

# UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

## NOTICE OF PROPOSED LOCAL RULE CHANGE AND OPPORTUNITY TO COMMENT

The United States District Court for the District of Columbia at its September Executive Session approved the publication of the following proposed rule changes for notice and comment.

### PROPOSED AMENDMENTS TO LOCAL RULES

#### LCvR 40.1/ LCrR 57.8

#### ASSIGNMENT SYSTEM

(b) **CALENDAR AND CASE MANAGEMENT COMMITTEE.**

The assignment of cases to judges of this Court shall be performed by the Clerk under the direction of the Calendar and Case Management Committee. The Committee shall be composed of ~~three to five judges, no less than three and no more than five active judges~~ appointed by the Chief Judge for two-year terms. ~~Judges may be appointed to successive terms.~~ All matters dealing with the assignment of cases, including but not limited to any efforts to restrain or avoid the enforcement or application of rules under this Part shall be referred to the Chair of the Calendar and Case Management Committee for resolution by the Committee.

*Commentary: (2017) Subsection (b) of this rule has been amended to permit a senior judge to serve on the Calendar and Case Management Committee and to allow judges to serve more than one term on that committee.*

LCrR 49

CASES ASSIGNED TO CASE MANAGEMENT/ELECTRONIC CASE FILING  
(CM/ECF) SYSTEM

(e) EXCEPTIONS TO REQUIREMENT OF ELECTRONIC FILING.

- (1) Every unsealed document must be filed electronically. Unless prior written authorization for electronic filing is given by the Clerk of Court, every document filed under seal in a totally sealed case shall be filed in paper form (original plus one) accompanied by an electronic copy in a format deemed by the Clerk's Office to be compatible with CM/ECF filing in conformity with the requirements of LCrR 49(f).—Any document, exhibit, or attachment, including sealed material, that (A) is not in a format that readily permits electronic filing, such as a map, chart, or DVD, or (B) is illegible when scanned into electronic format, is to be maintained in the possession of the attorney or *pro se* party responsible for the filing. Such a filing shall be made available for a party or the Court and must be identified in a Notice of Filing filed with the Court. A document or item filed pursuant to this subsection shall be served, if it is necessary to serve it, by mail or by hand delivery, unless the parties have otherwise agreed.
- (2) A party appearing *pro se* shall file with the Clerk ~~(original plus one)~~ and serve documents in paper form and must be served with documents in paper form, unless the *pro se* party has obtained a CM/ECF password.
- (3) Unless prior written authorization for electronic filing is given by the Clerk of Court, every criminal indictment, information, complaint, search warrant, seizure warrant, arrest warrant, accompanying affidavit, return of warrant, and motion for order of return pursuant to D.C. Code Section 24-501(i) shall be filed in paper form (original plus one), accompanied by an electronic copy in a format deemed by the Clerk's Office to be compatible with CM/ECF filing, with appropriate redactions as required by the Federal Rules of Criminal Procedure.
- (4) Unless prior written authorization for electronic filing is given by the Clerk of Court, every document filed prior to the initial appearance of a criminal defendant, including but not limited to a filing related to a grand jury matter, a pen register application, an application for interception of wire or electronic communications, an application for stored electronic information or evidence, an application for tax return information, and an application for disclosure of electronically stored evidence shall be filed in paper form (original plus one) accompanied by an electronic copy in a format deemed by the Clerk's Office to be compatible with CM/ECF filing.—Except for documents specifically identified in LCrR 49(e)(3), every such document is not subject to the limitations set forth in Federal Rule of Criminal Procedure 49.1, and the filing of every such document

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under seal shall not require a motion to seal. If service is required, service of such a document in a criminal matter filed prior to a defendant's initial appearance shall be in paper form and shall be accomplished as otherwise provided in the Federal Rules of Criminal Procedure.

Commentary: (2017) Subsections (e)(1), (e)(3) and (e)(4) were amended to permit the electronic filing of certain types of documents with prior written authorization of the Clerk of Court.

**LCrR 44.1/ LCvR 83.2**

**PRACTICE BY ATTORNEYS**

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**(e) ATTORNEYS EMPLOYED BY THE UNITED STATES.**

An attorney who is employed or retained by the United States or one of its agencies may appear, file papers and practice in this Court on behalf of the United States or that agency in cases in which the United States or the agency is a party, irrespective of (c) and (d) above.

**LCrR 57.13 / LCvR 40.6**

**OTHER TRANSFERS AND REASSIGNMENTS**

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**(b) DEATH, RETIREMENT, APPOINTMENT OF NEW JUDGES, ETC.**

When reassignments are necessitated by the death, retirement, resignation or incapacity of any judge or by the appointment of a new judge, or by any other circumstances, the Calendar and Case Management Committee shall determine and indicate by order the method by which such reassignments shall be made.

Reassignment of any criminal case, and matters arising therefrom, previously assigned to a judge who no longer sits on the district court shall be made by random assignment.

LCrR 57.14 / LCvR 40.7

DUTIES OF THE CHIEF JUDGE

In addition to the trial of such cases as he or she may undertake and other duties provided by these Rules, the Chief Judge shall:

- ~~(1)~~ ~~preside at the assignment of criminal cases;~~
- ~~(2)~~(a) hear and determine requests for excuse from service on grand and petit juries;
- ~~(3)~~(b) empanel the grand jury and hear and determine all matters relating to proceedings before the grand jury;
- ~~(4)~~ ~~receive indictments from the grand jury;~~
- ~~(5)~~(c) consider applications for allowance under the Criminal Justice Act in a case not already assigned;
- ~~(6)~~(d) dispose of matters requiring immediate action in criminal cases already assigned to any district judge ~~of the Court~~ if that judge is unavailable or otherwise unable to hear the matters;
- ~~(7)~~(e) hear and determine requests for review of rulings by magistrate judges in criminal ~~matters~~ cases not already assigned to a district judge ~~of the Court~~; and
- ~~(8)~~(f) take such other administrative actions, after consultation with appropriate committees of the Court, as in his or her judgment are necessary to assure the just, speedy and inexpensive determination of cases, and are not inconsistent with these Rules.

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The Chief Judge may, from time to time, reassign any of the foregoing duties to an active judge for a reasonable period.

**NEW PROPOSED LCrR 59.3**

**REQUESTS FOR REVIEW OF MAGISTRATE JUDGE ORDERS ISSUED IN  
CRIMINAL MATTERS NOT ASSIGNED TO A DISTRICT JUDGE**

**(a) REQUESTS FOR REVIEW**

Requests for review of an order by a magistrate judge in a criminal matter not assigned to a district judge, as authorized by LCrR 57.17 (a) and 28 U.S.C. § 636(b)(3) of the Federal Magistrates Act, are to be made to the Chief Judge within 14 days after being served with the order of the magistrate judge, unless a different time is prescribed by the magistrate judge or the Chief Judge. The request for review shall specially designate the part of the order for which review is requested and the bases for such review. The filing of oppositions and replies shall be governed by LCrR 47(b) and (d).

**(b) DETERMINATION BY THE COURT**

The magistrate judge's warrant or order for which review is requested in accordance with this Rule may be accepted, modified, set aside, or recommitted to the magistrate judge with instructions, after de novo review by the Chief Judge.

**LCvR 7**

**(o) BRIEF OF AN AMICUS CURIAE.**

- (1) The United States or its officer or agency or a state may file an *amicus curiae* brief without the consent of the parties or leave of Court. Any other *amicus curiae* may file a brief only upon leave of Court, which may be granted after the submission of a motion for leave to file or upon the Court's own initiative.
- (2) A motion for leave to file an *amicus* brief shall concisely state the nature of the movant's interest; identify the party or parties supported, if any; and set forth the reasons why an *amicus* brief is desirable, why the movant's position is not adequately represented by a party, and why the matters asserted are relevant to the disposition of the case. The motion shall state the position of each party as to the filing of such a brief and be accompanied by a proposed order. The motion shall be filed in a timely manner such that it does not unduly delay the Court's ability to rule on any pending matter. Any party may file an opposition to a motion for leave to file an *amicus*

brief, concisely stating the reasons for such opposition, within 14 days after service of the motion or as ordered by the Court. There shall be no further briefing unless otherwise ordered by the Court.

- (3) The *amicus* brief shall be filed within such time as the Court may allow.
- (4) Unless otherwise ordered by the Court, a brief filed by an *amicus curiae* shall conform to the requirements of LCvR 5.4 and may not exceed 25 pages.
- (5) An *amicus* brief shall comply with the requirements set forth in FRAP 29(a)(4)(A)-(F)(e) ~~-(1)-(6)~~.
- (6) An *amicus curiae* may participate in oral argument only with the court's permission

**Pursuant to Local Civil Rule 1.1 (b), the Court is required to advise that the proposed rule will be adopted unless modified or withdrawn by the Court after receiving comments from organized bar associations, members of the bar, and the public. Such comments must be made in writing by November 3, 2017 and should be addressed to Kevin M. Hodges, Esq., Chairman, Advisory Committee on Local Rules, Williams & Connolly Procter LLP, 725 Twelfth St., N.W; Washington, DC 20005.**

ANGELA D. CAESAR, CLERK