

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

SUBSTANTIVE AMENDMENTS TO LOCAL RULES
EFFECTIVE DECEMBER 1, 2023

CIVIL RULES

1.1 General Rules

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(b) **Effective Date.** Effective January 1, 1996, as amended December 1, 2022**23**.

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LR 7.1 Motions

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(g) Dispositive Motion Defined. For the purposes of this rule, the term “dispositive motion” is limited to a motion for any form of injunctive relief, a motion filed pursuant to Fed. R. Civ. P. 12(b) or (c), a motion for summary judgment filed pursuant to Fed. R. Civ. P. 56, a motion to dismiss or to permit maintenance of a class action, and a motion to involuntarily dismiss an action. Motions for dismissal as a sanction pursuant to Fed. R. Civ. P. 16 or 37 shall be subject to the briefing schedule for nondispositive motions.

(§ (c) amended 1/1/97; § (a)(4) amended 1/1/00; (a)(4), Reply Memorandum, stricken and § (e) added 1/1/01; § (e)(1) amended 1/1/02; §§ (b) and (e)(1)-(3) amended 1/1/03; §§ (a)(1) and (e)(2)-(3) amended 1/1/06; §§ (e)(2)-(3) amended 1/1/08; §§ (b) and (e)(1)-(3) amended 12/1/09; § (f) added 12/1/11; § (e)(4) added 12/1/15; § (e) amended 12/1/17; § (b) and (e)(1)-(2) amended 12/1/21; **§ (g) added 12/1/23**)

7.1.1 Disclosure Statements

(a) Form of Filing. The disclosure statement for nongovernmental corporate parties and intervenors required by Fed. R. Civ. P. 7.1(a)(1) and this rule shall substantially conform to Civil Form 4, Nongovernmental Corporate Disclosure Statement. In cases in which jurisdiction is based on diversity of citizenship, the disclosure statement for parties and intervenors required by Fed. R. Civ. P. 7.1(a)(2) and this rule shall substantially conform to Civil Form 4.1, Diversity Disclosure Statement. **An unincorporated entity, including but not**

limited to a partnership, limited liability company (“LLC”) or trust, must in the Diversity Disclosure Statement name and identify the citizenship of all individuals or entities whose citizenship is attributed to that unincorporated entity under applicable law (such as, as may be the case depending on the unincorporated entity and applicable law, partners, members, trustees, and beneficiaries). Additionally, if any entity whose citizenship is attributed to the unincorporated entity is itself an unincorporated entity, the name and citizenship of the individuals or entities whose citizenship is attributed to that unincorporated entity must likewise be disclosed until all related parties whose citizenship is attributable to the filing party have been disclosed. These disclosure statements must be filed as separate documents and may not be combined into one document.

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(c) Partnerships and Limited Liability Companies. When a partnership or ~~an limited liability company (LLC)~~ is a party or intervenor to an action or proceeding, the partnership/LLC shall file a disclosure statement providing the information required in Fed. R. Civ. P. 7.1 and § (b) of this rule or shall state that there is no such corporate entity that holds such an interest in the partnership/LLC.

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(Formerly LR 83.6(a)(4), renumbered to 7.5 and amended 1/1/01; retitled, § (a) retitled and amended, § (b) retitled, relettered to (d) and amended, and new §§ (b) and (c) added 1/1/03; §§ (c) and (d) amended 12/1/09; § (d) amended 12/1/11; formerly LR 7.5 renumbered to 7.1.1, § (a) amended 12/1/13; §§ (a), (c) and (d) amended 12/1/22; §§ (a) and (c) amended 12/1/23)

10.1 Pseudonym Litigant

(a) Notice. If a party seeks to proceed under a pseudonym, at the time of filing the initial pleading, the party must file under seal a Notice of Intention to Proceed by Pseudonym (“Notice”) and disclose the party’s true name. The Notice shall not be filed electronically but may be filed conventionally or via email pursuant to AP 3.5. This notice will be maintained under seal.

(b) Motion. Contemporaneously with the Notice, the party must file a motion to proceed under the pseudonym, setting forth the justification under applicable law. To the extent the motion requires disclosure of information that would reasonably identify the party seeking to proceed under a pseudonym, that identifying information may be redacted by following the procedure provided for in LR 83.12.

(c) Service. The party seeking to proceed under a pseudonym must serve the Notice and motion on each opposing party with the complaint.

(d) **Objection.** Any objection to the motion must be filed by the opposing party contemporaneously with its first appearance, pleading, petition, motion, response or other request addressed to the court. The objection shall not disclose in a public filing information that would reasonably identify the party seeking to proceed under a pseudonym. To the extent that disclosure of such identifying information is necessary for the opposing party to object, that identifying information may be redacted by following the procedure provided for in LR 83.12.

(e) **Denial of the Motion.** If the motion is denied, the party who sought to proceed under a pseudonym has fourteen (14) days to file an amended complaint naming the party.

(Added 12/1/23)

67.2 Deposit of Registry Funds Into Interest-Bearing Account

(a) Receipt of Funds.

(1) Unless an applicable statute requires the deposit of funds without leave of court, no funds governed by Fed. R. Civ. P. 67 shall be tendered to the court or the clerk's office for deposit into the court's registry absent a court order signed by a judge. Any party filing a motion to deposit funds into the court's registry shall also submit a proposed order.

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(§§ (a)(2)-(4), (b)(1)-(2) and (c)(1)-(3) amended 12/1/11; § (c) amended 11/17/16; amended generally 4/1/2017; § (b)(1)(D) amended 12/1/19; §§ (b)(1)(B) and (c)(3) amended 12/1/21; § (a)(1) amended 12/1/23)

67.3 Disbursement 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)~~ thirty (30) days after the entry of judgment, except as provided in Fed. R. Civ. P. 62 or by agreement of the parties. . .

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(Amended 12/1/09; amended 12/1/15; amended 12/1/17; amended 12/1/21; amended 12/1/23)

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. 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.

The clerk in his or her discretion may allow payment by other means in the following situations: (1) corporation or partnership checks may be accepted as payment for filing fees, ~~or~~ deposits pursuant to Fed. R. Civ. P. 67, garnishments, or criminal debt paid by a third party identified by the government as having related funds; and (2) personal checks may be accepted as payment for fees for admission to the bar, from attorneys who are sole practitioners for any purpose, or for fines personally assessed against parties in civil cases.

(Introductory paragraph amended 1/1/00; amended 1/1/0; amended 6/1/0; amended 12/1/21; amended and reformatted 12/1/23)

LR 73.1 Assignment of Cases to Magistrate Judge

(a) Designated Jurisdiction. The judges of this district designate ~~the~~ a magistrate judge to conduct all proceedings in any civil matter upon the consent of the parties.

(b) Methods of Assignment.

(1) Reassignment Following Request of Parties. Parties may consent to the reassignment of a case to a magistrate judge by filing a Notice, Consent, and Order of Reference form stating that the parties consent to the reassignment. This form should not be returned to the clerk of court unless all parties consent to the reassignment. The clerk shall notify the parties in all cases that they may consent to have ~~the~~ a magistrate judge conduct all proceedings in any civil matter.

(2) Initial Assignment by the Clerk. The chief judge may authorize the clerk to randomly assign cases to ~~the~~ a magistrate judge for all purposes, including trial, entry of final judgment, and all post-judgment proceedings.

(A) Notification of Initial Assignment. The clerk shall inform the parties of the initial assignment by issuing a notice of assignment and consent form.

(B) Consent. A case initially assigned to ~~the~~ a magistrate judge pursuant to this subsection shall be reassigned to a district judge unless all parties consent to the assignment. A designated party shall file either a consent or declination of consent on a form provided by the clerk in the manner and within the time frame specified in the clerk's notice. Any party is free to withhold consent without adverse substantive consequences.

(§§ (b)(2)(A) and (B) amended 1/1/99; § (b)(1) amended 1/1/00; §§ (b)(1) and (2) amended 1/1/05; § (b)(2)(B) amended 12/1/09; §§ (b)(2)(A)-(B) amended 12/1/11; §§ (a) and (b) amended 12/1/23)

81.1 Removal Actions

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(d) Remand. Whenever the court remands an action to state court, the clerk's office shall send a certified copy of the remand order and docket entries to the state court clerk's office. Unless otherwise ordered by the court, the clerk's office shall delay the transmittal of a certified remand order to state court for thirty (30) days. Any motion to stay the order of remand must be filed prior to or at the same time as a notice of appeal. The parties may file an assented to motion if they agree to the immediate transmittal of the certified remand order to state court.

(§§ (a), (b), and (c) amended 1/1/97; § (b) amended 1/1/98; § (a) amended 1/1/06; §§ (a) and (c) amended 12/1/09; § (a) amended 12/1/15; § (b) amended 12/1/17; § (d) amended 12/1/23)

83.1 Bar of the District Court

(a) Eligibility. Any active member in good standing of the bar of the Supreme Court of New Hampshire, who this court finds to have good moral character and fitness to practice in this court, 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. The bar of this court shall consist of those attorneys who have previously been admitted to the bar of this court and those who have been admitted pursuant to subsection (b).

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(§ (b) amended 1/1/97, 1/1/98; §§ (b) and (c) amended 1/1/04; § (b) amended 6/1/04; § (a) amended and § (d) added 1/1/05; § (b) amended 1/1/06; § (a) amended and § (e) added 12/1/09; § (b) amended 12/1/11; § (b) amended 12/1/13; § (b) amended 12/1/15; § (b) amended, § (c) added, former §§ (c) through (e) relettered 12/1/19; § (a) amended 12/1/21; § (a) amended 12/1/23)

83.10 Courthouse Security

All persons entering a federal courthouse in this district and all items carried by them shall be subject to appropriate screening and checking by a United States Marshal, a security officer, or any law enforcement officer on duty. Visitors are required to present identification prior to being allowed to enter the courthouse. The United States Marshal shall determine the forms of identification that are acceptable for admission. Bar Cards may substitute for this identification requirement. The United States Marshal, or a designee, may for good cause shown approve access to any visitor who does not have an acceptable form of identification and may require that individual to record his or her name in a log maintained by Court Security Officers. Any person who refuses to cooperate with these security measures may be denied entrance to the courthouse.

(Formerly LR 83.9 renumbered to 83.10 12/1/13; amended 12/1/23)

LR 83.17 Videoconference and Telephonic Hearings

(a) For any scheduled videoconference or teleconference criminal hearing in which the defendant is entitled to appear other than felony changes of plea or sentencings under Fed. R. Crim. P. 11 or 32, the court will presume that the defendant consents to participate by video or telephone. If a defendant elects not to consent, a pre-hearing objection should be filed (a) as soon as possible in magistrate judge hearings, and (b) at least 24 hours prior to a scheduled hearing before a district judge. If a felony change of plea or sentencing under Fed. R. Crim. P. 11 or 32 is otherwise authorized to be held by videoconference or teleconference, the defendant's consent to a remote appearance must be in writing, submitted prior to the proceeding and after consulting with counsel.

(b) The presiding judge in a criminal hearing will confirm the defendant's consent to appear by videoconference or teleconference at the commencement of the hearing.

(c) The court will make arrangements to assure that defense counsel and any interpreter can effectively communicate with a defendant in a criminal hearing during the course of a videoconference or telephonic hearing.

(d) The U.S. Probation and Pretrial Services Office may schedule and conduct pre-hearing interviews by telephone conference, with interpreters and counsel participating as necessary.

(e) Counsel shall: (a) notify any necessary witnesses that they will be participating by videoconference or teleconference; (b) provide the witness(es) with instructions for joining the videoconference/teleconference; (c) notify the presiding judge's case manager and opposing counsel as to any witness(es) that will be participating in the hearing; and (d) notify the presiding judge's case manager of any witness(es) who should be sequestered with the exception of their testimony.

(f) Exhibits shall be pre-marked and submitted to the presiding judge's case manager by email with a copy provided to opposing counsel at least 30 minutes prior to the scheduled

hearing for a criminal hearing before a magistrate judge, and at least 24 hours prior to the scheduled hearing for all other hearings.

(g) To the extent the public has a right to attend a scheduled hearing or conference, any member of the public wishing to access the hearing may contact the Clerk's Office in advance of the hearing or conference to obtain the access information.

(h) To address unique circumstances and other logistical or case management issues, counsel may request a pre-hearing telephonic status conference with the court. Unless prior approval is obtained from the presiding judge, such status conferences shall be limited to counsel.

(Added 12/1/23)

Civil Form 4.1, Diversity Disclosure Statement

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Plaintiff(s)

v.

Civil No. Case #/Judge Initials

Defendant(s)

DIVERSITY DISCLOSURE STATEMENT
LOCAL RULE 7.1.1

[This form is to be completed and filed only by parties and intervenors in actions in which jurisdiction is based on diversity of citizenship under 28 U.S.C. § 1332(a)]

PARTY OR INTERVENOR NAME

CITIZENSHIP

[Complete Below Only if Applicable. An unincorporated entity, including but not limited to a partnership, limited liability company or trust, must name and identify the citizenship of all individuals or entities whose citizenship is attributed to that unincorporated entity under applicable law (such as, as may be the case depending on the unincorporated entity and applicable law, partners, members, trustees, and beneficiaries) here. Additionally, if any entity whose citizenship is attributed to the unincorporated entity is itself an unincorporated entity, the name and citizenship of the individuals or entities whose citizenship is attributed to that

unincorporated entity must likewise be disclosed until all related parties whose citizenship is attributable to the filing party have been disclosed.]

<u>NAME OF ALL INDIVIDUALS OR ENTITIES ATTRIBUTED TO TO PARTY OR INTERVENOR</u>	<u>RELATIONSHIP TO PARTY OR INTERVENOR</u>	<u>CITIZENSHIP</u>
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(Added 12/1/22; amended 12/1/23)

CRIMINAL RULES

1.1 General Rules

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(d) Scope. LCrR 1.1 - 58.1 shall govern the procedure in all criminal actions. Civil local rules shall apply insofar as they do not conflict with any statute, federal or local criminal rule, or individual order. The following civil/general local rules shall apply in criminal actions: Rules 1.1(c),(d) and (g), 1.2 - 1.3, 4.3(e), 4.4 - 5.4, 7.1(a),(c)-(f), 7.2(a),(c) and (e), 7.3, 9.5, 39.1, 39.3, 40.2, 45.1 - 47.3, 54.1, 65.1.1, 67.2 - 67.4, 72.1, 72.2, 77.1, 77.3,77.5, 77.6, 80.1, 83.1, 83.2(a),(b) and (d), 83.3 - 83.5, 83.6(a)-(c), and (e), 83.7 -83.13, 83.14(b)-(e), 83.15, 83.16, 83.17.

(Added 1/1/97; § (b) amended 1/1/98, 1/1/99, 1/1/00, 1/1/01, 1/1/02, 1/1/03, 1/1/04, 1/1/05, 1/1/06, 1/1/08, 12/1/09, 12/1/11, 12/1/13, 12/1/15, 12/1/17, 12/1/18, 12/1/19, 12/1/21 (N.B. 1/1/99 and 1/1/02 changes were to applicable civil rules only); § (d) amended 1/1/01, 1/1/04, 1/1/05, 1/1/06, 1/1/08, 12/1/09, 12/1/11, 12/1/13, 12/1/23)

5.1 Documents Signed by Criminal Defendants at Videoconference Initial Appearance or Arraignment

The following applies to initial appearances or arraignments conducted by videoconference pursuant to Fed. R. Crim. P. 5(g) or 10(c):

(a) Defense counsel may sign a document on behalf of a criminal defendant after personally reviewing the substance and meaning of the document with the client and obtaining the client's consent to sign it. The magistrate judge will conduct a colloquy to confirm the defendant's consent during the hearing.

(b) Any documents signed by defense counsel on behalf of a client shall include a statement indicating that the document is signed by counsel with the permission of the defendant after review.

(c) This signature authority shall extend to the following:

(1) Requests to Appoint Counsel;

(2) Financial Affidavits; and

(3) Waivers, Consents and Stipulations to Detention and Other Stipulations.

(Added 12/1/23)

12.1 Motion Practice

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(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. For the purpose of this rule and LR 7.1(a) and (c) – (f), dispositive motions include motions to dismiss and motions to suppress.

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(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. The motion must specify the jury selection date for the presiding judge’s trial period to which the trial is being continued.

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(§ (d) amended 1/1/03; § (b) amended, § (c) added, former §§ (c)-(d) relettered accordingly 1/1/08; § (e) amended 12/1/09; § (e) added, former § (e) relettered accordingly, §§ (b) and new § (f) amended 12/1/21; §§ (b) and (d) amended 12/1/23)

LCrR 16.1 Routine Discovery

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(b) Material Discoverable Pursuant to Fed. R. Crim. P. 16.

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(3) Expert Witnesses and Reports/Summaries. The initial disclosure requirements of subsection (b)(1) and (2) only require the disclosure of known expert witnesses and Fed. R. Crim. P. 16(a)(1)(G)(iii) and Fed. R. Crim. P. 16(b)(1)(C)(iii) materials possessed by the government or the defendant, or that can be obtained without undue burden, existing expert reports/summaries as of the disclosure deadline. Later identified expert witnesses, and all later obtained or created information specified in Fed. R. Crim. P. 16(a)(1)(G)(iii) and (b)(1)(C)(iii), and later created reports/summaries, as well as a curriculum vitae for all identified experts, shall be disclosed no later than thirty (30) days prior to trial, and Rebuttal expert witnesses and Fed. R. Crim. P. 16(a)(1)(G)(iii) materials relating to those witnesses, their reports/summaries, and curriculum vitae shall be disclosed no later than fifteen (15) days prior to trial.

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(§§ (a)(2) and (d) amended 1/1/97; § (f) amended 1/1/06; § (a) added, former §§ (a) through (g) relettered accordingly, new § (d) amended 12/1/09; § (b)(3) added and § (g) amended 12/1/11; amended § (g), added § (h), relettered former § (h) 12/1/13; § (b)(3) amended 12/1/23)

40.1 Commitment to Another District

~~The~~ Magistrate judges is are designated to conduct all necessary proceedings with regard to Fed. R. Crim. P. 40, Commitment to Another District, and prepare any orders attendant thereto.

(Added 1/1/97; amended 12/1/23)

APPENDIX A SUPPLEMENTAL RULES FOR ELECTRONIC CASE FILING

2.11 Refund of Fees Paid Electronically

(a) Applicability. Consistent with the Judicial Conference “guidance” on the refund of fees that are paid electronically, the clerk’s office may refund electronic payments made when no payment was required, when duplicative of previous payments made, or when the amount submitted exceeds the actual amount owed for the transaction.

(b) Delegation of Authority. Although the authority to approve or deny a refund is a judicial determination, the initial determination is delegated to the clerk and all such requests shall be conventionally filed in letter format addressed to the clerk. All requests for refund of

fees paid electronically shall be made on the Request for Refund of Filing Fee form or Request for Refund of Attorney Admission Fee form, as appropriate, which are available on the court's public website. This form may be submitted by email or filed conventionally.

Persons denied a refund by the clerk may seek judicial review by electronically filing a motion for refund. If a motion for refund is filed in an unassigned case, it will be reviewed by the chief judge.

(c) Refund Processing. Refunds shall be processed through the electronic credit or debit card system ~~or by check depending on the form by which the payment was initially made.~~

(Added 12/1/11; § (c) amended 12/1/13; amended 12/1/23)

3.2 Conventional Filings in Civil/Miscellaneous Cases

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(c) Mediation Documents. The following mediation documents shall be conventionally filed: Notice of Selection of Mediator; Mediator's Post ADR Reporting Form; and, if ~~the a~~ magistrate judge is serving as the mediator in a case, the Mediation Conference Statement and Mediation Conference Statement Confidential Addendum. The Mediator's Notice of Mediation may be filed either electronically or conventionally.

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(§ (c) amended 10/1/05, 10/1/06; § (a) amended 6/1/11; § (f) removed 12/1/11; § (c) amended 12/1/23)

3.5 Conventional Filings by Email

(a) In addition to filing in paper, the following conventionally filed documents may be submitted by email as defined in the accompanying cited rule:

- (1) Criminal Charging Documents (AP 3.1(a));
- (2) Criminal Applications and Accompanying Documents (AP 3.1(b));
- (3) Return of Service Documents in Criminal Cases (AP 3.1(c));
- (4) Grand Jury Documents (AP 3.1(d));
- (5) Documents Signed by Criminal Defendants (AP 3.1(e));
- (6) Administrative Records (AP 3.2(a));
- (7) Habeas Corpus Rule 5 Materials (AP 3.2(b));

- (8) Mediation Documents (AP 3.2(c));
- (9) Letters Rogatory (AP 3.2(d));
- (10) Administrative Inspection Warrants (AP 3.2(e));
- (11) Sealed Documents (AP 3.3(a)-(c));
- (12) Ex Parte Pleadings (AP 3.4); and
- (13) Notice of Intent to Proceed by Pseudonym (LR 10.1).

(b) Any documents filed by email pursuant to this rule shall be submitted as follows:

- (1) Emails shall be submitted to the following address: ecfintake@nhd.uscourts.gov.
- (2) Documents submitted by email shall be in Portable Document Format (PDF). If the main document has attachments, each PDF shall be submitted as described in AP 2.5.
- (3) The court will not read, consider, or respond to any text in the email itself and will only upload the attached PDF files to the case docket.

(c) All filings must comply with the formatting requirements found in the Local and Federal Rules.

(d) Signatures may be added electronically to pleadings submitted by email in the following format: */s/ Full Name*.

(e) Unless a filer is authorized to file documents electronically using the court's Electronic Case Filing (ECF) system, all case initiating documents (e.g. complaints, petitions) and all notices of appeal still must be filed in paper with either the required filing fee or a motion to proceed in forma pauperis.

(f) Filings submitted by email to the court must still be conventionally served on all counsel or pro se parties to a case as required by Fed. R. Civ. P. 5 and Fed. R. Crim. P. 49.

(Added 12/1/23)
