

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE**

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**SUBSTANTIVE AMENDMENTS TO LOCAL RULES  
EFFECTIVE DECEMBER 1, 2021**

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**CIVIL RULES, CRIMINAL RULES, SUPPLEMENTAL RULES FOR ELECTRONIC  
CASE FILING, SUPPLEMENTAL RULES FOR PATENT CASES**

Response deadlines changed from date of “service” to date of “filing.” The local rules impacted by this proposed change are: LR 7.1(b), (e)(1) & (2); LR 7.2(b); LR 7.4(c); LR 9.1(e); LR 9.3(b); LR 9.4(a) & (b); LR 16.2(d); LR 54.1(c) & (f); LR 72.2; Civil Form 1, Civil Case Management Deadlines; Civil Form 2 (“Witnesses & Exhibits”); LCR 12.1(e); AP 2.7(d); SPR 5.1(a); SPR 6.1(e)(2) & (f); SPR 7.1(a)(1).

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**CIVIL RULES**

**1.1 General Rules**

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**(b) Effective Date.** Effective January 1, 1996, as amended December 1, 2019~~20~~**21**.

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**5.1 Format and Service of Filings**

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**(d) Certificate of Service.** The certificate of service required by Fed. R. Civ. P. 5(d)(1) shall state the name and address of the attorney or party served, the manner of service, the date of service, and shall be personally signed by one counsel of record or by a party proceeding pro se. If a document that is filed electronically must be conventionally served on any attorney or party, the certificate of service shall also state the date the document was electronically filed with the court.

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## 67.2 Deposit of Registry Funds Into Interest-Bearing Account

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### (b) Investment of Registry Funds.

#### (1) Court Registry Investment System.

(A) Unless otherwise ordered, the Court Registry Investment System (CRIS), administered through the Administrative Office of the United States Courts, shall be the investment mechanism authorized.

(B) ~~Interpleader funds deposited under 28 U.S.C. § 1335 meet the IRS definition of a Disputed Ownership Fund (DOF), a taxable entity that requires tax administration.~~ **Internal Revenue Service (IRS) regulations require special handling for “Disputed Ownership Funds” (DOF), as defined in 26 CFR § 1.468B-9.** Unless otherwise ordered by the court, interpleader funds shall be deposited in the DOF established within the CRIS and administered by the Administrative Office of the United States Courts, which shall be responsible for meeting all DOF tax administration requirements.

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### (c) Investment Fees and Taxes.

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(3) In cases in which funds are ultimately disbursed to the United States or to agencies or officials thereof, the clerk shall provide to those agencies or officials any relief from the CRIS fees approved by the Director of the Administrative Office on application filed by the United States Attorney or any other government counsel.

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## 67.3 Disbursal of Registry Funds

No funds may be paid out of the court’s registry except by order of the court. If a judgment has been issued or is to be issued, no funds may be disbursed until fourteen (14) days after the entry of judgment, except as provided in Fed. R. Civ. P. 62 or by agreement of the parties. The authorized custodian shall disburse all registry principal and income, if applicable, less the registry fee assessment and/or taxes, pursuant to the court’s order. Any such order shall distinctly set forth the funds in question and name the payee. Should the named payee be other than the depositor of the funds, that fact shall be reflected in the order. If the funds have been deposited in an interest-bearing account or an interest-bearing instrument, the party shall provide, on a separate filing attached to the motion seeking withdrawal of the funds, the social security number or employer identification number of the ultimate recipient of the funds. The clerk shall forward

this separate filing directly to the institution holding the money. **Registry fund disbursements greater than \$500,000 must be made by electronic funds transfer.**

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#### **67.4 Form of Payment Accepted**

Fees, fines, assessments, money deposited into court pursuant to Fed. R. Civ. P. 67, or any other charge payable to the clerk, shall be in cash, cashier's check, or money order. Payment by credit card **or debit card** is also accepted **for all payments except criminal debt with one exception: criminal debt can be paid using a debit or credit card through Pay.gov with prior authorization from the U.S. Attorney's Office or the U.S. Probation Office.** ~~but there may be restrictions on certain types of payments.~~ After consulting with the clerk's financial administrator, and in accordance with the clerk's internal policies, payment may also be made by electronic funds transfer received through the Department of Treasury's Fedwire Deposit System....

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#### **67.5 Designated Settlement and Qualified Settlement Funds**

(a) **Definition.** A registry account may be a designated or qualified settlement fund only if:

- (1) there has been a settlement agreement in the case;
- (2) the court has entered an order establishing or approving a deposit into the registry as a settlement fund; and
- (3) the liability resolved by the settlement agreement is of a kind described in 26 U.S.C. § 468B or 26 C.F.R. § 1.468B-1(c).

The depositing party shall **identify whether** ~~elect to have~~ the funds **should be** treated as a designated or qualified settlement fund and must identify any such deposit made with the court.

(b) **Procedure for Establishment of Fund.** When the court establishes or approves a designated or qualified settlement fund that will be held in the registry, the court will also designate or approve a person outside the court as the administrator responsible for obtaining the **tax** ~~employer~~ identification number for the fund, filing all fiduciary tax returns, ~~and~~ paying any tax, **and satisfying any reporting or withholding requirements on fund disbursement.** The court will either approve the person that the settlement agreement names as administrator or designate the party that deposited the funds into court. **Any person whose liability will be terminated by rule or statute may not serve as the administrator.**

(c) **Interest Income.** The depository institution shall report all interest income on a designated or qualified settlement fund for the current year, using the fund's own employer identification number. This includes any interest income assessed by the court as a registry

fund fee. The tax identification numbers of the parties and the court shall not be used with respect to a designated or qualified settlement fund.

(d) **Withdrawal.** As with any disbursement from a registry account, a court order is required for any withdrawal of funds from a registry account to pay or withhold tax pursuant to 28 U.S.C. § 2042. **Registry fund disbursements greater than \$500,000 must be made by electronic funds transfer.**

(e) **Assistance to Administrator.** The court will make available to the administrator any pertinent information needed for fulfillment of fiduciary duties.

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## 72.1 Duties of Magistrate Judge

Any magistrate judge is authorized to exercise all the powers and perform all duties conferred upon magistrate judges by United States Code, Title 28, Sections 636(a), (b), and (g), **to conduct extradition proceedings in accordance with Title 18, Section 3184,** and to exercise the powers enumerated in Rule 4 of the Rules Governing Section 2254 Proceedings, and Rules 8 and 10 of the Rules Governing Section 2254 and 2255 Proceedings.

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## 83.1 Bar of District Court

(a) Eligibility. Any active member in good standing of the bar of the Supreme Court of New Hampshire is eligible for admission to the bar of this court. **For the purposes of this rule, an attorney in good standing is one who is not currently 1) subject to pending reciprocal disciplinary proceedings in the State of New Hampshire, 2) suspended or disbarred, 3) subject to a stayed suspension or disbarment, or 4) subject to a probationary or monitoring period at the direction of the attorney admission or discipline system for the State of New Hampshire. This definition of good standing shall also apply to LR 83.2.**

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## 83.2 Practice by Persons Not Members of the Bar of This Court

(a) **Attorneys for the United States and for the Office of the Federal Public Defender. Federal government attorneys and federal public defenders** An attorney who **are** is in good standing as a member of the bar in every jurisdiction in which admitted to practice, and who **are** is not subject to pending disciplinary proceedings as a member of the bar in any jurisdiction, may appear and practice in this court, ~~as an attorney for the United States, or for any agency of the United States, or for an officer of the United States in an official capacity.~~ The court may at any time revoke such permission for good cause without a

hearing and any attorney appearing pursuant to this rule is subject to the disciplinary rules and jurisdiction of this court.

**(b) Pro Hac Vice Admissions.** Any attorney who is a member in good standing of the bar of any court of the United States or of the highest court of any state may appear and practice before this court in that action at the court's discretion and on motion by a member of the bar of this court who is actively associated with him or her in a particular action.

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**(1) Supporting Affidavit.** An affidavit from the attorney seeking admission pro hac vice shall be attached to the motion for admission. The affidavit must include:

(A) the attorney's office address, email address and telephone number;

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## 83.6 Appearances

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**(e) Change of Address.** All persons with permission to file documents electronically shall immediately update any change in telephone number or postage/email address as outlined in AP 6.2(d). All persons who do not have permission to file electronically shall immediately ~~An attorney or pro se party who has appeared before the court on a matter is under a continuing duty to~~ notify the clerk's office in writing of any change of address and telephone number. Counsel or pro se parties who fail to provide the clerk's office with their current contact information address in accordance with this rule are not entitled to notice.

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## 83.15 Courtroom Technology

Persons using courtroom audio or visual equipment, including but not limited to videoconferencing and evidence presentation systems, shall be prepared to operate such systems without the assistance of the clerk's office staff. At a minimum, persons using courtroom audio or visual equipment shall (a) review materials on the court's website related to the use of such technologies, ~~including the Litigant's Manual for Courtroom Technology for the appropriate courtroom;~~ (b) make arrangements with the clerk's office no later than five (5) days prior to the hearing/trial if they would like to train on or otherwise become familiar with the court's systems; (c) supply the necessary cables to connect personal laptops to the court's evidence presentation system; and (d) perform a virus check on any media they intend to access on court provided computers.

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### 83.5, DR-8 Reinstatement.

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(c) Hearing on application. Petitions for reinstatement by a disbarred or suspended attorney under this rule shall be filed with the Chief Judge of the court. Upon receipt of the petition, the Chief Judge may (i) reinstate the petitioner on the basis of the petition itself, (ii) refer the petition to special counsel, and/or (iii) assign the matter for hearing before one or more judges of this court provided, however, that if the disciplinary proceeding was predicated upon the complaint of a judge of this court, the hearing shall be conducted before one or more other judges of this court or, if there are not judges of this court eligible to serve, before a district judge of this Circuit appointed by the Chief Judge of the Court of Appeals. If the assigned judge orders a hearing, the hearing shall be scheduled within thirty (30) days of the filing of the petition for reinstatement.

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### Civil Form 2, Discovery Plan

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#### OTHER ITEMS

#### SETTLEMENT POSSIBILITIES:

- (1) *is likely*
- (2) *is unlikely*
- (3) *cannot be evaluated prior to (date)*
- (4) *may be enhanced by ADR:*
  - (a) *request to the court*
  - (b) *outside source*

**JOINT STATEMENT RE: MEDIATION:** ~~date by which the parties will notify the court whether mediation will occur and, if so, when.~~ The parties shall meet and confer regarding mediation, and shall include a statement in the proposed discovery plan addressing the following issues: 1) whether the parties plan to pursue mediation; 2) if so, whether they anticipate mediating before or after pursuing discovery and/or filing summary judgment motions; and 3) whether the parties will request mediation with a Magistrate Judge/District Judge or with a private mediator. The parties shall also propose a date by which they will update the court on the status of mediation; the clerk's office shall schedule a mediation status conference following that deadline. The obligation to meet and confer, and to file a joint mediation statement, shall not apply when one of the parties is incarcerated and unrepresented.

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**Civil Form 3, Extending Deadlines Set In Discovery Plan**

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

*Plaintiff(s)*

v.

Civil No. *Case #/Judge Initials*

*Defendant(s)*

**ATTACHMENT TO MOTION EXTEND DEADLINES ESTABLISHED  
IN THE COURT'S /DATE/ SCHEDULING ORDER**

*[List the scheduling designations that are applicable to your case. This draft is merely an exemplar and includes deadlines listed in Civil Form 2, Discovery Plan.]*

Scheduling Designation	Current Deadline	Proposed Deadline
Completion of Discovery		
<b><u>Discovery Status Report</u></b>		
Disclosure of Experts and Experts' Written Reports and Supplementations (Plaintiff)		
Disclosure of Experts and Experts' Written Reports and Supplementations (Defendant)		
Challenges to Expert Testimony		
Disclosure of Claims Against Unnamed Parties		
Joinder of Additional Parties (Plaintiff)		
Joinder of Additional Parties (Defendant)		
Third-Party Actions		
Amendment to Pleadings (Plaintiff)		
Amendment to Pleadings (Defendant)		
Motions to Dismiss		
Motions for Summary Judgment		
Trial		

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## **CRIMINAL RULES**

### **1.1 General Rules**

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(b) **Effective Date.** Effective January 1, 1996, as amended December 1, 201921.

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### **11.2 Request for Expedited Plea and Sentencing Hearing In Certain Reentry After Deportation Cases**

(a) When the parties desire that a reentry after deportation case be expedited for a plea and sentencing hearing, a completed Notice for Expedited Plea and Sentencing Hearing (the “Notice”) shall be filed with either a final executed Plea Agreement or an executed Acknowledgement and Waiver of Rights form. The form of the Notice shall substantially conform to Criminal Form 4.

(b) The plea and sentencing hearing shall be scheduled within forty-five (45) days after the filing of the Notice and either the Plea Agreement or Acknowledgement and Waiver of Rights, **with the hearing scheduled as close as possible to the end of the forty-five (45) day period.** ~~and~~ **T**he probation office shall prepare an abbreviated presentence investigation report without the need for any further order of the court. The abbreviated presentence investigation report need not include information ordinarily set forth in Section C of a full presentence investigation report **and will not contain a sentencing recommendation.**

(c) The probation office shall disclose **an** ~~its initial~~ abbreviated presentence investigation report to the parties by no later than **five (5)** ~~fourteen (14)~~ days before the scheduled plea and sentencing hearing.

~~(d) Any objection to the initial abbreviated presentence investigation report shall be filed no later than seven (7) days before the scheduled plea and sentencing hearing.~~

~~(e) If any objections are made to the initial abbreviated presentence investigation report, the probation office shall conduct a further investigation as required under LCrR 32.1(f), and thereafter disclose a revised report and addendum to the parties by no later than two (2) days before the scheduled plea and sentencing hearing.~~

~~(d)~~ The provisions of LCrR 32.1 requiring the filing of proposed Sentencing Options and Supervision Conditions do not apply to cases subject to this expedited plea and sentencing procedure.



(eg) The deadlines set forth herein for cases subject to this expedited plea and sentencing hearing procedure supersede the deadlines set forth in LCrR 32.1. All other provisions of LCrR 32.1, not inconsistent with this rule remain in effect.

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## **12.1 Motion Practice**

**(a) Discovery Motions.** Discovery motions shall be filed within thirty (30) days after the arraignment.

**(b) Dispositive and Evidentiary Motions.** Dispositive and evidentiary motions, which shall not include motions in limine, shall be filed no later than twenty-one (21) days prior to trial.

**(c) Motions in Limine.** Motions in limine shall be filed no later than seven (7) days prior to trial. Objections to motions in limine shall be filed on the day of trial.

**(d) Motions for Continuance of Trial.** Any defense motions to continue trial must either (1) be accompanied by a waiver of speedy trial signed by the defendant, or (2) contain a certification by defense counsel that (i) defense counsel has consulted with the defendant about the requested continuance, (ii) defense counsel has explained to the defendant that, by seeking a continuance, the defendant is waiving his constitutional and statutory rights to a speedy trial, (iii) the defendant has personally assented to the continuance, and (iv) defense counsel is mailing forthwith to the defendant a copy of the motion to continue.

**(e) Assented to Motions to Extend Time to Indict.** Either simultaneous with the filing of an assented to motion to extend the time to indict, or within ten (10) days after an order granting the motion, defense counsel must file a waiver of speedy trial signed by the defendant or a certification as set forth in subsection (d).

**(ef) Objections.** Unless the Federal Rules of Criminal Procedure or these local rules provide otherwise, an objection and memorandum in opposition to a motion shall be filed within fourteen (14) days from the date the motion is ~~served~~ **filed**. Unless an objection is filed within the time established by this rule, the party opposing the motion shall be deemed to have waived objections, and the court may act on the motion.

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**APPENDIX A**  
**SUPPLEMENTAL RULES**  
**FOR ELECTRONIC CASE FILING**

**Adopted as Administrative Procedures June 1, 2004**  
**Incorporated as Supplement to Local Rules December 1, 2011**  
**As Amended Through December 1, 2019~~21~~**

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**2.1 Scope of Electronic Filing**

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(c) **One Time Attorney Exemption.** An attorney, **including an attorney appearing pro se**, who is not a Filing User, may conventionally file the first document on behalf of a client **or the attorney appearing pro se** in an ECF case without leave of the court. Within thirty (30) days thereafter, the attorney, **including an attorney appearing pro se**, must register as a Filing User. **Upon a showing of good cause, the court may exempt an attorney who is a pro se litigant from this rule in a particular case.**

(d) **Non-Attorney Pro Se Litigants.** A non-incarcerated, **non-attorney**, pro se litigant in a pending case may apply to the court for permission to file documents electronically using ECF on a form prescribed by the clerk's office. If the court initially grants a pro se litigant permission to file documents electronically, that permission is limited to the case specified and the court may withdraw that permission at any time during the pendency of a case.

In the absence of a court order authorizing electronic filing, all **non-attorney** pro se litigants shall conventionally file and serve all documents in accordance with the provisions of the Federal Rules of Civil/Criminal Procedures and the local rules of this court. In that event, all electronically filed documents must be conventionally served on the pro se litigant.

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**2.7 Signatures on Electronically Filed Documents**

(a) **Form of Signature.** All electronically filed documents must include a signature block and must set forth the Filing User's name, bar registration number, address, primary telephone number, and e-mail address. The name of the Filing User under whose log-in and password the document is submitted must be preceded by **(1)** a "/s/ [Insert Signatory's Name]" and typed in the space where the signature would

otherwise appear, **or (2) a digital signature where the signature would otherwise appear.**

**(b) Multiple Party Documents.** The following applies when a pleading, stipulation, or other document requires multiple signatures.

**(1) Form of Signatures.** All electronically filed documents that contain more than one signature must list thereon all the names of other signatories by means of either a “/s/ [Insert Signatory’s Name]” block ~~for each~~ **or a digital signature for each signatory.**

\* \* \* \* \*

**(c) Affidavits/Verified Pleadings/Other Non-Attorney Signatures.** Preexisting affidavits and other preexisting non-Filing User signature documents shall be filed in a scanned PDF format. All other affidavits and non-Filing User signature documents, including the signature of a notary or other jurat, shall be filed in an electronically converted PDF format and shall contain a “/s/ [Insert Signatory’s Name]” block **or a digital signature** indicating that the paper document bears an original signature.

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### III. CONVENTIONAL FILING OF DOCUMENTS

~~Unless otherwise provided herein, the clerk’s office will add to the court’s public electronic docket all non-sealed conventionally filed documents referenced in this section.~~

#### 3.1 Conventional Filings in Criminal Cases

**Unless otherwise provided herein, the clerk’s office will add to the court’s public electronic docket all non-sealed conventionally filed documents referenced in this section.**

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**(e) Documents Signed by Criminal Defendants.** All documents containing the signature of a criminal defendant, **with the exception of Financial Affidavits,** shall be **filed either** conventionally, ~~filed~~ **or electronically in scanned PDF format.** Financial Affidavits will **be sealed and will** not be added to the court’s public ~~electronic~~ docket.

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