transfer order. The Clerk shall otherwise electronically transfer the case via CM/ECF to the transferee district fourteen (14) days after the transfer order.

4.1 Service of Process (Amended January 1, 2021)

(a) Service shall be made in the manner specified in the Federal Rules of Civil Procedure or as required or permitted by statute or local rules with respect to certain cases (e.g. Habeas Corpus petitions and Social Security appeals). The party seeking service of papers shall be responsible for arranging the service.

(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; and

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) In cases where an acknowledgment of service (also called "waiver 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.

(e) If an individual, corporation or association defendant that is subject to service under Fed.R.Civ.P. 4(e), (f) or (h) and located within the United States fails, without good cause, to sign and return a waiver requested by plaintiff within the United States, that defendant will be required to pay the expenses incurred by plaintiff for serving the summons and complaint in any other manner permitted by law, and the reasonable expenses, including attorney's fees, of any motion required to collect those service expenses.

5.1 Service and Filing of Papers (Amended January 1, 2026)

(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 non-Electronic Case Filers ("non-ECF filers") in the action with all documents it has filed with the Court.

A pro se litigant may elect to receive service of filings in their individual case via Notice of Electronic Filing ("NEF") by signing and submitting a Consent to Electronic Service at the time of filing an initial pleading or making an appearance in the case, or at any time throughout the pendency of the case. Pro se litigants who opt in shall be referred to as Electronic Recipients ("e-Recipient").

The filing of documents on CM/ECF shall constitute service on all Electronic Case Filers ("ECF filers") and any pro se litigants who have opted in and consented to receive service via NEF. The electronic transmission of the NEF is sufficient proof of service on all individuals listed as recipients on the electronic notice. This includes all documents submitted for filing on CM/ECF by a pro se litigant. No additional service by mail or certificate of service is required for these recipients.

However, any documents filed under seal or submitted for *in camera* inspection which require service by alternative methods must be accompanied by a certificate of service.

(b) In civil actions where the Court has directed a party to submit a proposed order or judgment, that party shall file all such proposed orders or judgments on CM/ECF.

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

(d) A summons may be served by anyone over the age of 18 who is not a party to the action.

(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 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 shall file a demand for a complaint within fourteen (14) days of filing the notice of removal, unless the Court excuses this requirement or extends the time period. 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 will be assigned to the Electronic Case Filing 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.

5.1.2 Prepayment of Fees (formerly L.R. 5.2) (Amended January 1, 2022)

(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. Title 28 U.S.C. § 1915 and L.R. 5.1.4 govern *in forma pauperis* proceedings. Failure to pay the full filing fee or include a signed Application to Proceed *In Forma Pauperis* will result in the Clerk opening the case and referring the case to the assigned judicial officer for an order administratively closing the case.

5.1.3 **Schedule of Fees** (formerly L.R. 5.3)

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

5.1.4 **Civil Actions Filed In Forma Pauperis; Applications for Leave to Proceed In Forma Pauperis** (formerly L.R. 5.4) (Amended January 1, 2022)

(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. 3.1. 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, 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 and administratively close the case.

(ii) The Order shall afford the prisoner **thirty (30) days** in which to comply with the terms of same.

(iii) After a case has been administratively closed, upon receipt of a signed, fully completed and properly certified *in forma pauperis* application and a signed authorization form, or the payment of the full filing fee, the Clerk shall reopen the case. If the action is not subject to *sua sponte* dismissal, the judicial officer shall review the *in forma pauperis* application, if applicable.

(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.

5.1.5 Filing by Facsimile or E-mail (formerly L.R. 5.5)

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.

5.1.6 Documents to be provided to the Court Clerk (Amended January 1, 2025)

All pretrial and settlement conference statements shall not be filed on the docket, but rather shall be provided to the Court via MFT on the Court's website. These documents are not available 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.

5.1.7 Recording of Proceedings (formerly L.R. 5.8)

Recording of any court proceeding, regardless of the medium, is prohibited without prior notification and approval from the presiding judicial officer.

5.2 Personal Privacy Protection (formerly L.R. 8.1) (amended January 1, 2025)

(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 and taxpayer identification numbers. If an individual's social security number or taxpayer identification 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 or a pseudonym.
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. However, *Pro Se* litigants must include their complete mailing address in the signature block on all documents filed with the court pursuant to L.R. 10.1(c)(2) which shall also appear on the face of the docket.
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, and redact the name to "Victim 1," "Victim 2", etc.

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 5.3, 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.

For exceptions, see Federal Rule of Civil Procedure 5.2(b).

5.3 Sealed Matters (formerly L.R. 83.13) (Amended January 1, 2025)

(a) A party seeking to have a document, a portion of a document, a party or an entire case sealed bears the burden of filing an application setting forth the reason(s) that the referenced material should be sealed under the governing legal standard. *See Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-27 (2d Cir. 2006). (The provisions of Local Rule 5.3 shall not apply to actions for which sealing is required by statute, e.g., 31 U.S.C. § 3730(b)(2), or to personal identifiers that are required to be redacted under Local Rule 5.2.)

The application to seal shall be filed on ECF. The party should also attach to the application or file separately a redacted version of any document that is to contain the sealed material (unless the party seeks to seal the entire document). When the party seeks to seal an entire document, the party shall attach or file that document with a blank page marked appropriately (e.g., as "Sealed Affidavit" or "Sealed Exhibit Number ___") for each requested sealed document.

The application shall also attach a proposed sealing order (which shall not be filed under seal unless the Court deems doing so to be appropriate) containing specific findings justifying the sealing under the governing legal standard for the assigned judge's approval. The proposed order shall include an "ORDERED" paragraph stating the referenced material to be sealed. All material sought to be sealed shall be submitted to the Court for its in camera consideration via MFT on the Court's website, and shall be served on all counsel.

(b) Upon the assigned judge's approval of the sealing order, the sealing order shall be filed on the public docket (unless the Court deems sealing all or a portion of it to be appropriate), and the redacted or sealed document shall be filed as directed by the Court. A complaint presented for filing with an application to seal and a proposed order shall be treated as a sealed case, pending approval of the proposed order. A document, a portion of a document, a party or an entire case may be sealed when the case is initiated or at various stages of the proceeding. The Court may on its own motion enter an order directing that a document, a portion of a document, a party or an entire case be sealed.

(c) Once the Court seals a document, a portion of a document, a party or an entire case, the material shall remain under seal for the duration of the sealing order or until a subsequent order is entered directing that the sealed material be unsealed. A party or third-party seeking unsealing must do so by motion on notice.

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

6.1 Calculation of Time Periods (amended January 1, 2021)

The time for briefing motions is set in Local Rule 7.1, unless otherwise ordered by the Court.

7.1 Motion Practice (amended January 1, 2026)

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

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

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. For discovery motions, see L.R. 37.1.

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 (upon filing all motion papers with the Court) serve its motion papers on any *pro se* parties.

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

Reply papers and adjournments are not permitted without the Court's prior permission. Permission to file a reply does not exist simply because CM/ECF generates a deadline for a reply on a non-dispositive motion. When leave of court is granted, reply briefs may not exceed 10 pages in length.

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 more than **TWENTY-ONE (21) DAYS** after service of the motion.

(b) **Papers Required**. Except as otherwise provided in this paragraph, all motions and opposition to motions require a memorandum of law, supporting affidavit when necessary to establish and provide factual and procedural background relevant to the motion, and proof of service on non-Electronic Case Filers ("non-ECF filers"). In addition, all motions require a Notice of Motion (except requests that are permitted by chambers to take the form of letter-requests, provided that the party seeking relief has identified in its motion or letter the precise relief sought). Additional requirements for specific types of motions, including cross-motions, see L.R. 7.1(c), are set forth in the Local Rule that corresponds with the Federal Rule.

Documents that are on file with the Court in the same action should not be attached as exhibits to the motion papers, but rather should be referenced to the appropriate docket number.

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.

1. **Memorandum of Law**. No party shall file or serve a memorandum of law that exceeds twenty-five (25) pages in length, double-spaced, unless that party obtains leave of the judge hearing the motion prior to filing. All memoranda of law shall contain a table of contents and numbered pages. 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 or *pro se* party 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; and
   (D) a motion pursuant to Fed. R. Civ. P. 37 to compel discovery.

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 not required for the following motions:
   (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. **Statement of Material Facts**. Any motion for summary judgment shall include a Statement of Material Facts, and any opposition shall contain a response to the Statement of Material Facts. See L.R. 56.1.

4. **Unsigned Copy of Proposed Amended Pleading**. 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. See L.R. 14, 15, 19-22

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

(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 more than **TWENTY-ONE DAYS** after service of the motion, unless otherwise ordered by the Court. 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 restrictions of Local Rule 7.1(c) relating to "cross-motions" do not apply when summary judgment motions are filed by multiple parties on or before the deadline for filing of initial dispositive motions, even if the motions seek competing relief.

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 more than **SEVEN DAYS** after service of the cross-motion/opposition to 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. 56.1(b).

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

(d) Discovery Motions. See L.R. 37.1.

(e) Emergency Motion/Order to Show Cause. All requests for an Emergency Motion/Order to Show Cause shall conform to the requirements set forth in L.R. 7.1(b)(1) and (2). Immediately after filing a request for 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 a request for 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 the request for an Order to Show Cause.

In addition to the requirements set forth in Local Rule 7.1(b)(1) and (2), a request for an Order to Show Cause must include an affidavit clearly and specifically showing good and sufficient cause why the standard motion procedure (i.e., advanced notice, 21 days for an opposition, and 7 days for a reply) cannot be used with regard to the underlying motion. In addition, the moving party must give reasonable advance notice of the request for an Order to Show Cause to the other parties, except in those circumstances where the movant demonstrates, in a detailed and specific affidavit, good cause why reasonable advance notice cannot be used, and that substantial prejudice would result from the requirement of reasonable advance notice.

A proposed 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. See L.R. 65.1.

(g) Motion for Reconsideration. See L.R. 60.1.

(h) Oral Argument. Motions are decided without oral argument unless otherwise scheduled by the Court. Parties may make a written request for oral argument, which is subject to the discretion of the presiding judge. See L.R. 7.1(a).

(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. 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.

10.1 Form of Papers (Amended January 1, 2026)

(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 or electronic signature of the attorney or *pro se* litigant; the typewritten name of that person; the address of a *pro se* litigant, including zip code; and the bar roll number, office address, telephone number, and e-mail address of the attorney. A *pro se* litigant's complete mailing address in the signature block is required on all documents filed with the court and shall also appear on the face of the docket. Telephone numbers of non-prisoner *pro se* parties are required to be displayed on the docket for purposes of scheduling court proceedings. See General Order # 22 for signature requirements.

All attorneys of record and *pro se* litigants must immediately notify the Court of any change of address and/or telephone number. Parties must file the notice of change of address with the Clerk and serve the same on all other parties to the action. The notice must identify each and every action to which the notice shall apply. In addition, the notice shall be clearly entitled, "Notice of Change of Address." **Attorneys shall update their bar record within (14) days of a change, including their address, email address, and telephone number through www.pacer.gov.** Detailed instructions to update the bar record are available on the Court's website at www.nynd.uscourts.gov.

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

3. All documents submitted for filing by non-ECF filers via MFT must be submitted in PDF format and comply with L.R. 10.1(c)(1) and (2) above, which specify formatting requirements for pleadings and other papers. All documents submitted in support of a complaint must be filed concurrently with the complaint. Subsequent submissions of documents or exhibits supporting a pleading will not be accepted unless accompanied by a proposed amended complaint relying on those documents or exhibits, in compliance with Fed.R.Civ.P. 15 and L.R. 15.1. All documents submitted in support of a motion must be filed concurrently with the motion and must comply with L.R. 7.1. Each exhibit to a motion must be clearly labeled with a numerical exhibit number and identified by exhibit number within the motion papers.

Failure to adhere to these requirements may result in the document being stricken from the docket or terminating the filer's MFT submission privileges.

Any documents submitted for filing via MFT after 4:45 pm will not be reviewed until 8:45 am on the next business day.

(d) 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.

11.1 Appearance and Withdrawal of Attorney (Amended January 1, 2024)

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

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

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

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

Unless the Court orders otherwise, withdrawal of counsel, with or without the consent of the client, shall not result in the extension of any of the deadlines contained in any case

management orders, including the Uniform Pretrial Scheduling Order, see L.R. 16.1(e), or the adjournment of a trial ready or trial date.

12.1 Defenses and Objections/Motions under Fed.R.Civ.P. Rule 12

All motions to dismiss and motions for judgment on the pleadings must conform with L.R. 7.1. A motion to dismiss made pursuant to Fed.R.Civ.P. 12(b)(6), motion for judgment on the pleadings made pursuant to Fed.R.Civ.P. 12(c), or motion to strike made pursuant to Fed.R.Civ.P. 12(f) does not require an affidavit. Any motion for a more definite statement made pursuant to Fed.R.Civ.P. 12(e) does not require a memorandum of law.

15.1 Amended and Supplemental Pleadings (Amended January 1, 2023)

(a) 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 or exhibits thereto 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.

(b) Motions to supplement a pleading pursuant to Fed.R.Civ.P. 15(d). 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, 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.

(c) Filing of Amended Complaint. The granting of the motion to amend 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. For all parties who have not yet appeared, service must be made pursuant to Rule 4 of the Federal Rules of Civil Procedure. For all parties who have appeared, service via CM/ECF is acceptable.

16.1 Civil Case Management (Amended January 1, 2026)

This Court has found that the interests of justice are most effectively served by adopting a systematic, differential case management system that tailors the level of individualized and case-specific management to such criteria as case complexity, time required to prepare a case for trial, and availability of judicial and other resources.

(a) Filing of Complaint/Service of Process. 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.

(b) Assignment of District Judge/Magistrate Judge. Immediately upon the filing of a civil action, 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 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. Once assigned, either judicial officer shall have authority to design and issue a case management order.

(c) Initial Pretrial Conference. Except for cases excluded under section II of General Order 25, an initial pretrial conference shall be scheduled in accordance with the time set forth in Fed. R. Civ. P. 16. The Clerk shall set the date of this conference upon the filing of the complaint. The purpose of this conference will be to prepare and adopt a case-specific management plan which will be memorialized in a case management order. See subsection (d) below. In order to facilitate the adoption of such a plan, prior to the scheduled conference, counsel for all parties shall confer among themselves as Fed. R. Civ. P. 26(f) requires and shall use the Civil Case Management Plan form contained in the General Order 25 filing packet. The parties shall file their jointly proposed plan, or if they cannot reach consensus, each party shall file its own proposed plan with the Clerk at least fourteen (14) business days prior to the scheduled pretrial conference.

(d) Subject Matter of Initial Pretrial Conference. At the initial pretrial conference, the Court shall consider, and the parties shall be prepared to discuss, the following:

1. Deadlines for joinder of parties, amendment of pleadings, completion of discovery, filing of non-dispositive and dispositive motions, and expert witness disclosure;

2. Trial date;

3. Requests for jury trial;

4. Subject matter and personal jurisdiction;

5. Factual and legal bases for claims and defenses;

6. Factual and legal issues in dispute;

7. Factual and legal issues upon which the parties can agree or which they can narrow through motion practice and which will expedite resolution of the dispute;

8. Specific relief requested, including method for computing damages;

9. Intended discovery and proposed methods to limit and/or decrease time and expense thereof;

10. Suitability of case for mandatory mediation;

11. Measures for reducing length of trial;

12. Related cases pending before this or other U.S. District Courts;

13. Procedures for certifying class actions, if appropriate;

14. Settlement prospects; and

15. If the case is in the mediation track, the estimated time for completion of mediation.

(e) Uniform Pretrial Scheduling Order. Upon completion of the initial pretrial conference, the presiding judge may issue a Uniform Pretrial Scheduling Order setting forth deadlines for joinder of parties, amendment of pleadings, production of expert reports, completion of discovery, and filing of motions; a trial ready date; the requirements for all trial submissions; and if a mediation track case, the deadline for completion of mediation.

(f) Enforcement of Deadlines. The Court shall strictly enforce any deadlines that it establishes in any case management order, and the Court shall not modify these deadlines, even upon stipulation of the parties, except upon a showing of good cause.

Any request to extend deadlines contained in the Court's scheduling orders must be made before the deadline expires and shall: (i) in accordance with Rule 16, show good cause, i.e., due diligence, (ii) state the current deadlines, (iii) state the number of prior extensions for the deadline in question, if any, and which party requested them, (iv) state the proposed new deadlines, and (v) state whether the request is made on consent of the parties.

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 is 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 Local Rule 37.1(h).

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 as an exhibit any discovery material to support any motion, including a motion to compel or for summary judgment. 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. Even if the Court has requested that trial exhibits be provided in electronic format, including deposition transcripts or other discovery, they should not be filed on the docket. All trial exhibits requested electronically shall be pre-marked and provided in electronic format via USB drive or CD/DVD.

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.

37.1 Discovery Motions (formerly L.R. 7.1(d))** (amended January 1, 2021)

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

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

b. 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.

c. 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. *Pro se* parties who are incarcerated 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.

d. 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.

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

f. 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.

g. 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.

h. 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.

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). Selecting "yes" to the question for a Jury Demand on the Civil Cover Sheet is not sufficient to comply with 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. 81.4.

39.1 Opening Statements and Closing Arguments

The Court will determine the time to be allotted for opening and closing arguments.

39.2 Submission of Pretrial Papers

The parties shall file all pretrial submissions in accordance with the requirements of the Uniform Pretrial Scheduling Order unless the Court orders otherwise.

41.2 Dismissal of Actions (amended January 1, 2022)

(a) Whenever it appears that the plaintiff has failed to prosecute an action or proceeding diligently, the assigned judge may 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. 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 by counsel or *pro se* litigant within 14 days of a change 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. 68.1.

47.1 Grand and Petit Jurors

Grand and petit jurors to serve at stated and special sessions of the Court shall be summoned pursuant to 28 U.S.C. §§ 1861–67, and the Plan adopted and approved by the judges of this Court and approved by the Judicial Council for the Court of Appeals for the Second Circuit contained in General Order 24. The selection of grand and petit jurors is made by random selection from voter registration lists and supplemented by, if available, lists of licensed drivers from the New York State Department of Motor Vehicles and tax filers from the New York State Department of Taxation and Finance. Court sessions, pursuant to 28 U.S.C. § 112, are designated to be held in the Northern District of New York in the cities of Albany, Binghamton, Malone/Plattsburgh, Syracuse, Utica, and Watertown. For jury selection purposes under 28 U.S.C. § 1869(c), this District is divided into divisions from which jurors are selected for the particular place where jury sessions are to be held. The divisions are as follows:

1. ALBANY DIVISION: Albany, Columbia, Fulton, Greene, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, Ulster, Warren and Washington Counties

2. BINGHAMTON DIVISION: Broome, Chenango, Delaware, Tioga and Tompkins Counties

3. SYRACUSE: Cayuga, Cortland, Jefferson, Madison, Onondaga, and Oswego Counties

4. UTICA DIVISION: Hamilton, Herkimer, Lewis, Oneida and Otsego Counties

5. PLATTSBURGH DIVISION: Clinton, Essex, Franklin and St. Lawrence Counties

A copy of the Plan for the NDNY for Random Selection of Grand and Petit Jurors is available upon request at the Clerk's office or on the Court's webpage at www.nynd.uscourts.gov.

47.2 Jury Selection (amended January 1, 2021)

(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. Impanelment via the "Strike" method requires all potential jurors to be questioned, and after challenges for cause are entertained, the attorneys on each side will alternate striking one juror until there are a sufficient number of jurors remaining which comprises the jury, as decided by the presiding judge.

(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, the names of potential jurors may be mentioned in Court, unless otherwise directed by the presiding judicial officer, however, potential jurors and selected jurors shall be referred to by their assigned juror number in all court transcripts. 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.

47.6 Social Media Juror Inquiries

(a) Attorneys may use websites available to the public, including social media websites, for juror or prospective juror research, so long as:

1. The website or information is available and accessible to the public;

2. The attorney does not send an access request to a juror's electronic social media;

3. No direct communication or contact occurs between the attorney and a juror or prospective juror as a result of the research, including, but not limited to, Facebook "friend" requests, Twitter or Instagram "follow" requests, LinkedIn "connection" requests, or other forms of internet and social media contact;

4. Social media research is done anonymously. For example, a search on a social media site must not disclose to the juror who is making the inquiry, and it must only seek information available and accessible to the public and not the result of an attorney's account on said social media site; and

5. Deception is not used to gain access to any website or to obtain any information.

(b) Third parties working for the benefit of or on behalf of any attorney must comply with all the same restrictions as set forth above for attorneys.

(c) If an attorney becomes aware of a juror's posting on the internet about the case in which she or he is serving, the attorney shall report the issue to the court.

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.

51.1 Instructions to the Jury

When Submitted and Served. See Uniform Pretrial Scheduling Order issued by the court following the initial pretrial conference, or any subsequent order issued by the presiding judge setting a superseding deadline. See Fed.R.Civ.P. 51 and L.R. 16.1(e).

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 (amended January 1, 2021)

(a) **Procedure for Taxation in Civil Cases**. The party entitled to recover costs set forth in 28 U.S.C. §1920 shall file, within thirty (30) days after entry of judgment, a verified bill of costs on the forms that the Clerk provides, together with an affidavit verifying that (1) the items claimed in the Bill of Costs are correct; (2) the costs have been necessarily incurred in the case; and (3) the services for which the fees have been charged were actually and necessarily performed, and a Certificate of Service. The party seeking costs shall accompany its request with receipts indicating that the party actually incurred the costs that it seeks reimbursement. Opposing party may file objections to the Bill of Costs within 14 days of the filing date. The prevailing party may file a reply to the objections within 7 days of the filing of the objections. 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 Clerk's Certificate of Entry of Default (Amended January 1, 2026)

(a) 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, 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.

(b) If the party seeking judgment believes that the party whom judgment or affirmative relief is being sought against is in the military, the party seeking judgment must submit an affidavit which includes necessary facts to support the affidavit. If the party seeking judgment is unable to determine that the party whom judgment or affirmative relief is being sought against is in the military, the moving party must submit an affirmation stating that they are unable to determine whether or not the party against whom it seeks judgment by default is in the military service

55.2 Default Judgment (amended January 1, 2026)

(a) By the Clerk. Prior to filing a request for a default judgment for a sum certain, the party must first obtain a Clerk's Certificate of Entry of Default as required by L.R. 55.1. 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. See Servicemembers Civil Relief Act, 50 U.S.C. § 3931(b)(3);
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 sum certain 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. Prior to filing a motion for default judgment, the party must first obtain a Clerk's Certificate of Entry of Default as required by L.R. 55.1. The motion, pursuant to Fed. R. Civ. P. 55(b)(2), shall include a memorandum of law pursuant to Local Rule 7.1 and a proposed order. 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 (formerly L.R. 7.1(a)(3)) (amended January 1, 2026)

(a) **Statement of Material Facts**: Any motion for summary judgment shall contain a separate 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. For the recommended

Notification of the Consequences of Failing to Respond to a Summary Judgment Motion, visit the District's webpage at Notification of Consequences.

(b) **Response to Statement of Material Facts**: The opposing party shall file a separate Response to the Statement of Material Facts. The opposing party'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 may deem admitted any properly supported facts set forth in the Statement of Material Facts that the opposing party does not specifically controvert. In addition, the opposing party's Response may set forth any assertions that the opposing party contends are in dispute in a short and concise Statement of Additional Material Facts in Dispute, containing separately numbered paragraphs, followed by a specific citation to the record where the fact is established.

(c) **Reply to Response to Statement of Material Facts**: The moving party may file a reply to the opposing party's contended assertions in a separate Reply Statement and/or its Reply Memorandum of Law.

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. For the recommended Notification of the Consequences of Failing to Respond to a Summary Judgment Motion, visit the District's webpage at Notification of Consequences.

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, 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

See L.R. 60.1 (Motions for Reconsideration).

60.1 Relief from Judgment or Order (formerly L.R. 7.1(g)) (amended January 1, 2021)

Unless otherwise provided by the Court, by statute or rule (such as Fed.R.Civ.P. 50, 52, 59 and 60), 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(a). 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 re-argument on submission of the papers, without oral argument, unless the Court directs otherwise.

65.1 Injunctions and Temporary Restraining Orders (formerly L.R. 7.1(f)) (amended January 1, 2021)

A party may seek a temporary restraining order by the standard motion procedure (i.e., advanced notice, 21 days for an opposition, and 7 days for a reply) or by Emergency Motion/Order to Show Cause, as appropriate. Filing procedures and requirements for supporting documents are the same as set forth in Local Rule 7.1 for other motions. The application must include the following: the motion for Temporary Restraining Order and/or Preliminary Injunction; a copy of the complaint, only if the case has been recently filed; a memorandum of law; and a proposed order granting the injunctive relief. 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(a)(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.

68.1 Settlement Procedures (formerly L.R. 68.2)

(a) On notice to the Court or the Clerk that the parties have settled an action, and upon confirmation of the settlement by all parties, the Court may issue an order dismissing the action by reason of settlement. The Court shall issue the order without prejudice to the parties' right to secure reinstatement of the case within thirty (30) days, or such other timeframe as set by the Court, after the date of judgment by making a showing that the settlement was not, in fact, consummated.

(b) If the Court decides not to follow the procedures set forth in L.R. 68.1(a), the parties shall file within thirty (30) days of the notification to the Court, unless otherwise ordered, such notices, stipulations and/or motions as are necessary to terminate the action.

See also L.R. 17.1 (Actions involving infants and/or incompetents).

72.1 Authority of Magistrate Judges (Amended January 1, 2024)

(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 assigned District Judge by filing with the Clerk and serving upon all parties their appeal from the decision. There is no filing fee. The party must file and serve its notice of appeal and appellant's brief within fourteen (14) days

after being served with the Magistrate Judge's order and must specifically designate the order or part of the order from which the party seeks relief and the basis for the appeal.

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

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

72.2 Duties of Magistrate Judges (amended January 1, 2022)

(a) In all civil cases, in accordance with Fed. R. Civ. P. 16, the Magistrate Judge assigned pursuant to L.R. 3.1 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 notice of 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 filed on the docket or 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 do the following:

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

4. 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

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

72.3 Assignment of Duties to Magistrate Judges (amended January 1, 2024)

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

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

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

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

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

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

1. The Clerk shall assign a District Judge and a Magistrate Judge in accordance with General Order #12.

2. Any action brought pursuant to the Federal Debt Collection Act, 28 U.S.C. § 3001 et seq., shall be handled on an expedited basis and brought before a Magistrate Judge, or to a District Judge if no Magistrate Judge is available, for an initial determination.

3. If a party requests a hearing, the Clerk shall make a good faith effort to schedule the hearing as soon as practicable, or if requested by the debtor, within five (5) days of the receipt of the request, or "as soon after that as possible" pursuant to 28 U.S.C. § 3101(d)(1).

4. If appropriate, the Court shall issue an order directing the Clerk to issue the writ being sought, except that an application under 28 U.S.C. § 3203 for a writ of execution in a post-judgment proceeding shall not require an order of the Court.

5. The assigned Magistrate Judge shall conduct any hearing that may be requested, decide all non-dispositive issues, including a decision on a request for a Final Order of Garnishment, and issue a report-recommendation on any and all dispositive issues.

6. The parties shall file any written objections to the report-recommendation within fourteen (14) days of the filing of same. Without oral argument, the assigned District Judge shall review the report-recommendation along with any objections that the parties have filed.

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, 2022)

(a) All orders, whether by consent or otherwise, shall be presented for approval and execution to the assigned judge.

(b) 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 filers 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.

80.1 Stenographic Transcript: Court Reporting Fees

Subject to the provisions of Fed. R. Civ. P. 54(d), the expense of any party in obtaining all or any part of a transcript for the Court's use when the Court so orders and the expense of any party in obtaining all or any part of a transcript for the purposes of a new trial or for amended findings or for appeals shall be a taxable cost against the unsuccessful party. A fee schedule of transcript rates is available on the Court's webpage at www.nynd.uscourts.gov.

81.4 Removed Cases, Demand for Jury Trial (formerly L.R. 81.3)

In an action removed from a state court, a party entitled to trial by jury under Fed. R. Civ. P. 38 shall be accorded a jury trial if the party files and serves a demand in accordance with the provisions of Fed. R. Civ. P. 81 and L.R. 38.1. The Court will not consider a motion that a party filed in state court unless that party refiles the motion in this Court in accordance with the Local Rules of Practice for the Northern District of New York.

82.2 Waiver of Judicial Disqualification

During the course of a proceeding, potential issues may arise which would require the disqualification of the presiding judicial officer pursuant to 28 U.S.C. §455. If such an issue does arise, the judicial officer will advise the parties and the Clerk of Court of the potential conflict.

Upon such notification, the Clerk of the Court will send, via regular mail, a letter to all counsel/parties containing a Waiver of Judicial Disqualification form. Parties are required to complete and return this form to the Clerk of the Court, **via regular mail**, within fourteen days of its receipt. Counsel/parties shall not file these forms electronically. **These forms will not appear on the docket or be available to the presiding judicial officer.**

If all parties agree to waive the potential conflict, the presiding judge will continue to preside over the case. If any party does not waive the potential conflict, the Clerk of the Court shall reassign the case to another judicial officer.

83.2 Pro Bono Service (formerly L.R. 83.3)

(a) *Pro Bono* Appointment.

1. All attorneys admitted to practice within the Northern District of New York, except attorneys employed by the government, are required to accept no more than one *pro bono* assignment per year on a rotating basis.

2. Any request to be excused from accepting a *pro bono* case assignment must be directed to the Chief Judge. Lack of experience in a specific area of law is not an acceptable reason to be excused. The Court expects attorneys admitted to practice in the NDNY to participate in periodic CLE training that the Court offers.

3. Where a *pro se* party has one or more other cases pending before this Court in which the Court has appointed an attorney, the Court may determine it to be appropriate that the attorney appointed in the other case or cases be appointed to represent the *pro se* party in the case before the Court.

4. The attorney will be contacted via email by the *Pro Bono* Administrator giving the attorney ten (10) business days to review the potential case assignment for any conflict. Failure to respond within 10 business days will result in an order appointing the attorney as *pro bono* counsel to be filed, and a notice of appearance by the attorney will be due.

(b) Application for Appointment of Attorney

1. Any application that a party appearing *pro se* makes for the appointment of an attorney shall include a form of affidavit stating the party's efforts to obtain an attorney by means other than appointment and indicating any prior *pro bono* appointments of an attorney to represent the party in cases brought in this Court, including both pending and terminated actions.

2. Failure of a party to make a written application for an appointed attorney shall not preclude appointment.

3. Where a *pro se* litigant, who was ineligible for an appointed attorney at the time of initial or subsequent requests, later becomes eligible by reason of changed circumstances, the Court may entertain a subsequent application, using the procedures specified above, within a reasonable time after the change in circumstances has occurred, or the Court may, in its discretion, *sua sponte* appoint *pro bono* counsel.

(c) Factors Used in Determining Whether to Appoint Counsel. Upon receipt of an application for the appointment of an attorney, the Court shall determine whether to appoint an attorney to represent the *pro se* party. The Court shall make that determination within a reasonable time after the party makes the application. Factors that the Court will take into account in making the determination are as follows:

1. The potential merit of the claims as set forth in the pleading;

2. The nature and complexity of the action, both factual and legal, including the need for factual investigation;

3. The presence of conflicting testimony calling for an attorney's presentation of evidence and cross-examination;

4. The capability of the *pro se* party to present the case;

5. The inability of the *pro se* party to retain an attorney by other means;

6. The degree to which the interests of justice shall be served by appointment of an attorney, including the benefit that the Court shall derive from the assistance of an appointed attorney;

7. Any other factors the Court deems appropriate.

(d) Order of Appointment. Whenever the Court concludes that the appointment of an attorney is warranted, the Court shall issue an order directing the appointment of an attorney to represent the *pro se* party. The Court shall promptly transmit the order to the Clerk. If service of the summons and complaint has not yet been made, the Court shall accompany its appointment order with an order directing service by the United States Marshal or by other appropriate method of service.

(e) Notification of Appointment. After the Court has appointed *pro bono* counsel, the attorney will receive a copy of the appointment order via CM/ECF. Costs the attorney incurs in obtaining copies of materials filed prior to appointment are recoverable under L.R. 82.3(g). *Pro Bono* counsel may also make a request to the Clerk's office to regenerate any documents electronically filed on the docket which will be sent to the attorney via email at no cost.

(f) Duties and Responsibilities of Appointed Counsel. On receiving notice of the appointment, the attorney shall promptly file a notice of appearance in the action to which the appointment applies unless precluded from acting in the action or appeal, in which event the attorney shall promptly notify the Court and the putative client. Promptly following the filing of an appearance, the attorney shall communicate with the newly-represented party concerning the action. In addition to a full discussion of the merits of the dispute, the attorney shall explore with the party any possibilities of resolving the dispute in other forums, including but not limited to, administrative forums. If after consultation with the attorney the party decides to prosecute or defend the action, the attorney shall proceed to represent the party in the action unless or until the attorney-client relationship is terminated as these Rules or court order provide. If the attorney is appointed as Special Mediation Counsel, the attorney-client relationship will be terminated by Court order at the end of the mediation process, as described in L.R. 83.6(d)(4).

In the Court's discretion, the Court may appoint stand-by counsel to act in an advisory capacity. "Stand-by counsel" is not the party's representative; rather, the role of stand-by counsel is to provide assistance to the litigant and the Court where appropriate. The Court may in its discretion appoint counsel for other purposes.

(g) Reimbursement for Expenses. *Pro Bono* attorneys whom the Court appoints pursuant to this Rule may seek reimbursement for expenses incident to representation of indigent clients by application to the Court. Reimbursement or advances shall be permitted to the extent possible in light of available resources and, absent extraordinary circumstances, shall not exceed **$2,000.00**. Any expenses in excess of $500.00 should receive the Court's prior approval. If good cause is shown, the Court may approve additional expenses. The Pro Bono Authorization Request form can be found on the Court's website. Appointed counsel should seek reimbursement using the Pro Bono Fund Voucher and Request for Reimbursement Form and should accompany this form with detailed documentation. The Court advises counsel that if they submit a voucher seeking more than **$2,000.00** without the Court's prior approval, the Court may reduce or deny the request. The Chief Judge or a judge whom the Chief Judge designates to authorize withdrawals must approve all reimbursements made by withdrawal from the District Fund. **To the extent that appointed counsel seeks reimbursement for expenses that are recoverable as costs to a prevailing party under Fed R. Civ. P. 54, the appointed attorney must submit a verified bill of costs on the form the Clerk provides for reimbursement of such expenses.**

(h) Attorney's Fees. Except as provided in this subsection, an appointed attorney cannot recover attorney's fees from the *Pro Bono* Fund. However, in its discretion, the Court may award an appointed attorney for a prevailing party attorney's fees from the judgment or settlement to the extent that the applicable law permits. See, e.g., 28 U.S.C. § 2678 (permitting the attorney for a prevailing party under the Federal Tort Claims Act to recover up to 25% of any judgment or settlement); 42 U.S.C. § 1988(b) (authorizing an additional award of attorney's fees to prevailing parties in civil rights actions).

(i) Grounds for Relief from Appointment. After appointment, an attorney may apply to be relieved from an order of appointment only on one or more of the following grounds, or on such other grounds as the appointing judge finds adequate for good cause shown:

1. some conflict of interest precludes the attorney from accepting the responsibilities of representing the party in the action;

2. the attorney does not feel competent to represent the party in the particular type of action assigned, after the attorney has completed a Court CLE in that area of law;

3. some personal incompatibility exists between the attorney and the party or a substantial disagreement exists between the attorney and the party concerning litigation strategy; or

4. in the attorney's opinion the party is proceeding for purposes of harassment or malicious injury or the party's claims or defenses are not warranted under existing law and cannot be supported by a good faith argument for extension, modification or reversal of existing law.

(j) Application for Relief from Appointment. An appointed attorney shall make any application for relief from an order of appointment on any of the grounds set forth in this Rule to the Court promptly after the attorney becomes aware of the existence of such grounds or within such additional period as the Court may permit for good cause shown.

(k) Order Granting Relief from Appointment. If the Court grants an application for relief from an order of appointment, the Court shall issue an order directing the appointment of another attorney to represent the party. Where the application for relief from appointment identifies an attorney affiliated with the moving attorney who is able to represent the party, the order shall direct appointment of the affiliated attorney with the consent of the affiliated attorney. Any other appointment shall be made in accordance with the procedures set forth in these Rules. Alternatively, the Court shall have the discretion not to issue a further order of appointment, in which case the party shall be permitted to prosecute or defend the action *pro se*.

83.7 Judicial Mediation in Prisoner Civil Rights Cases (formerly L.R. 83.9)

The Court may from time to time select cases from its prisoner civil rights docket for judicial mediation on such terms as it deems appropriate.

SECTION XIII.
LOCAL RULES OF PROCEDURE FOR SECTION 2254 CASES AND SECTION 2255 PROCEEDINGS

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

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

(b) Subject to the requirement of subsection (c), the petitioner shall file the original verified petition with the Clerk. Applications for a writ of habeas corpus made by persons in custody shall be filed, heard and determined in the district court for the district in which they were convicted and sentenced provided, however, that if the convenience of the parties and witnesses requires a hearing in a different district, such application shall be transferred to any district that the assigned judge finds or determines to be more convenient.

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

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

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

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

1.2 Habeas Corpus Petitions Involving the Death Penalty; Special Requirements (formerly Civil L.R. 72.5)

(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.

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 email. 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 Rule 1.1 of Local Rules of Procedure for Section 2254 Cases and Section 2255 Proceedings. 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 reply brief.

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 reply brief or within fifteen (15) days from the expiration of the time for filing the reply brief. 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.