

## JOINT LOCAL CIVIL RULES

### **Local Civil Rule 1.1. Application of Rules**

These Local Civil Rules apply in all civil actions and proceedings governed by the Federal Rules of Civil Procedure.

#### COMMITTEE NOTE

The Committee recommends that Local Civil Rule 1.1 be reworded in order to make clear that the Local Civil Rules apply in all civil actions and proceedings governed by the Federal Rules of Civil Procedure.

### **Local Civil Rule 1.2. Night Depository**

A night depository with an automatic date stamp shall be maintained by the Clerk of the Southern District in the Pearl Street 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 date stamped thereon, which shall be deemed presumptively correct.

#### COMMITTEE NOTE

The Committee believes that it is unnecessary to have a Local Rule dealing with the hours of opening of the Clerk's Office, which are best set forth in the websites of the respective Courts. Because the Advisory Committee note to the 2009 amendment to Fed. R. Civ. P. 6(a)(4) indicates that a local rule is necessary to authorize the use of night depositories, the Joint Committee recommends the retention of the portion of Local Civil Rule 1.2 dealing with night depositories.

### **Local Civil Rule 1.3. 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 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 is required to file an application for admission in electronic form and pay the required fee through the Public Access to Court Electronic Records (PACER) system at [www.pacer.gov](http://www.pacer.gov). This one application will be utilized both to admit and then to provide the applicant to the bar of this Court with electronic filing privileges for use on the Court's Electronic Case Filing (ECF) system. The applicant shall adhere to all applicable rules of admission.

The application for admission shall state:

- (1) applicant's residence and office address;
- (2) the date(s) when, and courts 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, disbarred or denied admission or readmission by any court, and, if so, the facts and circumstances connected therewith;
- (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;
  - (C) the Federal Rules of Criminal Procedure;
  - (D) the Federal Rules of Evidence;
  - (E) the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York; and
  - (F) the New York State Rules of Professional Conduct as adopted from time to time by the Appellate Divisions of the State of New York; and

- (7) that applicant will faithfully adhere to all rules applicable to applicant's conduct in connection with any activities in this Court.

The application 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 of filing and states that the applicant is a member in good standing of the bar of that state court. The application 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 application shall be placed at the head of the calendar and, on the call thereof, the attorney whose affidavit accompanied the application shall, for the Eastern District of New York, and may, and is encouraged to, for the Southern District of New York, personally move the admission of the applicant. If the application is granted, the applicant shall take the oath of office and sign the roll of attorneys.

A member of the bar of the state of New York, Connecticut, or Vermont who has been admitted to the bar of this Court pursuant to this subsection and who thereafter voluntarily resigns from membership in the bar of the state pursuant to which he was admitted to the bar of this Court, and who does not within 30 days of that voluntary resignation file an affidavit with the Clerk of this Court indicating that such person remains eligible to be admitted to the bar of this Court pursuant to other provisions of this subsection (such as because he is still a member of the bar of another eligible state and, where applicable, a corresponding district court), shall be deemed to have voluntarily resigned from the bar of this Court as of the same date the member resigned from the bar of the underlying state, provided that such resignation shall not be deemed to deprive this Court of jurisdiction to impose discipline on this person, pursuant to Rule 1.5 *infra*, for conduct preceding the date of such resignation.

- (b) 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 electronically filing through the PACER website 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 of filing and states that the applicant is a member in good standing of the bar of that Court;
  - (2) an affidavit by the applicant stating
    - (A) whether the applicant has ever been convicted of a felony,
    - (B) whether the applicant has ever been censured, suspended, disbarred or denied admission or readmission by any court,
    - (C) whether there are any disciplinary proceedings presently against the applicant and
    - (D) the facts and circumstances surrounding any affirmative responses to (a) through (c); and
  - (3) upon taking the oath of office, signing the roll of attorneys of that district, and paying the fee required in that district. Each district retains the right to deny admission based upon the content of the affidavit in response to item (2).
- (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 as described below.

After requesting pro hac vice electronic filing privileges through the PACER website, applicants shall electronically file a motion for admission pro hac vice on the court's ECF system and pay the required fee.

The motion must be accompanied by 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 of filing and states that the applicant is a member in good standing of the bar of that state court, and an affidavit by the applicant stating

- (1) whether the applicant has ever been convicted of a felony,
- (2) whether the applicant has ever been censured, suspended, disbarred or denied admission or readmission by any court,

- (3) whether there are any disciplinary proceedings presently against the applicant and
- (4) the facts and circumstances surrounding any affirmative responses to
  - (a) through (c);

Attorneys appearing for the Department of Justice may appear before the Court without requesting pro hac vice admission. Such attorneys shall request electronic filing privileges through the PACER website. Attorneys appearing for other federal agencies must move for pro hac vice admission but the fee requirement is waived and the certificate(s) of good standing may have been issued within one year of filing. Only an attorney who has been so admitted or who is a member of the bar of this Court may enter appearances for parties, sign stipulations or receive payments upon judgments, decrees or orders.

- (d) If an attorney who is a member of the bar of this Court, or who has been authorized to appear in a case in this Court, changes his or her residence or office address, the attorney shall immediately notify the Clerk of the Court, in addition to serving and filing a notice of change of address in each pending case in which the attorney has appeared.

#### **2011 COMMITTEE NOTE**

The Committee recommends that Local Civil Rule 1.3(c) be amended to clarify that a motion for admission pro hac vice may be made by the applicant, and does not need to be made by a member of the Court's bar. This is a logical corollary of the fact that the Southern and Eastern Districts no longer require that attorneys admitted pro hac vice be associated with local counsel who are members of the Court's bar.

#### **2013 COMMITTEE NOTE**

The amendments to Local Civil Rule 1.3(c) have two purposes. First, to conform the rule to local practice, i.e., to reflect the required fee for pro hac vice admission and the practice, mandated by 28 U.S.C. ' 517, of not requiring Department of Justice attorneys, who are not members of the bar of this

Court, to be admitted pro hac vice before appearing. The second purpose of the rule is to make pro hac vice admission less onerous for other federal agency attorneys by waiving the fee requirement and easing the certificate of good standing requirement. It was the considered judgment of the Court that pro hac vice admission remains necessary to ensure recourse in the event of any violation of the rules of court.

#### **2016 COMMITTEE NOTE**

A candidate for admission to the bar must respond to inquiries on the application regarding the candidate's criminal and disciplinary history. The amendment requires that the same information be supplied in two circumstances not previously covered by the Rule: (1) an application for admission pro hac vice; and (2) the admission to a second district (whether the Southern or Eastern District of New York) upon the filing of a certificate of good standing from the first district (whether the Southern or Eastern District of New York) within 30 days of admission in the first district. In the latter circumstance, the amendment also provides that the second district may deny admission based upon the disclosed criminal and disciplinary history.

#### **2018 COMMITTEE NOTE**

Local Rule 1.3 is revised solely to reflect the new process for electronically filing an application for admission and obtaining electronic filing privileges.

#### **Local Civil Rule 1.4. Withdrawal or Displacement of Attorney of Record**

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 or otherwise of satisfactory reasons for withdrawal or displacement and the posture of the case, including its position, if any, on the calendar, and whether or not the attorney is asserting a retaining or charging lien. All applications to withdraw must be served upon the client and (unless excused by the Court) upon all other parties.