

SECOND JUDICIAL CIRCUIT OF THE UNITED STATES
UNITED STATES COURTHOUSE
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ROBERT A. KATZMANN
CHIEF JUDGE

KAREN GREVE MILTON
CIRCUIT EXECUTIVE

JUDICIAL COUNCIL
APPROVED

MAR 19 2018

C/E

MEMORANDUM
March 15, 2018

To: Second Circuit Judicial Council

From: Karen Greve Milton, Circuit Executive 

Re: Proposed Revisions to Local Civil Rules – District of Connecticut

The Board of Judges for the District of Connecticut has approved a proposal to revise four Local Civil Rules and three standing orders. The Board of Judges for the District of Connecticut has requested the Second Circuit Judicial Councils final approval.

The proposals are reflected in the attached revised Local Rules. Also, attached is a redlined version of each Rule that illustrates the specific changes.

1. Local Civil Rule 72.2 Review
2. Local Civil Rule 73 Civil Trial Jurisdiction
3. Local Civil Rule 77.1 Entry of Orders and Judgments, Miscellaneous
4. Local Civil Rule 77.2 Assignment
5. Standing Order in Civil Rico Cases
6. Standing Order on Removed Cases
7. Order Re: Disclosure Statement

The proposed changes have been published on the Court's website and in the Connecticut Law Tribune for comment.

Kindly return your ballot by fax 212 857-8680, or by email, by Thursday, March 22, 2018. Thank you.

BALLOT

Judge: _____

_____ Yes, I approve the proposed revisions to Local Civil Rules

_____ No, I do not approve the proposed revisions to Local Civil Rules

_____ I request additional information and/or further discussion

RULE 72.2

REVIEW

(Revised February __, 2018)

(a) The Magistrate Judge's written ruling, pre-trial conference order, or decision or report including proposed findings of fact and recommended conclusions of law, shall be filed with the Clerk, and the Clerk shall forthwith mail a copy to each party who does not receive electronic notice thereof. Any party wishing to object must, within fourteen (14) days after service-filing of such order or recommended ruling ~~on him, serve on all parties, and file with the Clerk,~~ written objection which shall specifically identify the ruling, order, proposed findings and conclusions, or part thereof to which objection is made and the factual and legal basis for such objection. A party may not thereafter assign as error a defect in the Magistrate Judge's order to which objection was not timely made. ~~For the purposes of this rule, service of the order of the Magistrate Judge~~ Any party receiving notice of an order or recommended ruling from the Clerk by mail shall ~~be deemed to occur no later than have~~ five (5) days after the filing of such order or ruling with the Clerk additional days to file any objection.

(b) In the event of such objection, in matters acted on by the Magistrate Judge in an advisory capacity- such as under Rule 72.1(C)(1) or (3), supra, the Judge ultimately responsible shall make a de novo determination of those portions of the proposed decision to which objection is made, and may accept, reject, or modify the recommended ruling in whole or in part. Such independent determination may be made on the basis of the record developed before the Magistrate Judge, and need not ordinarily involve rehearing, although further evidence may also be received in the reviewing Judge's discretion. Absent such objection, the Judge ultimately responsible may forthwith endorse acceptance of the proposed decision; but the Judge, in his or her an exercise of discretion, may afford the parties opportunity to object to any contemplated rejection or substantial modification of the proposed decision. In matters determined by the Magistrate Judge for the Court, such as under Rule 72.1(C)(2) or (4), supra, the reviewing Judge on timely objection shall set aside any order found to be clearly erroneous or contrary to law, and may, absent such objection, reconsider any matter *sua sponte*.

(c) Review of special master proceedings shall be in accordance with Rule 53, Fed.R.Civ.P., to the extent applicable. In civil cases referred to the Magistrate Judge for trial by the parties' consent, appeals shall be taken as provided by Rule 4, infra Fed.R.App.P, in accordance with 28 U.S.C. Section 636(c). Appeals in misdemeanor cases shall conform to the requirements of 18 U.S.C. Section 3402 and the Rules of Procedure for Trial of Misdemeanors before Magistrate Judges.

RULE 73

CIVIL TRIAL JURISDICTION

(Revised February __, 2018)

(A)(1) Each Magistrate Judge may exercise case-dispositive authority in a civil case on the specific written request of all parties, as permitted by 28 U.S.C. § 636(c)(1), provided the District Judge assigned to the case approves.

(2) When a civil action is commenced, the Clerk shall promptly notify the parties that they may request referral of the case to a Magistrate Judge for disposition pursuant to 28 U.S.C. § 636(c), subject to the approval of the District Judge to whom the case is assigned. The Clerk shall inform the parties that their consent to such a referral must be voluntary and that they are free to withhold consent without adverse consequences. The parties' agreement to such a reference is to be communicated in the first instance to the Clerk by written stipulation, which shall be forwarded to the assigned District Judge for discretionary consideration.

(B)(1) A direct appeal to the Court of Appeals shall be taken in the same manner as from any other judgment or reviewable order of this Court.

(2) The scope of an appeal to the referring Judge shall be the same as on an appeal from a judgment of this Court to the Court of Appeals; such appeal shall be taken as herein provided, subject on prompt application to such modification of time limits and procedures in a particular case as may be found appropriate by the Judge in the interest of justice. Dismissal of the appeal may be directed for failure to comply with this Local Rule 73 or related court orders.

(3) Appeal to the referring Judge shall be taken by filing a notice of appeal with the Clerk within thirty (30) days after entry of the Magistrate Judge's judgment, or within sixty (60) days after such judgment's entry if the United States or any officer or agency thereof is a party; if a timely notice of appeal is filed, any other party may file a notice of appeal within fourteen (14) days thereafter. The Clerk shall forthwith mail copies of a notice of appeal to all other parties who do not receive electronic notice of filing. Any attendant stay application shall be made to the Magistrate Judge in the first instance. The record on appeal shall consist of the original papers and exhibits filed with the Clerk, the docket and any transcript of proceedings before the Magistrate Judge. Within ten (10) days after filing the notice of appeal, the appellant shall make arrangements in the first instance for the production of any transcript deemed necessary. Within thirty (30) days after the notice of appeal is filed, the appellant's brief shall be served and filed; the appellee's brief shall be served and filed within thirty (30) days thereafter. Absent scheduling of oral argument on the Judge's own initiative, the appeal will may be decided on the papers unless good cause for allowance of oral argument is shown by written request submitted with the brief.

(C) These provisions shall be construed to promote expeditious, inexpensive and just decision, and are subject to any controlling uniform procedures for such appeals as may be adopted hereafter by rule or statute.

RULE 77.1

(This Local Rule 77.1 is being amended to change the Rule number from 77.1 to 77 upon the proposed elimination of Local Rule 77.2)

ENTRY OF ORDERS AND JUDGMENTS; MISCELLANEOUS

~~(Amended December 22, 2017)~~

(Amended February __, 2018)

(a) Entry of Orders and Judgments by the Court

1. A memorandum filed by the Judge or Magistrate Judge of the decision of a motion that does not finally determine all claims for relief shall constitute the required order unless such memorandum directs the submission of an order in more extended form.

2. The notation in the appropriate docket of an "order," as defined in the previous paragraph, shall constitute the entry of the order.

(b) Entry of Orders and Judgments by the Clerk

In addition to the other orders that the Clerk is authorized to sign, enter, or both pursuant to these Local Rules or the Federal Rules of Civil Procedure, the Clerk is authorized, in the absence of contrary instructions issued by a Judge with respect to any case assigned to such Judge, to sign and enter the following orders and judgments without further direction of the Court:

1. Consent judgments for the payment of money; orders on consent dismissing actions, withdrawing stipulations, exonerating sureties and permitting visiting lawyers to appear; orders setting aside defaults entered under Fed.R.Civ.P. 55(a); and orders entered pursuant to Fed.R.Civ.P. 4.1(a) specially appointing persons to serve process other than a summons or subpoena.

2. Subject to the provisions of Fed. R. Civ. P. 54(b) and 58, judgments upon a general verdict of a jury, or upon a decision by the Court. Every judgment shall be set forth on a separate document and shall become effective only when its substance is entered in the civil docket pursuant to Fed. R. Civ. P. 79(a).

(c) Legal Holidays

For the purpose of Fed. R. Civ. P. 6 and 77.1(c), and for all other purposes, the following are hereby designated Legal Holidays for the United States District Court for the District of Connecticut:

New Year's Day (January 1), Martin Luther King, Jr. Day (third Monday in January), Presidents' Day (third Monday in February), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September), Columbus Day (second Monday in October), Veterans' Day (November 11), Thanksgiving Day (fourth Thursday in November), Christmas Day (December 25); or whenever any such day falls on Sunday, the Monday next following such day; or whenever any such day falls on Saturday, the Friday preceding such day; and any other day appointed as a holiday by the President or the Congress of the United States.

When a particular holiday is celebrated on different days by the Federal government and the State of Connecticut, then the day designated by the Federal government, and not the day designated by the State of Connecticut, shall be observed as a holiday by the United States District Court for the District of Connecticut.

(d) District Court Library

The United States District Court Libraries are primarily for use by Court personnel. Attorneys and self-represented litigants are permitted to use the libraries on days when they have matters scheduled in the courthouse. Books may be used within the library. Wi-fi is available. Use of library computers, printers, and copy machines is limited to court personnel only. Any Judge of this Court shall have discretion to suspend the access of any person to the library for inappropriate behavior or when the needs of the Court so require.

(e) Order or Mandate of Appellate Court

Any order or mandate of an appellate Court, when received by the Clerk of the District Court, shall be entered on the docket and shall automatically become the order or judgment of the District Court without further order, except that if such order or judgment of the appellate court requires further proceedings in the District Court other than a new trial, the Judge to whom the case is assigned shall determine what, if any, further order(s) may be necessary.

RULE 77.2

ASSIGNMENT

~~All matters to be referred by the Judges to the Magistrate Judges shall be referred in the first instance to the Clerk for appropriate assignment to be made under the supervision of the Chief Judge, bearing in mind such factors as a Magistrate Judge's prior familiarity with proceedings, the seat of court involved and current caseload allocation. With the assistance of the Magistrate Judge's clerical staff, the Clerk shall be responsible for preparation and issuance of all calendars and notices of proceedings necessitated by such assignments.~~

STANDING ORDER IN CIVIL RICO CASES

(Amended February __, 2018)

In all civil actions where the complaint-pleading contains a cause of action pursuant to 18 U.S.C. §§ 1961–1968 (“RICO”) the plaintiff party asserting the RICO claim shall file a RICO Case Statement within twenty (20) days of filing the complaintfirst pleading asserting the RICO claim. Consistent with counsel's obligations under Fed.R.Civ.P. 11 to make a “reasonable inquiry” prior to the filing of the complaint, the RICO Case Statement shall state in detail the following information:

1. The alleged unlawful conduct that is claimed to be in violation of 18 U.S.C. §§ 1962(a), (b), (c) and/or (d).
2. The identity of each defendant and the alleged misconduct and basis of liability of each defendant.
3. The identity of the alleged wrongdoers, other than the defendants listed in response to paragraph 2, and the alleged misconduct of each wrongdoer.
4. The identity of the alleged victims and the manner in which each victim was allegedly injured.
5. A description of the pattern of racketeering activity or collection of unlawful debts alleged for each RICO claim, which shall include the following information:
 - a. The alleged predicate acts and the specific statutes which were allegedly violated;
 - b. The dates of the predicate acts, the participants in the predicate acts, and a description of the facts surrounding the predicate acts;
 - c. If the RICO claim is based on the predicate offenses of wire fraud, mail fraud, or fraud in the sale of securities, the “circumstances constituting fraud or mistake

shall be stated with particularity.” Fed.R.Civ.P. 9(b). The time, place and contents of the alleged misrepresentations, and the identity of persons to whom and by whom the alleged misrepresentations were made shall be identified;

- d. Whether there has been a criminal conviction for violation of the predicate acts;
 - e. Whether civil litigation has resulted in a judgment in regard to the predicate acts;
 - f. The manner in which the predicate acts form a “pattern of racketeering activity”;
and
 - g. Whether the alleged predicate acts relate to each other as part of a common plan, and if so, a detailed description of the common plan.
6. A detailed description of the alleged enterprise for each RICO claim, which shall include:
- a. The names of the individuals, partnerships, corporations, associations, or other legal entities, which allegedly constitute the enterprise;
 - b. The structure, purpose, function and course of conduct of the enterprise;
 - c. Whether any defendants are employees, officers or directors of the alleged enterprise;
 - d. Whether any defendants are associated with the alleged enterprise;
 - e. Whether plaintiff contends that the defendants are individuals or entities separate from the alleged enterprise, or that the defendants are the enterprise itself, or members of the enterprise; and
 - f. If any defendants are alleged to be the enterprise itself, or members of the enterprise, an explanation as to whether such defendants are perpetrators, passive instruments, or victims of the alleged racketeering activity.
7. Whether plaintiff contends that the pattern of racketeering activity and the enterprise are separate or have merged into one entity.

8. The alleged relationship between the activities of the enterprise and the pattern of racketeering activity, including a description of the manner in which the racketeering activity differs, if at all, from the usual and daily activities of the enterprise.

9. The benefits, if any, the alleged enterprise receives or has received from the alleged pattern of racketeering.

10. The effect of the activities of the enterprise on interstate or foreign commerce.

11. If the complaint alleges a violation of 18 U.S.C. § 1962(a), provide the following information:

- a. The identity of the individual(s) who received the income derived from the pattern of racketeering activity or through the collection of an unlawful debt;
and
- b. The use or investment of such income.

12. If the complaint alleges a violation of 18 U.S.C. § 1962(b), describe in detail the acquisition or maintenance of any interest in or control of the alleged enterprise.

13. If the complaint alleges a violation of 18 U.S.C. § 1962(b), provide the following information:

- a. The individuals who are employed by or associated with the enterprise; and
- b. Whether the same entity is both the liable “person” and the “enterprise” under § 1962(c).

14. If the complaint alleges a violation of 18 U.S.C. § 1962(d), describe in detail the alleged conspiracy.

15. The alleged injury to business or property.

16. The direct causal relationship between the alleged injury and the violation of the RICO statute.

17. The damages sustained for which each defendant is allegedly liable.

18. A description of other federal causes of action alleged in the complaint, if any, and citation to the relevant statutes.

19. A description of all pendent state claims alleged in the complaint, if any.

Any additional information plaintiff feels would be helpful to the Court in processing the RICO claim.

STANDING ORDER ON REMOVED CASES

~~(Corrected January 12, 2012)~~

(Amended February 1, 2018)

All parties removing actions to this Court pursuant to 28 U.S.C. § 1441 shall, no later than seven (7) days after filing a notice of removal, file and serve a signed statement that sets forth the following information:

1. The date on which each defendant first received a copy of the summons and complaint in the state court action.

2. The date on which each defendant was served with a copy of the summons and complaint, if any of those dates are different from the dates set forth in item 1.

3. In diversity cases, whether any defendant who has been served is a citizen of Connecticut. Also, if any party is a partnership, limited liability partnership or limited liability company or corporation, the citizenship of each partner, general partner, limited partner and member, and if any such partner, general partner, limited partner or member is itself a partnership, limited liability partnership or limited liability company or corporation, the citizenship of each member.

4. If removal takes place more than thirty (30) days after any defendant first received a copy of the summons and complaint, the reasons why removal has taken place at this time.

5. The name of any defendant served prior to the filing of the notice of removal who has not formally joined in the notice of removal and the reasons why any such defendant did not join in the notice of removal.

5-6. For each party, list the name and firm name of all counsel of record for that party or state that the party is self-represented.

At the time a removal notice is filed with the Clerk of this Court, the removing party shall also file with the Clerk a separate notice, entitled "Notice of Pending Motions," specifying any pending motions that require action by a Judge of this Court and attaching a true and complete copy of each such motion and all supporting and opposition papers.

~~The removing party shall list in its certificate of service immediately below the name and address of counsel the name of the party or parties represented by said counsel and all parties appearing pro se.~~

NOTICE TO COUNSEL RE LOCAL RULE 5(b)

To ensure that our records are complete and to ensure that you receive notice of hearings and any court rulings, PLEASE FILE AN APPEARANCE with this office in accordance with Local Rule 5(b) of the Local Rules of Civil Procedure for the District of Connecticut.

Counsel for the removing defendant(s) is responsible for immediately serving a copy of this notice on all counsel of record and all ~~self-un~~represented parties at their last known addresses.

~~BY ORDER OF THE COURT~~

~~ROBIN D. TABORA, CLERK~~

ORDER RE: DISCLOSURE STATEMENT

~~(Amended December 31, 2013)~~

~~(Amended February __, 2018)~~

ANY NON-GOVERNMENTAL CORPORATE PARTY TO AN ACTION IN THIS COURT SHALL FILE A STATEMENT IDENTIFYING ALL ITS PARENT CORPORATIONS AND LISTING ANY PUBLICLY HELD COMPANY THAT OWNS 10% OR MORE OF THE PARTY'S STOCK. A PARTY SHALL FILE THE STATEMENT WITH ITS INITIAL PLEADING FILED IN THE COURT AND SHALL SUPPLEMENT THE STATEMENT WITHIN A REASONABLE TIME OF ANY CHANGE IN THE INFORMATION. ~~COUNSEL SHALL APPEND A CERTIFICATE OF SERVICE TO THE STATEMENT IN COMPLIANCE WITH D. CONN. L. CIV. R. 5 (c).~~

COUNSEL FOR PLAINTIFF(S) OR REMOVING DEFENDANT(S) SHALL BE RESPONSIBLE FOR SERVING A COPY OF THIS ORDER UPON ALL PARTIES TO THE ACTION.

~~BY ORDER OF THE COURT~~

~~ROBIN D. TABORA, CLERK~~