

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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In re: AMENDMENT OF LOCAL
CIVIL RULES

AMENDED
ADMINISTRATIVE
ORDER
2003-01

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WHEREAS the Board of Judges of the Eastern District of New York adopted the recommendation of the Joint Committee on Local Rules regarding new Local Civil Rule 5.2 (Electronic Service and Filing of Documents) on November 26, 2002, which subsequently was adopted by the Southern District of New York on February 26, 2003, and

WHEREAS the Southern District of New York adopted new Local Civil Rule 5.3 on February 18, 2003 (Service by Overnight Delivery and Fax), and

WHEREAS the Eastern District of New York adopted new Local Civil Rule 12.1 (Notice to Pro Se Litigants Opposing Motions to Dismiss or for Judgment on the Pleadings Treated as Motions for Summary Judgment on November 26, 2002, which subsequently was adopted by the Southern District of New York on February 26, 2003; and

WHEREAS the Southern District of New York repealed Local Civil Rule 1.9 (Disclosure of Interested Parties – Southern District only), due to the enactment of Rule 7.1 of the Federal Rules of Civil Procedures on December 1, 2002, which Federal Rule likewise makes the Eastern District only version of Local Civil Rule 1.9 unnecessary; and

WHEREAS the Board of Judges for the Eastern District of New York continues to coordinate Local Rules of Court, to the greatest extent possible, jointly with the Southern District of New York, it is now therefore

ORDERED that Local Civil Rules 5.2; 5.3; and 12.1 are hereby adopted by the Eastern District of New York, effective immediately; and it is further

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ORDERED that Local Civil Rule 1.9 (Eastern District only) is repealed due to the enactment of Rule 7.1 of the Federal Rules of Civil Procedure.

All Local Rule amendments are effective immediately.

The full text, of Local Civil Rules 5.2; 5.3; and 12.1, is attached.

SO ORDERED.

Dated: Brooklyn, New York
March 3, 2003

Edward R. Korman
Chief Judge

Att.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Local Civil Rule 5.2 – Electronic Service and Filing of Documents

A paper served and filed by electronic means in accordance with procedures promulgated by the Court is, for purposes of Federal Rule of Civil Procedure 5, served and filed in compliance with the local civil rules of the Southern and Eastern Districts of New York.

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Local Civil Rule 5.3 – Service by Overnight Delivery and Fax

(a) Service upon an attorney of all papers other than a subpoena or a summons and complaint or any other paper required by statute or rule to be served in the same manner as a summons and complaint shall be permitted by dispatching the paper to the attorney by overnight delivery service at the address designated by the attorney for that purpose, or if none is designated, at the attorney's last known address. Service by overnight delivery service shall be complete upon deposit of the paper enclosed in a properly addressed wrapper into the custody of the overnight delivery service for overnight delivery, prior to the latest time designated by the overnight delivery service for overnight delivery. Overnight service shall be deemed service by mail for purposes of Fed. R. Civ. P. 6(e). "Overnight delivery service" means any delivery service which regularly accepts items for overnight delivery.

(b) No papers shall be served by facsimile unless the parties agree in writing in advance to accept service by this means or it is ordered by the assigned judge. Without such prior agreement or order, such attempted service shall be considered void. Service by electronic means other than facsimile shall be governed in the Southern District of New York by that Court's Standing Order relating to Procedures for Electronic Case Filing, and in the Eastern District of New York by that Court's Administrative Order 97-12, in re: Electronic Filing Procedures.

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Local Civil Rule 12.1 – Notice to Pro Se Litigants Opposing Motions to Dismiss or for Judgment on the Pleadings Treated as Motions for Summary Judgment

A represented party moving to dismiss or for judgment on the pleadings against a party proceeding pro se, who refers in support of the motion to matters outside the pleadings as described in Federal Rule of Civil Procedure 12(b) or 12(c), shall serve and file the notice required by Local Civil Rule 56.2 at the time the motion is served. If the court rules that a motion to dismiss or for judgment on the pleadings will be treated as one for summary judgment pursuant to Federal Rule of Civil Procedure 12 (b) or 12(c), and the movant has not previously served and filed the notice required by Local Civil Rule 56.2, the notice must be served and filed within ten days of the court's ruling.