

**EXISTING LOCAL GENERAL RULES AND
NOTES ON COMMITTEE RECOMMENDATIONS**

Rule 1. Clerk's Office - Court Sessions

(a) The offices of the clerk are open from 8:30 a.m. to 5:00 p.m. Monday through Friday and closed on Saturdays, Sundays, and legal holidays. A night depository with an automatic time and date stamp shall be maintained by the clerk of the Southern District in the Foley Square courthouse and by the clerk of the Eastern District in the Brooklyn Courthouse. After regular business hours, papers for the district court only may be deposited in the night depository. Such papers will be considered as having been filed in the district court as of the time and date stamped thereon, which shall be deemed presumptively correct.

COMMITTEE NOTE

The Committee concludes that the provisions of Local General Rule 1 are necessary and should be retained and renumbered as Local Civil Rule 1.2. The Committee recommends that the words "Court Sessions" be deleted from the title of the rule, because the rule no longer contains any provisions about Court sessions. The Committee also recommends that the reference to the Foley Square Courthouse be changed to the Pearl Street Courthouse, because that is where the night depository is now located.

Rule 2. Admission to the Bar

(a) A member in good standing of the bar of the state of New York, or a member in good standing of the bar of the United States District Court in New Jersey, Connecticut or Vermont and of the bar of the State in which such district court is located, provided such district court by its rule extends a corresponding privilege to members of the bar of this court, may be admitted to practice in this court on compliance with the following provisions:

Each applicant for admission shall file with the clerk, at least ten (10) days prior to hearing (unless, for good cause shown, the judge shall shorten the time), a verified written petition for admission stating: (1) applicant's residence and office address; (2) the time when, and court where, admitted; (3) applicant's legal training and experience; (4) whether applicant has ever been held in contempt of court, and, if so, the nature of the contempt and the final disposition thereof; (5) whether applicant has ever been censured, suspended or disbarred by any court, and, if so, the facts and circumstances connected therewith; and (6) that applicant has read and is familiar with (a) the provisions of the Judicial Code (Title 28, U.S.C.) which pertain to the jurisdiction of, and practice in, the United States District Courts; (b) the Federal Rules of Civil Procedure for the district courts; (c) the Federal Rules of Criminal Procedure for the district courts; (d) the Federal Rules of Evidence for the United States Courts and Magistrate Judges; (e) Rules of the United States District Court for the Southern and Eastern Districts of New York; and (f) that applicant has read the Code of Professional Responsibility of the American Bar Association, and will faithfully adhere thereto.

The petition shall be accompanied by a certificate of the clerk of the court for each of the states in which the applicant is a member of the bar, which has been issued within thirty (30) days and states that the applicant is a member in good standing of the bar of that state court. The petition shall also be accompanied by an affidavit of an attorney of this court who has known the applicant for at least one year, stating when the affiant was admitted to practice in this court, how long and under what circumstances the attorney has known the applicant, and what the attorney knows of the applicant's character and experience at the bar. Such petition shall be placed at the head of the

calendar and, on the call thereof, the attorney whose affidavit accompanied the petition shall personally move the admission of the applicant. If the petition is granted, the applicant shall take the oath of office and sign the roll of attorneys.

COMMITTEE NOTE

The Committee concludes that Local General Rule 2(a) is obviously necessary, and recommends its retention as Local Civil Rule 1.3. In order to alert applicants to existing practice, the Committee recommends that the rule be amended to provide that the petition for admission shall be on a form supplied by the clerk. In existing Local General Rule 2(a)(2), the Committee recommends changing the word “court” to “courts,” in conformity with the obvious intent of the rule. In addition, the Committee has recommended certain simplifying changes in the titles of the rules referred to.

The reference in existing Local General Rule 2(a) to “the Code of Professional Responsibility of the American Bar Association” has become obsolescent and confusing over the years, because the American Bar Association has replaced its former Code of Professional Responsibility with its Model Rules of Professional Conduct, while New York State has retained its Code of Professional Conduct (with certain amendments from time to time to reflect, among other things, some of the provisions of the ABA Model Rules).

In agreement with the very persuasive reports of the Advisory Group/Committee on Civil Litigation of the United States District Court for the Eastern District of New York, the Committee has concluded that, because a substantial majority of lawyers who practice in the District Courts for the Southern and Eastern Districts also practice to a large extent in the New York State courts, it is appropriate for Local Civil Rule 1.3(a) (as well as Local General Rule 4(f), which the Committee recommends be redrafted as new Local Civil Rule 1.5(b)(5)) to refer to the New York State Lawyer’s Code of Professional Responsibility, rather than to the ABA Model Rules of Professional Conduct. Among other things, this will help to prevent unfair surprise and to minimize confusion over the applicable ethical standards.

From time to time there have been suggestions that the federal courts should adopt uniform nationwide ethical standards to govern practice in all federal courts. Whatever the abstract merits of this proposal, the Committee notes that there are no such uniform nationwide federal ethical standards in existence today, and that there does not appear to be any present intention on the part of the Committee on Rules of Practice and Procedure of the Judicial Conference to embark upon the formulation of such uniform nationwide federal ethical standards.

In making its recommendation that General Local Rule 2(a) be amended to refer explicitly to the New York State Lawyer’s Code of Professional Responsibility, the Committee does not intend to change the power of the federal courts to decline to apply state ethical rules that impact adversely upon important federal policies. See County of

Suffolk v. Long Island Lighting Co., 710 F. Supp. 1407, 1414-15 (E.D.N.Y. 1989). Nor does the Committee intend to change the application of the existing rule to federal government attorneys, a matter which the Committee notes is the subject of discussion and litigation between the United States Department of Justice and other groups.

While the Committee recommends that the local rules adopt the ethical standards set forth in the New York State Lawyer's Code of Professional Responsibility, the Committee recognizes that it is desirable that attorneys practicing in the Southern and Eastern Districts of New York also be familiar with the provisions of the ABA Model Rules.

The words "and will faithfully adhere thereto," which appear at the end of the second paragraph of existing Local General Rule 2(a), are susceptible of being read as applying only to the Code of Professional Responsibility. In order to avoid such an unduly narrow reading, the Committee recommends that a new subparagraph (7) be added to the rule, stating that "applicant will faithfully adhere to all rules applicable to applicant's conduct in connection with any activities in this court."

(b) **(Southern District Only).** A member in good standing of the bar of either the Southern or Eastern District of New York may be admitted to the bar of the other district without formal application (1) upon filing in that district a certificate of the Clerk of the United States District Court for the district in which the applicant is a member of the bar, which has been issued within thirty (30) days and states that the applicant is a member in good standing of the bar of that court and (2) upon taking the oath of office, signing the roll of attorneys of that district, and paying the fee required in that district.

(Eastern District only). A member in good standing of the bar of any district court in the Second Circuit may be admitted to the bar of the Eastern District of New York without formal application: (1) upon filing in the Eastern District a certificate of the Clerk of the United States District Court for the district in which the attorney is a member of the bar, issued within thirty days, that the applicant is a member in good standing of the bar of that court and that the attorney was required to present a certificate of good standing in a state bar within the Second Circuit in order to be admitted to membership in

the federal bar in question; and (2) upon taking the oath of office, signing the roll of attorneys of this district, and paying the fee required in this district.

COMMITTEE NOTE

The Committee recommends that the Southern District version of Local General Rule 2(b) be adopted in preference to the Eastern District version. The Committee notes that, under either version of Local General Rule 2(b), all of the attorneys who may be admitted pursuant to Local General Rule 2(b) may also be admitted pursuant to Local General Rule 2 (a), upon certifying (among other things) that they have read the Local Rules and the New York Lawyer's Code of professional Responsibility, and provided that the district in which they are admitted extends reciprocal treatment to attorneys admitted in the Southern and Eastern Districts of New York. Local General Rule 2(b) dispenses with the certifications and the reciprocity required by Local General Rule 2(a). The Committee concludes that this is appropriate in the case of the Southern and Eastern Districts of New York, because their local rules are largely identical, but that it is not warranted in the case of other districts, whose local rules are not largely identical to those in the Southern and Eastern Districts of New York.

(c) A member in good standing of the bar of any state or of any United States District Court may be permitted to argue or try a particular case in whole or in part as counsel or advocate, upon motion and upon filing with the Clerk of the District Court a certificate of the court for each of the states in which the applicant is a member of the bar, which has been issued within thirty (30) days and states that the applicant is a member in good standing of the bar of that state court. Only an attorney of this court may enter appearances for parties, sign stipulations or receive payments upon judgments, decrees or orders.

COMMITTEE NOTE

The Committee believes that Local General Rule 2(c), which provides for pro hac vice admission, serves an important purpose and should be retained and renumbered as Local Civil Rule 1.3(c). The Committee recommends that the final sentence of the rule be amended to make clear that an attorney who has been admitted pro hac vice, as well as an attorney admitted to the bar of the Court, may enter appearances, sign stipulations, and receive payments upon judgments, decrees, and orders.

(d) If an attorney changes his or her residence or office address, the attorney shall immediately notify the clerk of the district in which the attorney is admitted.

COMMITTEE NOTE

The Committee recommends that Local General Rule 2(d) should be retained and renumbered as Local Civil Rule 1.3(d). The Committee further recommends that the rule be clarified (1) by making clear that it applies to attorneys admitted pro hac vice as well as to those who are admitted to the Bar of the Court, and (2) by stating explicitly that the required notice to the Clerk is in addition to the notice that is required to be served and filed in each pending case in which the attorney has appeared.

Rule 3. Attorneys of Record and Parties Appearing

(a) **(Southern District only)** If a judge of this court so requires, an attorney not having an office within the Southern or Eastern District of New York shall not appear as attorney of record without designating a member of the bar of either district having an office within either district upon whom service of papers may be made.

COMMITTEE NOTE

The Committee recommends that Local General Rule 3(a) be deleted as unnecessary. The Court has the inherent power to require the association of local counsel for good cause shown, and the rule is not necessary to confirm this power. The Committee concludes, in accordance with the persuasive report of the Committee on Federal Courts of the New York County Lawyers' Association on pro hac vice admissions in the federal courts, that such a requirement should be the exception rather than the rule.

(b) A party appearing pro se shall file with that party's initial notice of pleading either (1) a designation of an address within the Southern or Eastern District of New York at which service of papers may be made upon that party, in which case service may be made upon that party at that address in like manner as service may be made upon an attorney or, (2) a designation of the clerk of this court as the person upon whom service may be made, and an address to which the clerk may mail any papers so served

upon the clerk. The clerk within three (3) days of the receipt of papers so served shall mail them to the party at that address.

Any application for leave to serve any papers in less than five (5) days before the return day, upon a party who has so designated the clerk, shall contain a statement of such designation.

COMMITTEE NOTE

The Committee recommends that Local General Rule 3(b) be deleted as unnecessary. Federal Rule of Civil Procedure 11(a) already requires that a party signing pleadings pro se give the party's address and telephone number. The procedure of designation of the Clerk to receive service of papers is rarely utilized, and would appear to add little, if anything, to the likelihood that the pro se party will receive papers served upon the party, since under that procedure the Clerk will simply mail the papers to the address given by the party.

(c) An attorney who has appeared as attorney of record for a party may be relieved or displaced only by order of the court and may not withdraw from a case without leave of the court granted by order. Such an order may be granted only upon a showing by affidavit of satisfactory reasons for withdrawal or displacement and the posture of the case, including its position, if any, on the calendar.

COMMITTEE NOTE

The Committee concludes that Local General Rule 3(c) serves an important purpose, and that it should be retained as Local Civil Rule 1.4. The Committee recommends that the final sentence of the rule be amended to permit the required showing to be made by means other than an affidavit.

Rule 4. Discipline of Attorneys

(a) The chief judge shall appoint a committee of the board of judges known as the committee on grievances, which under the direction of the chief judge shall have charge of all matters relating to discipline of attorneys. The committee on grievances may entertain complaints in writing from any source. Complaints, and any files based on

them, shall be treated as confidential. The chief judge shall appoint a committee of attorneys who are members of the bar of this court to advise or assist the committee on grievances. Members of this committee will investigate complaints, and will serve as members of hearing panels.

COMMITTEE NOTE

The Committee recommends that the second and third sentences of existing Local General Rule 4(a) be moved to proposed Local Civil Rule 1.5(d)(1), because they deal with aspects of procedure. The Committee recommends that the third sentence of the existing rule be modified to provide that complaints and files shall be confidential unless otherwise ordered by the Chief Judge for good cause shown. The Committee also recommends that the final sentence of existing Local General Rule 4(a) be amended to add the function of preparing and supporting statements of charges, and (by changing the word “and” to “or”) to make clear that the attorneys who investigate complaints or prepare statements of charges cannot also serve as members of hearing panels.

(b) If it appears, after notice and opportunity to be heard, that any member of the bar of this court has been convicted of a felony in any federal court, or in the court of any state, territory, district, commonwealth or possession, the member’s name shall be struck from the roll of members of the bar of this court.

COMMITTEE NOTE

In the interests of clarity, the Committee recommends that the subject matter of existing Local General Rule 4(b) through (i) be rearranged into three paragraphs: one paragraph setting forth the grounds for discipline or other relief (proposed Local Civil Rule 1.5(b)), another paragraph setting forth the types of discipline or other relief that may be granted based on each such ground (proposed Local Civil Rule 1.5(c)), and a third paragraph setting forth the procedures for imposing discipline or other relief (proposed Local Civil Rule 1.5(d)).

Existing Local General Rule 4(b) and (c) differentiate between felonies (as to which disbarment is automatic under existing Local General Rule 4(b)) and misdemeanors (as to which the appropriate discipline is to be selected by the Committee on Grievances under existing Local General Rule 4(c)). This distinction raises definitional questions when a given crime is a felony in the jurisdiction of conviction but not under federal law, or *vice versa*. The Committee suggests that such definitional problems can be avoided by combining existing Local General Rules 4(b) and (c) into the proposed Local Civil Rule 1.5(b)(1). The Committee anticipates that disbarment will continue to be the result in all or virtually all cases involving felony convictions.

To make the language of Local General Rule 4 less cumbersome, the Committee recommends that the words “state, territory, district, commonwealth or possession” be shortened to “state or territory” wherever they appear in Local General Rule 4. No substantive change is intended to be made thereby.

(c) If it appears, after notice and opportunity to be heard, that any member of this court has been convicted of a misdemeanor, in any federal court or in the court of any state, territory, district, commonwealth or possession, the member may be disciplined by this court, in accordance with the provisions of paragraph (g).

COMMITTEE NOTE

The grounds for discipline set forth in existing Local General Rule 4(c) are carried forward into proposed Local Civil Rule 1.5(b)(1), as described in the Committee Note to existing Local General Rule 4(b).

(d) If it appears, after notice and opportunity to be heard, that any member of the bar of this court has been disciplined by any federal court or by the court of any state, territory, district, commonwealth or possession, the member may be disciplined by this court, in accordance with the provisions of paragraph (g).

COMMITTEE NOTE

The grounds for discipline set forth in existing Local General Rule 4(d) are carried forward into proposed Local Civil Rule 1.5(b)(2).

(e) If it appears, after notice and opportunity to be heard, that any member of the bar of this court has resigned from the bar of any federal court or the court of any state, territory, district, commonwealth or possession while an investigation into allegations of misconduct by the attorney were pending, the member may be disciplined by this court, in accordance with the provisions of paragraph (g).

COMMITTEE NOTE

The grounds for discipline set forth in existing Local General Rule 4(e) are carried forward into proposed Local Civil Rule 1.5(b)(3).

(f) If, in connection with activities in this court, any attorney is found guilty by clear and convincing evidence, after notice and opportunity to be heard, of conduct violative of the Codes of Professional Responsibility of the American Bar Association or the New York Bar Association from time to time in force, the attorney may be disciplined by this court, in accordance with the provisions of paragraph (g).

COMMITTEE NOTE

The grounds for discipline set forth in existing Local General Rule 4(f) are carried forward into proposed Local Civil Rule 1.5(b)(5). The reference to the clear and convincing standard of proof in existing Local General Rule 4(f) now appears in the lead-in paragraph of proposed Local Civil Rule 1.5(b). For the reasons set forth in the Committee Note to existing Local General Rule 2(a), the Committee recommends that the reference in existing Local General Rule 4(b)(5) to the Code of Professional Responsibility be amended to refer solely to the New York State Code of Professional Responsibility as adopted from time to time by the New York State courts. The Committee further recommends that language be added to the rule to alert the Bar to the holding of Grievance Committee v. Simels, 48 F.3d 640, 645-46 (2d Cir. 1995), that the interpretation of the Disciplinary Rules as they apply in the federal courts is a matter for the federal courts. The Committee's recommendations with respect to this rule follow those made in the persuasive reports on this subject by the Advisory Group/Committee on Civil Litigation of the United States District Court for the Eastern District of New York.

(g) Discipline imposed pursuant to paragraph (c), (d), (e) or (f) may consist of suspension or censure. In the case of an attorney who is a member of the bar of this court, it may also consist of striking the name of the attorney from the roll. In the case of an attorney admitted pro hac vice, it may also consist of precluding the attorney from again appearing at the bar of this court. Upon the entry of an order of preclusion, the clerk shall transmit to the court or courts where the attorney was admitted to practice a certified copy of the order, and of the court's opinion, if any.

COMMITTEE NOTE

The types of discipline set forth in the first paragraph of existing Local General Rule 4(g) are found in proposed Local Civil Rule 1.5(c)(1) and (2). The final sentence of

existing Local General Rule 4(g) has been combined with existing Local General Rule 4(1) in proposed Local Civil Rule 1.5(g).

Discipline may be imposed by this court with respect to paragraphs (d) and (e) unless the member of the bar concerned establishes by clear and convincing evidence: (1) with respect to paragraph (d) that there was such an infirmity of proof of misconduct by the attorney as to give rise to the clear conviction that this court could not consistently with its duty accept as final the conclusion of the other court; or (2) that the procedure resulting in the investigation or discipline of the attorney by the other court was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or (3) that the imposition of discipline of this court would result in grave injustice.

COMMITTEE NOTE

The provisions of the second paragraph of existing Local General Rule 4(g) appear in proposed Local Civil Rule 1.5(d)(2). Some members of the Committee would favor the deletion of the words “by clear and convincing evidence” in this rule, on the ground that it seemed to them unfair to require an attorney who has been disciplined by the New York state courts based on a preponderance of the evidence to rebut that determination by clear and convincing evidence. The consensus of the Committee, however, did not favor this change.

(h) If it appears, after notice and opportunity to be heard, that any lawyer not a member of the bar of this court has appeared at the bar of this court without permission to do so, said lawyer may be precluded from again appearing at the bar of this court. Upon the entry of an order of preclusion, the clerk shall transmit to the court or courts where the attorney was admitted to practice a certified copy of the order, and of the court’s opinion, if any.

COMMITTEE NOTE

The provisions of existing Local General Rule 4(h) appear in substance in proposed Local Civil Rule 1.5(b)(6), (c)(4), and (g).

(i) Complaints in writing alleging that any member of the bar of this court is in a category described in paragraphs (b) through (e), or that any attorney practicing in this court has committed the misconduct referred to in paragraph (f), will be directed to the chief judge, who shall refer such complaints to the committee on grievances, which may designate an attorney selected from the panel of attorneys to investigate the allegations if it deems investigation necessary or warranted. If, with or without investigation, the committee on grievances deems that the charges require prosecution, a statement of charges shall be served on the attorney concerned together with an order to show cause why discipline should not be imposed. Upon the respondent attorney's answer to the charges the matter will be scheduled for prompt hearing before a panel of attorneys which will report findings and recommendations. After such a hearing and report, or if no timely answer is made by the respondent attorney or if the answer raises no issue requiring a hearing, such action shall be taken as justice and this rule may require.

COMMITTEE NOTE

The procedures on disciplinary complaints, which are the subject of existing Local General Rule 4(i), are dealt with in proposed Local Civil Rule 1.5(d)(1), (3) and (4). The procedural provisions in the proposed rules are more detailed than those in the existing rule, in the interests of clarifying areas of possible uncertainty and forestalling unnecessary litigation.

(j) Any attorney who has been suspended or whose name has been struck from the roll of the members of the bar of this court may apply in writing to the chief judge, for good cause shown, for the lifting of suspension or for reinstatement to the rolls. The committee on grievances shall act upon the application, either immediately or after receiving findings and recommendations from a hearing panel of attorneys to which the application has been referred.

COMMITTEE NOTE

The provisions of existing Local General Rule 4(j) are carried forward in proposed Local Civil Rule 1.5(e). The proposed rule has been clarified to apply to preclusion as well as to other disciplinary sanctions, and to make clear that the same magistrate judge or panel of attorneys that previously heard the matter may consider the application for reinstatement.

(k) Misconduct of any attorney in the presence of this court or in any manner in respect to any matter pending in this court may be dealt with directly by the judge in charge of the matter or at said judge's option referred to the committee on grievances, or both.

COMMITTEE NOTE

The provisions of existing Local General Rule 4(k) are carried forward, with clarifying changes in language, in proposed Local Civil Rule 1.5(f).

(1) Whenever it appears that an attorney admitted to practice in the court of any state, territory, district, commonwealth or possession, or in any other federal court, has in this court been convicted of any crime or disbarred, suspended or censured the clerk shall send to such other court or courts a certified copy of the judgment of conviction or order of disbarment, suspension or censure, and a statement of the attorney's last known office and resident address.

COMMITTEE NOTE

The provisions of existing Local General Rule 4(1) are carried forward in substance in proposed Local Civil Rule 1.5(g).

Rule 5. Duty of Attorneys - Default Sanctions - Imposition of Costs on Attorneys

(a) *Duty of Attorneys in Related Cases*

It shall be the continuing duty of each attorney appearing in any case to bring promptly to the attention of the clerk all facts which said attorney believes are relevant to a determination that said case and one or more pending cases should be heard by the

same judge, in order to avoid unnecessary duplication of judicial effort. As soon as the attorney becomes aware of such relationship, said attorney shall notify the clerk in writing, who shall transmit that notification to the judges to whom the cases have been assigned.

COMMITTEE NOTE

The Committee believes that existing Local General Rule 5(a) serves a useful purpose, and that it should be retained and renumbered as Local Civil Rule 1.6(a). The Committee recommends that the rule be amended to make clear that the duty to inform the Court of cases that are related within the meaning of the rule applies to both civil and criminal cases. This does not mean that such cases should necessarily be assigned to the same Judge, but merely that the necessary information should be brought to the attention of the Clerk so that the issue can be addressed.

(b) *Default Sanctions*

Failure of counsel for any party, or of a party appearing pro se, to appear before the court at a conference, or to complete the necessary preparations, or to be prepared to proceed to trial at the time set, may be considered an abandonment of the case or failure to prosecute or defend diligently, and an appropriate order may be entered against the defaulting party either with respect to a specific issue or on the entire case.

COMMITTEE NOTE

The Committee recommends that Local General Rule 5(b) be eliminated as unnecessary. As to civil cases, the rule adds nothing to the authority of the Court under Federal Rules of Civil Procedure 16(f) and 41(b) and the inherent power of the Court. As to criminal cases, the provisions of the rule are inapposite.

(c) *Imposition of Costs on Attorneys*

If counsel fails to comply with Rule 5(a) or a judge finds that the sanctions in paragraph (b) are either inadequate or unjust to the parties, the court may assess reasonable costs directly against counsel whose action has obstructed the effective administration of the court's business.

COMMITTEE NOTE

The Committee recommends that Local General Rule 5(c) be retained and renumbered as Local Civil Rule 1.6(b), and that it be reworded to reflect the deletion of Local General Rule 5(b). The Committee also recommends that the title of Local Civil Rule 1.6 be changed to reflect the deletion of Local General Rule 5(b) and the modification of Local General Rule 5(c).

Rule 6. Fees of Clerks and Reporters

(a) The clerk shall not be required to render any service for which a fee is prescribed by statute or by the Judicial Conference of the United States unless the fee for the particular service is paid to the clerk in advance or the court orders otherwise.

(b) Every attorney appearing in any proceeding who orders a transcript of any trial, hearing, or any other proceeding, is obligated to pay the cost thereof to the court reporters of the court upon rendition of the invoice unless at the time of such order, the attorney, in writing, advises the court reporter that only the client is obligated to pay. Any attorney who fails to pay as provided shall be subject to disciplinary action under Rule 4 of the General Rules.

COMMITTEE NOTE

The Committee recommends that existing Local General Rule 6 be retained, with one exception, and renumbered as Local Civil Rule 1.7. The Committee recommends that the last sentence of existing Local General Rule 6(b) be deleted, because the Committee believes that it is inappropriate for the disciplinary procedures of the Court to be used as a means to collect the fees of court reporters.

Rule 7. Photographs, Radio, Recordings, Television

No one other than court officials engaged in the conduct of court business shall bring any camera, transmitter, receiver, portable telephone or recording device into any courthouse or its environs without written permission of a judge of that court.

Environs as used in this rule, shall include the entire United States Courthouse property, including all entrances to and exits from the buildings.

COMMITTEE NOTE

The Committee recommends that existing Local General Rule 7 be retained without change and renumbered as Local civil Rule 1.8. The issue of the use of cameras and recording devices in federal district courts is the subject of extensive discussion at the national and circuit levels at the present time, and the Committee did not feel that the time was ripe to propose a new local rule on this subject. The Committee further concluded that the security and other reasons for barring the use of portable telephones and other communication devices retain their validity.

Rule 8 Procedural Questions

Whenever a procedural question arises which is not covered by the provision of any statute of the United States, or of the Federal Rules of Civil Procedure, or of the Rules of the United States District Courts for the Southern and Eastern Districts of New York, it shall be determined, if possible, by the parallels or analogies furnished by such statutes and rules. If, however, no such parallels or analogies exist, then the procedure prevailing in courts of equity of the United States shall be applied. In default thereof and in the discretion of the court, the procedure which prevails in the Supreme Court or the Surrogates Court of the State of New York may be applied.

COMMITTEE NOTE

The Committee recommends that Local General Rule 8 be stricken as obsolescent and unnecessary. It is less often true than in prior years that procedural questions will arise that are not covered by any statute or rule. In the relatively infrequent cases when such questions arise, the Committee believes that it is preferable to resolve those questions on an individualized basis, rather than mandating the adoption of “the procedure prevailing in courts of equity of the United States” (a term which last had definite content in the 1930’s) or the procedures prevailing in the New York State Supreme Court or Surrogate’s Court.

Rule 9. Disclosure of Interested Parties

To enable judges and magistrate judges of the court to evaluate possible disqualification or recusal, counsel for a private (non-governmental) party shall submit at

the time of initial pleading a certificate of identification of any corporate parents, subsidiaries, or affiliates of that party which are publicly held.

COMMITTEE NOTE

The Committee believes that Local General Rule 9 performs an important function in assisting judicial officers to conform to the requirements of 28 U.S.C. § 455, and recommends that it be retained and renumbered as Local Civil Rule 1.9. The Committee suggests that the rule be reworded to make clear that the required statement is to be filed with the initial court paper filed by the party in question, whether or not that initial court paper is a pleading. The Committee further suggests that, in order to avoid unduly narrow interpretation of the rule, the words “or other” be inserted after “corporate” and the words “securities or other interests in” be inserted after “party” and before “which.”