PROPOSED REVISED LOCAL CIVIL RULE 1.4

Local Civil Rule 1.4. Attorney Appearances; Withdrawal or Displacement of Attorney of Record; Limited-Scope Representation

(a) Attorney appearances. Except as otherwise set forth in this rule, each attorney appearing on behalf of a party must file a notice of appearance promptly on or before the attorney's first appearance in court or filing in the case. The notice of appearance must provide the attorney's name, any firm or organizational affiliation, business address, telephone number, email address, and the name of the party or parties represented.

An attorney who files a case-initiating document, such as a complaint, petition, or notice of removal, need not file a separate notice of appearance; such an attorney shall be deemed to have entered a notice of appearance on behalf of the party or parties on whose behalf the filing is made.

(b) Attorney withdrawals. Except where an attorney has filed a notice of limited-scope appearance as set forth in subsection (c), an attorney who has appeared for a party may be relieved or displaced only by order of the court. Such an order may be issued following the filing of a motion to withdraw, and only upon a showing by affidavit or otherwise of satisfactory reasons for withdrawal or displacement and the posture of the case, and whether or not the attorney is asserting a retaining or charging lien. While a motion to withdraw is required whenever an attorney seeks to be relieved, an affidavit is unnecessary if (1) another attorney from the same firm, agency, or organization has already entered a notice of appearance on behalf of the client and will remain in the case or (2) upon substitution of counsel by stipulation, if the stipulation is also signed by the client and, at the time of substitution, the new attorney does not intend to seek modification of any existing deadlines or dates for court appearances in the case.

All motions to withdraw must be served upon the client and (unless excused by the court) upon all other parties. Proof of such service upon the client shall be filed on the docket in each case where withdrawal is sought.

(c) Limited-scope representation. Unless otherwise ordered by the court, an attorney may provide limited-scope representation to a party in a civil case.

> (1) Where a party and an attorney have agreed to limited-scope representation, the attorney must file a notice that describes the scope of the representation for any matter that may require the attorney to file papers with the court; appear before a judge, arbitrator, or mediator; or communicate with opposing counsel. Notice is not required if the attorney is providing short-term, limited legal

services under a program sponsored by a court, government agency, bar association, or not-for-profit legal services organization unless the attorney will file papers with the court; appear before a judge, arbitrator, or mediator; or provide continuing representation in the matter. A party to whom limited-scope representation is being provided or has been provided is considered unrepresented regarding matters not designated in the notice of limited-scope representation and regarding all matters unless attorneys for all other parties have been provided with the notice of the limited-scope representation.

(2) During any period that a party receives limited-scope representation from an attorney who has filed a notice of appearance, papers must be served on both the party and the attorney.

(3) A limited-scope representation terminates without the need for leave of court once the attorney files a notice stating that the tasks for which the appearance was entered have been completed. The notice must include a certificate of service on the client. If any attorney who has filed a notice of appearance seeks to withdraw before completion of the limited-scope representation, the attorney must follow the procedure set forth in subsection (b).

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

PRE-2024 COMMITTEE NOTE

The Committee recommends that Local Civil Rule 1.4 be amended to require that the affidavit in support of a motion to withdraw state whether or not a retaining or charging lien is being asserted, and to clarify that all applications to withdraw must be served upon the client and (unless excused by the Court) upon all other parties. This is not meant to preclude the Court from permitting the reasons for withdrawal to be stated in camera and under seal in an appropriate case. It is also not meant to preclude substitution of counsel by a stipulation which has been signed by counsel, the counsel's client, and all other parties, and which has been so ordered by the Court.

2024 COMMITTEE NOTE

The existing local rule governs the withdrawal or displacement of an attorney of record but does not identify the procedure by which one becomes an attorney of record. The Federal Rules of Civil Procedure likewise do not include a procedure for becoming an attorney of record. Accordingly, the rule is amended to require attorneys appearing in a matter to file a notice of appearance and lists the information that the notice of

appearance must contain. The amendment also eliminates the affidavit that was otherwise required by the local rule when other counsel who had already appeared in the case continues to represent the client or when new counsel is substituted by stipulation. The Committee believes that the affidavit serves no useful purpose in these circumstances.

[MONTH] 2024 COMMITTEE NOTE

Both the Eastern and Southern District have come to allow an attorney to appear on behalf of an otherwise unrepresented party for limited purposes only — for example, for purposes of mediation, motion practice, or some aspect of discovery. Among other things, allowing for such limited-scope appearances facilitates the recruitment of counsel to take on pro bono matters and promotes access to justice. The rule is amended to codify and regulate this practice of limited-scope appearances. In addition, the rule is amended to provide that where an attorney moves to withdraw upon a stipulation substituting a new attorney, an affidavit is required in support of the motion if the new attorney intends to seek modification of any existing deadlines in the case. That requirement is intended to assist the court in evaluating whether the proposed withdrawal would result in delay.

PROPOSED REVISED LOCAL CIVIL RULE 1.4

Local Civil Rule 1.4. ~~Notice of Appearance~~Attorney Appearances; Withdrawal or Displacement of Attorney of Record; Limited-Scope Representation

(a) Attorney appearances. Except as otherwise set forth in this rule, each attorney appearing on behalf of a party must file a notice of appearance ~~in each case,~~ promptly ~~upon~~on or before the attorney's first appearance in court or filing in the case. The notice of appearance must provide the attorney's name, any firm or organizational affiliation, business address, telephone number, email address, and the name of the party or parties represented.

An attorney who files a case-initiating document, such as a complaint, petition, or notice of removal, need not file a separate notice of appearance; ~~those attorneys will~~such an attorney shall be deemed to have entered a notice of appearance on behalf of the party or parties on whose behalf the filing is made.

~~Whether or not~~(b) Attorney withdrawals. Except where an attorney has filed a notice of limited-scope appearance ~~is filed,~~as set forth in subsection (c), an attorney who has appeared for a party may be relieved or displaced only by order of the court. ~~This~~Such an order may be issued ~~after~~following the filing of a motion to withdraw, and only upon a showing by affidavit or otherwise of satisfactory reasons for withdrawal or displacement~~,~~ and the posture of the case, and whether or not the attorney is asserting a retaining or charging lien. While a motion to withdraw is required ~~when~~whenever an attorney seeks to be relieved, an affidavit is unnecessary if ~~other counsel~~(1) another attorney from the same firm, agency, or organization has already entered a notice of appearance on behalf of the client and will remain in the case or~~,~~ (2) upon substitution of counsel by stipulation, if the stipulation is also signed by the client~~.~~ and, at the time of substitution, the new attorney does not intend to seek modification of any existing deadlines or dates for court appearances in the case.

All motions to withdraw must be served ~~on~~upon the client and (unless excused by the court) ~~on~~upon all other parties. Proof of such service ~~on~~upon the client ~~must~~shall be filed on the docket in each case where withdrawal is sought.

(c) Limited-scope representation. Unless otherwise ordered by the court, an attorney may provide limited-scope representation to a party in a civil case.

(1) Where a party and an attorney have agreed to limited-scope representation, the attorney must file a notice that describes the scope of the representation for

any matter that may require the attorney to file papers with the court; appear before a judge, arbitrator, or mediator; or communicate with opposing counsel. Notice is not required if the attorney is providing short-term, limited legal services under a program sponsored by a court, government agency, bar association, or not-for-profit legal services organization unless the attorney will file papers with the court; appear before a judge, arbitrator, or mediator; or provide continuing representation in the matter. A party to whom limited-scope representation is being provided or has been provided is considered unrepresented regarding matters not designated in the notice of limited-scope representation and regarding all matters unless attorneys for all other parties have been provided with the notice of the limited-scope representation.

(2) During any period that a party receives limited-scope representation from an attorney who has filed a notice of appearance, papers must be served on both the party and the attorney.

(3) A limited-scope representation terminates without the need for leave of court once the attorney files a notice stating that the tasks for which the appearance was entered have been completed. The notice must include a certificate of service on the client. If any attorney who has filed a notice of appearance seeks to withdraw before completion of the limited-scope representation, the attorney must follow the procedure set forth in subsection (b).

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

PRE-2024 COMMITTEE NOTE

The Committee recommends that Local Civil Rule 1.4 be amended to require that the affidavit in support of a motion to withdraw state whether or not a retaining or charging lien is being asserted, and to clarify that all applications to withdraw must be served upon the client and (unless excused by the Court) upon all other parties. This is not meant to preclude the Court from permitting the reasons for withdrawal to be stated in camera and under seal in an appropriate case. It is also not meant to preclude substitution of counsel by a stipulation which has been signed by counsel, the counsel's client, and all other parties, and which has been so ordered by the Court.

2024 COMMITTEE NOTE

The existing local rule governs the withdrawal or displacement of an attorney of record but does not identify the procedure by which one becomes an attorney of record. The

Federal Rules of Civil Procedure likewise do not include a procedure for becoming an attorney of record. Accordingly, the rule is amended to require attorneys appearing in a matter to file a notice of appearance and lists the information that the notice of appearance must contain. The amendment also eliminates the affidavit that was otherwise required by the local rule when other counsel who had already appeared in the case continues to represent the client or when new counsel is substituted by stipulation. The Committee believes that the affidavit serves no useful purpose in these circumstances.

[MONTH] 2024 COMMITTEE NOTE

Both the Eastern and Southern District have come to allow an attorney to appear on behalf of an otherwise unrepresented party for limited purposes only — for example, for purposes of mediation, motion practice, or some aspect of discovery. Among other things, allowing for such limited-scope appearances facilitates the recruitment of counsel to take on pro bono matters and promotes access to justice. The rule is amended to codify and regulate this practice of limited-scope appearances. In addition, the rule is amended to provide that where an attorney moves to withdraw upon a stipulation substituting a new attorney, an affidavit is required in support of the motion if the new attorney intends to seek modification of any existing deadlines in the case. That requirement is intended to assist the court in evaluating whether the proposed withdrawal would result in delay.

PROPOSED REVISED LOCAL CIVIL RULES 6.3, 7.1, and 11.1

Local Civil Rule 6.3. Motions for Reconsideration

Unless otherwise provided by the court or by statute or rule (such as Fed. R. Civ. P. 50, 52, and 59), a notice of motion for reconsideration must be served within 14 days after the entry of the court's order being challenged. There must be served with the notice of motion a memorandum setting forth concisely the matters or controlling decisions which the moving party believes the court has overlooked. The time periods for the service of any answering and reply memoranda are governed by Local Civil Rule 6.1(a) or (b). No party is to file an affidavit unless directed by the court. Unless otherwise provided by the court, the length limitations for filings under this Rule are as follows: if filed by an attorney or prepared with a computer, briefs in support of and in response to a motion may not exceed 3,500 words, and reply briefs may not exceed 1,750 words; if filed by a party who is not represented by an attorney and handwritten or prepared with a typewriter, briefs in support of and in response to a motion may not exceed 10 pages, and reply briefs may not exceed five pages. If a brief is filed by an attorney or prepared with a computer, the party must also provide a certificate of compliance as required by Local Civil Rule 7.1(c).

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

PRE-2024 COMMITTEE NOTE

Local Civil Rule 6.3 is necessary because the Federal Rules of Civil Procedure do not specify the time periods governing a motion for reconsideration or reargument. In the first sentence of Local Civil Rule 6.3, the Committee recommends an amendment to clarify that the Court may set a different time for the filing of a motion for reconsideration or reargument.

2024 COMMITTEE NOTE

A page limit on briefs has been imposed to emphasize the limited scope of a motion for reconsideration.

2024 COMMITTEE NOTE

The rule is amended to replace page limits with word limits for any brief filed by an attorney or prepared with a computer, consistent with the concurrent amendment to Local Civil Rule 7.1. The rule provides page limits if a party is not represented by an

attorney and the brief is handwritten or prepared with a typewriter because a word limit for such submissions would be impracticable.

Local Civil Rule 7.1. Motion Papers

Except for letter-motions as permitted by this or any other Rule, or as otherwise directed by the court:

(a) All motions must include the following motion papers:

(1) A notice of motion, or an order to show cause signed by the court, which must specify the applicable rules or statutes pursuant to which the motion is brought, and must specify the relief sought by the motion;

(2) A memorandum of law, setting forth the cases and other authorities relied on in support of the motion, and divided, under appropriate headings, into as many parts as there are issues to be determined; and

(3) Supporting affidavits and exhibits thereto containing any factual information and portions of the record necessary for the decision of the motion.

(4) The typeface, margins, and spacing of all documents presented for filing must meet the following requirements:

(a) all text must be 12-point type or larger, except for text in footnotes which may be 10-point type;

(b) all documents must have at least one-inch margins on all sides;

(c) all text must be double-spaced, except for headings, text in footnotes, or block quotations, which may be single-spaced.

(b) All oppositions and replies with respect to motions must comply with Local Civil Rule 7.1(a)(2) and (3) above, and an opposing party who seeks relief that goes beyond the denial of the motion must comply as well with Local Civil Rule 7.1(a)(1) above.

(c) Length of Memoranda of Law. If filed by an attorney or prepared with a computer, briefs in support of and in response to a motion may not exceed 8,750 words, and reply briefs may not exceed 3,500 words; if filed by a party who is not represented by an attorney and handwritten or prepared with a typewriter, briefs in support of and in response to a motion may not exceed 25 pages, and reply briefs may not exceed 10 pages. These limits do not include the caption, any index, table of contents, table of

authorities, signature blocks, or any required certificates, but do include material contained in footnotes or endnotes. If a brief is filed by an attorney or prepared with a computer, it must include a certificate by the attorney, or party who is not represented by an attorney, that the document complies with the word-count limitations provided above and the typeface, margin, and spacing limitations provided in subsection (a)(4). The person preparing the certificate may rely on the word count of the word-processing program used to prepare the document. The certificate must state the number of words in the document. To the extent the court permits a party to submit briefs longer than these limits, and expresses those limits in pages, each additional page must not contain more than 350 additional words if the brief is filed by an attorney or prepared with a computer.

(d) Unless ordered otherwise by the district judge to whom the appeal is assigned, appellate briefs on bankruptcy appeals must comply with the briefing format and length specifications set forth in Federal Rules of Bankruptcy Procedure 8015 to 8017.

(e) Applications for extensions or adjournments, applications for a pre-motion conference, and similar non-dispositive matters may be brought by letter-motion. Other motions cannot be brought by letter-motion unless authorized by the judge's individual practices or order issued in a particular case.

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

PRE-2013 COMMITTEE NOTE

Recommended Local Civil Rule 7.1 is designed to collect in one place the requirements for motion papers. It includes the substance of the present Local Civil Rule 7.1 on memoranda of law, and of the present Local Civil Rule 7.2 regarding notices of motion and orders to show cause. The Committee believes that it will be helpful, especially to lawyers from out of state and to lawyers who practice primarily in the state courts, to have a Local Rule that sets forth the types of papers that are required in support of or in opposition to a motion.

2013 COMMITTEE NOTE

Local Civil Rule 7.1(d) would authorize the use of letter-motions for applications for extensions or adjournments, applications for a pre-motion conference, and similar non-dispositive matters. Pursuant to recommended Local Civil Rule 5.2(b), such letter-motions may be filed by ECF.

The use of letter-motions is intended to follow existing practice in which counsel request certain non-dispositive relief by letter. Using a letter-motion instead of a letter will ensure that the Court is aware that relief is requested (as distinguished from, for example, a status update letter where no relief is requested). Local Civil Rule 7.1(d) is not intended to expand the types of motions that can be made by letter-motion. For example, motions to dismiss or motions for summary judgment may not be made by letter-motion.

Parties should remember to review the Individual Judge's Practices for any pertinent restrictions on the filing of letter-motions, such as requirements for courtesy copies and any page limitations.

2016 COMMITTEE NOTE

Local Rule 7.l(c) is amended to conform to the Federal Rules of Bankruptcy Procedure.

2024 COMMITTEE NOTE

The subsection on letter-motions, subsection (d), was revised to specify the types of motions that may be brought by letter-motion and to make explicit that other motions may not be brought by letter-motion unless authorized by the presiding judge's individual practices or by an order in a particular case. Counsel should consult the presiding judge's individual practices, available on the court web sites, to confirm whether any specific type of motion may be brought via letter-motion.

[MONTH] 2024 COMMITTEE NOTE

The amendment includes a new subsection (c) to establish default lengths for memoranda of law (subject to a court order or a Judge's individual practices) and, if a memorandum of law is filed by counsel or prepared with a computer, to require a certificate of compliance. The rule provides page limits if a party is not represented by an attorney and the brief is handwritten or prepared with a typewriter because a word limit for such submissions would be impracticable. The purpose of the new section is to ensure consistency across briefs in terms of the length of submissions, but the new section provides that these limits do not apply to letter briefs and may be altered by court order. In addition, relevant portions of Local Civil Rule 11.1 which separately addressed the form of pleadings and motion papers have been consolidated into Local Civil Rule 7.1, and outdated provisions deleted.

Local Civil Rule 11.1. Form of Pleadings, Motions, and Other Papers [Withdrawn]

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

PRE-2024 COMMITTEE NOTE

The provisions of Local Civil Rule 11.1 deal with topics that are not covered in Fed. R. Civ. P. 11. Recommended Local Civil Rule 11.1(b), which is based upon similar provisions in other local rules, is intended to set simple and easily followed minimum standards for legibility of documents filed with the Court.

2024 COMMITTEE NOTE

Subsection (b), was amended to allow individual judges to require different formatting or fonts, as set forth in their individual practices, which are available on the court websites.

[MONTH] 2024 COMMITTEE NOTE

The provisions of this rule have been incorporated into revised Local Civil Rule 7.1.

PROPOSED REVISED LOCAL CIVIL RULES 6.3, 7.1, and 11.1

Local Civil Rule 6.3. Motions for Reconsideration

Unless otherwise provided by the court or by statute or rule (such as Fed. R. Civ. P. 50, 52, and 59), a notice of motion for reconsideration must be served within 14 days after the entry of the court's order being challenged. There must be served with the notice of motion a memorandum~~, no longer than 10 pages in length,~~ setting forth concisely the matters or controlling decisions which ~~counsel~~the moving party believes the court has overlooked. The time periods for the service of any answering and reply memoranda~~, which may not be longer than 10 and 5 pages in length, respectively, is governed by Local Civil Rule 6.1(a) or (b), as in the case of the original motion. No party may file any affidavits unless directed by the court.~~ are governed by Local Civil Rule 6.1(a) or (b). No party is to file an affidavit unless directed by the court. Unless otherwise provided by the court, the length limitations for filings under this Rule are as follows: if filed by an attorney or prepared with a computer, briefs in support of and in response to a motion may not exceed 3,500 words, and reply briefs may not exceed 1,750 words; if filed by a party who is not represented by an attorney and handwritten or prepared with a typewriter, briefs in support of and in response to a motion may not exceed 10 pages, and reply briefs may not exceed five pages. If a brief is filed by an attorney or prepared with a computer, the party must also provide a certificate of compliance as required by Local Civil Rule 7.1(c).

Local Civil Rule 7.1. Motion Papers

Except for letter-motions as permitted by ~~**Local Civil Rule 7.1(d),**~~ this or any other Rule, or as otherwise directed by the court:

(a) All motions must include the following motion papers:

(1) A notice of motion, or an order to show cause signed by the court, ~~that specifies~~which must specify the applicable rules or statutes ~~under~~pursuant to which the motion is brought, and must specify the relief sought~~;~~ by the motion;

(2) A memorandum of law, setting forth the cases and other authorities relied on in support of the motion, and divided, under appropriate headings, into as many parts as there are issues to be determined; and

(3)——Supporting affidavits and exhibits thereto containing any factual information and ~~parts~~portions of the record necessary for the decision of the motion.

~~(b)——Except for letter-motions as permitted by Local Rule 7.1(d) or as otherwise permitted by the court, all~~(4) The typeface, margins, and spacing of all documents presented for filing must meet the following requirements:

(a) all text must be 12-point type or larger, except for text in footnotes which may be 10-point type;

(b) all documents must have at least one-inch margins on all sides;

(c) all text must be double-spaced, except for headings, text in footnotes, or block quotations, which may be single-spaced.

(b) All oppositions and replies with respect to motions must comply with Local Civil Rule 7.1(a)(2) and (3) above, and an opposing party who seeks relief that goes beyond the denial of the motion must comply as well with Local Civil Rule 7.1(a)(1) above.

~~(c)——~~(c) Length of Memoranda of Law. If filed by an attorney or prepared with a computer, briefs in support of and in response to a motion may not exceed 8,750 words, and reply briefs may not exceed 3,500 words; if filed by a party who is not represented by an attorney and handwritten or prepared with a typewriter, briefs in support of and in response to a motion may not exceed 25 pages, and reply briefs may not exceed 10 pages. These limits do not include the caption, any index, table of contents, table of authorities, signature blocks, or any required certificates, but do include material contained in footnotes or endnotes. If a brief is filed by an attorney or prepared with a computer, it must include a certificate by the attorney, or party who is not represented by an attorney, that the document complies with the word-count limitations provided above and the typeface, margin, and spacing limitations provided in subsection (a)(4). The person preparing the certificate may rely on the word count of the word-processing program used to prepare the document. The certificate must state the number of words in the document. To the extent the court permits a party to submit briefs longer than these limits, and expresses those limits in pages, each additional page must not contain more than 350 additional words if the brief is filed by an attorney or prepared with a computer.

(d) Unless ordered otherwise by the district judge to whom the appeal is assigned, appellate briefs on bankruptcy appeals must comply with the briefing format and length specifications set forth in ~~Fed. R. Bankr. P.~~Federal Rules of Bankruptcy Procedure 8015 to 8017.

(~~d)~~ e) Applications for extensions or adjournments, applications for a pre-motion conference, and similar non-dispositive matters may be brought by letter-motion. Other motions cannot be brought by letter-motion unless authorized by the judge's individual practices or order issued in a particular case.

~~**Local Civil Rule 11.1. Form of Pleadings, Motions, and Other Papers**~~

~~(a) A pleading, written motion, and other paper must~~

~~(1) be plainly written, typed, printed, or copied without erasures or interlineations that materially deface it,~~

~~(2) bear the docket number and the initials of the district judge and any magistrate judge before whom the action or proceeding is pending,~~

~~(3) have the name of each person signing it clearly printed or typed directly below the signature.~~

~~(b) Unless a judge's individual practices provide otherwise, the typeface, margins, and spacing of all documents presented for filing must meet the following requirements:~~

~~(1) all text must be 12-point type or larger, except for text in footnotes, which may be 10-point type;~~

~~(2) all documents must have at least one-inch margins on all sides;~~

~~(3) all text must be double-spaced, except for headings, text in footnotes, or block quotations, which may be single-spaced.~~

PROPOSED REVISED LOCAL CIVIL RULE 1.8

Local Civil Rule 1.8. Electronic Equipment and Recording, Broadcasting, and Streaming of Court Matters

(a) Unless authorized to do so by an administrative or standing order of the court, the clerk, or the district executive, no one other than court officials engaged in the conduct of court business shall:

(1) bring any camera, transmitter, receiver, recording device, cellular telephone, computer or other electronic device into any courthouse; or

(2) take a photograph or make an audio or video recording of any proceeding or communication with the court, an employee of the court, or any person acting at the direction of the court, including a mediator. No such authorization shall be given with respect to a court proceeding or mediation unless approved in advance by the presiding judge.

(b) Proceedings may not be broadcast or streamed unless authorized by the presiding judge in accordance with Judicial Conference policy.

(c) The court may adopt additional policies governing the possession or use of electronic equipment within any courthouse. Any such policy will be posted on the court website or within any courthouse to which it applies.

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

PRE-2016 COMMITTEE NOTE

The recommended revised language of Local Civil Rule 1.8, which the Committee understands has been worked out by the respective Courts, recognizes that both Courts have adopted administrative orders dealing with the extent to which cameras, recording devices, and other electronic devices will be permitted to be brought into their respective courthouses. The environs of the courthouses are excluded from the proposed local rule in accordance with the spirit of the settlement agreement so ordered by the Court in *Antonio Musumeci v. United States Department of Homeland Security*, 10-CV-3370 (RJH).

2016 COMMITTEE NOTE

The Rule has long restricted the act of bringing certain devices into any courthouse without authorization. The amendment now prohibits the making of any audio or video recording of a proceeding or communication with the Court, even if the device was brought into the courthouse with authorization. The amendment encompasses activities regardless of location, including the recording from a remote location of a telephone conversation with a Judge, a member of a Judge's staff or the Court's staff or other persons acting at the Court's direction, including a mediator.

2023 COMMITTEE NOTE

The title of Local Civil Rule 1.8 has been revised to reflect the full scope of the Rule, which restricts the bringing of electronic equipment into any courthouse, the permissible use of any electronic equipment that is allowed inside, and the broadcasting or streaming of proceedings. The Rule has also been amended to further specify who may authorize the bringing of electronic equipment into a courthouse and the photography or recording of court proceedings and communications. Finally, the Rule has also been amended to prohibit the broadcasting or streaming of any proceeding unless authorized by the presiding judge in accordance with Judicial Conference policy.

2024 COMMITTEE NOTE

The rule has been amended to make clear that each court has authority to adopt additional policies governing the possession or use of electronic equipment within any courthouse, which policies will be posted on the court's website or within any courthouse to which the policies apply, to ensure that the courts have sufficient flexibility to address time-sensitive matters including, for example, security concerns.

PROPOSED REVISED LOCAL CIVIL RULE 1.8

Local Civil Rule 1.8. Electronic Equipment and Recording, Broadcasting, and Streaming of Court Matters

(a) Unless authorized to do so by an administrative or standing order of the court, the clerk, or the district executive, no one other than court officials engaged in the conduct of court business shall:

(1) bring any camera, transmitter, receiver, recording device, cellular telephone, computer or other electronic device into any courthouse; or

(2) take a photograph or make an audio or video recording of any proceeding or communication with the court, an employee of the court, or any person acting at the direction of the court, including a mediator. No such authorization shall be given with respect to a court proceeding or mediation unless approved in advance by the presiding judge.

(b) Proceedings may not be broadcast or streamed unless authorized by the presiding judge in accordance with Judicial Conference policy.

(c) The court may adopt additional policies governing the possession or use of electronic equipment within any courthouse. Any such policy will be posted on the court website or within any courthouse to which it applies.

PROPOSED NEW LOCAL CRIMINAL RULE 16.2

Local Criminal Rule 16.2. Timeline for Expert Discovery

Unless otherwise ordered by the court, the government must make any disclosures required by Fed. R. of Crim. P. 16(a)(1)(G) at least 60 days prior to trial, and the defense must make any such disclosures at least 30 days prior to trial.

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

2024 COMMITTEE NOTE

Fed. R. of Crim. P. 16(a)(1)(G) requires the court, by order or local rule, to set a time for the disclosure of information regarding expert witnesses. A local rule setting those time limits subject to contrary order of the court provides judges and attorneys with a default rule that will apply without the need for entry of an order in every individual case, while also providing the flexibility needed to set a different schedule for disclosures when circumstances warrant.

PROPOSED NEW LOCAL CRIMINAL RULE 49.2

Local Criminal Rule 49.2. Pro Se Submissions by a Represented Defendant

(a) Unless otherwise ordered by the court, a defendant represented by counsel in a pending criminal case or in a proceeding pursuant to 28 U.S.C. § 2255 may not file or submit any pro se letter, motion, or brief. A criminal case is considered pending if judgment has not yet been entered.

(b) Unless otherwise ordered by the court, if a represented defendant, acting pro se, files or submits a letter, motion, or brief in violation of this rule, the court must:

(1) on notice to all parties, forward a copy of the document to the defendant's attorney of record and file the document under seal and ex parte; and

(2) not afford the document further consideration.

(c) This rule does not apply to a motion to proceed pro se or a submission concerning the adequacy of counsel's representation.

(d) If a represented defendant, acting pro se, makes a submission that concerns both the adequacy of counsel's representation and other matters, the court may decline to consider those portions of the submission that concern matters unrelated to the adequacy of counsel's representation and file such portions under seal and ex parte.

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

2024 COMMITTEE NOTE

Local Criminal Rule 49.2 serves several salutary purposes. First, it confirms and codifies the court's inherent authority to reject most pro se submissions by a represented defendant. *See United States v. Hage*, 74 F.4th 90, 94 (2d Cir. 2023) (Nardini, J., in chambers) (explaining that allowing *pro se* submissions by a represented defendant, at least when "the defendant makes no claim that his counsel was not adequately representing him," is "not only unnecessary; it is also unwise") (internal quotation marks omitted). Second, it protects defendants from unwittingly disclosing information that is privileged or making statements that could be used against the defendant in the case. Third, it establishes an efficient default process for dealing with what in some

cases may be numerous *pro se* submissions from a represented defendant, yet provides judges with the flexibility to deviate from the default and handle any such submission as they see fit. *Cf. United States v. Tutino*, 883 F.2d 1125, 1141 (2d Cir. 1989) (holding that the "decision to grant or deny 'hybrid representation' lies solely within the discretion of trial court"). Fourth, by ensuring that any pro se submission is forwarded to counsel for the defendant, it gives counsel the opportunity to take appropriate action, including but not limited to pursuing any matter set forth in the submission or explaining to the defendant why any matter in the submission should not be pursued. Finally, it ensures that any pro se submission by a represented party is made part of the record in case it should it be relevant in later proceedings.

PROPOSED NEW LOCAL SOCIAL SECURITY RULES

Local Social Security Rule 1.1 Application of Rules

These Local Social Security Rules are promulgated under 28 U.S.C. § 2071 and Fed. R. Civ. P. 83. They apply in all actions governed by the Supplemental Rules for Social Security Actions. These Local Social Security Rules take effect on [DATE APPROXIMATELY 30 DAYS AFTER APPROVAL BY BOTH COURTS] and govern actions filed on or after that date.

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

2024 COMMITTEE NOTE

Effective December 1, 2022, there are Supplemental Social Security Rules that govern reviews of § 405(g) decisions. These Local Social Security Rules codify and expand upon existing district-wide orders (EDNY Administrative Order No. 2023-19; SDNY Standing Order No. M10-468), put in place to govern cases filed pursuant to the Supplemental Social Security Rules. The Local Social Security Rules apply only to actions filed on or after [EFFECTIVE DATE]; actions filed before that date remain subject to the relevant district-wide order.

Local Social Security Rule 4.1 Motions for Extensions of Time and Scheduling Orders

Any party seeking an extension of the deadlines set forth in Supplemental Social Security Rules 4, 6, 7, or 8 must, prior to seeking the extension, attempt to meet and confer with the opposing party in a good faith effort to agree on a reasonable and comprehensive schedule for all future filings in the case. If the parties reach agreement, a joint motion containing the proposed schedule should be filed with the court for approval, and, if approved, will govern all remaining proceedings in the case. No further extensions will be granted absent compelling circumstances. If the parties are unable to reach agreement and file a joint motion, the party seeking the extension must include in its motion a description of the efforts made to reach agreement on a proposed schedule and the reasons why those efforts were unsuccessful.

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

2024 COMMITTEE NOTE

Prior to the enactment of the Supplemental Social Security Rules, both districts provided the plaintiff with 60 days after the filing of the certified transcript of the administrative proceedings to file an opening brief, with the Commissioner's brief due 60 days thereafter, and any reply due 21 days later. (SDNY Standing Order No. M10-468; EDNY Administrative Order 2015-05.) The Supplemental Social Security Rules had the effect of displacing these existing district-wide Orders, and shortening the long-established timeframes to 30 days for opening or opposition briefs and 21 days for reply briefs. In light of the history of longer deadlines, and the expectation that the parties will frequently seek extensions of the default deadlines in the Supplemental Social Security Rules, this Local Social Security Rule establishes a process for seeking such extensions.

Local Social Security Rule 5.1 Default Form and Length for Briefs

The typeface, margins, and spacing of all briefs must comply with Local Civil Rule 7.1(a)(4). Absent leave of Court, which must be requested at least seven days in advance, the following length limitations apply to the parties' briefs: if filed by an attorney or prepared with a computer, initial and opposition briefs may not exceed 8,750 words, and a plaintiff's reply brief may not exceed 3,500 words; if filed by a party who is not represented by an attorney and handwritten or prepared with a typewriter, initial and opposition briefs may not exceed 25 pages, and a plaintiff's reply brief may not exceed 10 pages. If a brief is filed by an attorney or prepared with a computer, the party must also provide a certificate of compliance as required by Local Civil Rule 7.1(c).

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

2024 COMMITTEE NOTE

The Supplemental Rules for Social Security Actions do not specify the form or length limits for the parties' briefs. To promote uniformity, and in recognition that each action governed by the Supplemental Rules is essentially appellate in character, seeking review of a single individual's claims on a single administrative record, this Local Social Security Rule incorporates the form requirements set forth in Local Civil Rule 7.1(a)(4) and establishes default length limits for the briefs. The rule provides page limits if a party is not represented by an attorney and the brief is handwritten or prepared with a typewriter because a word limit for such submissions would be impracticable.

Local Social Security Rule 7.1 Obligations of Commissioner in Pro Se Cases

If a plaintiff appearing pro se fails to file a brief in support of the requested relief within the time period set forth in Supplemental Social Security Rule 6 (or such extended time period as the court may have granted), the Commissioner must nonetheless file a brief and serve it on the plaintiff within 30 days after the plaintiff's brief was due (or within such extended time period as the court may have granted).

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

Local Social Security Rule 8.1 Opposition and Reply Briefs in Pro Se Cases

A plaintiff appearing pro se who fails to file an initial brief for the requested relief may nonetheless file a brief in opposition to the brief filed by the Commissioner pursuant to Local Social Security Rule 7.1. Such brief in opposition must be filed and served on the Commissioner within 14 days after service of the Commissioner's brief (or within such extended time period granted by the court). In such a circumstance, neither party is permitted to file a reply brief, absent leave of court.

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

2024 COMMITTEE NOTE

Local Social Security Rules 7.1 and 8.1 clarify the procedure to be used when a plaintiff proceeding *pro se* fails to file an opening brief as required by Supplemental Social Security Rule 6. In order to ensure that the court has the benefit of at least one party's analysis, the Commissioner is still obligated to file a brief, with the deadline that would have been in place—unless extended—had plaintiff filed an opening brief. The Local Social Security Rules also clarify that a plaintiff, despite not filing an opening brief, may still oppose the relief sought by the Commissioner (in the form of an opposition brief), but neither side may file a reply brief in such circumstances, absent leave of court. The default word limits in Local Social Security Rule 5.1 apply to any submission under this rule.