

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND



PROPOSED AMENDMENTS TO THE
LOCAL RULES

PUBLISHED FOR PUBLIC COMMENT ON APRIL 1, 2021

PURSUANT TO LOCAL RULE 605.1



**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
OFFICE OF THE CLERK**

Felicia C. Cannon, Clerk of Court
Elizabeth B. Snowden, Chief Deputy
Catherine M. Stavlas, Chief Deputy

Reply to Northern Division Address

April 1, 2021

NOTICE

The United States District Court for the District of Maryland is proposing changes to the following Local Rules: 104, 105, 108, 109, 201, 701, and 705. Copies of the amendments are available on the Court's website at <https://www.mdd.uscourts.gov/local-rules-amendments>. If adopted, the amendments would take effect on July 1, 2021.

Comments must be submitted on or before June 1, 2021, to Mr. David E. Ciambuschini, Local Rules and Forms Committee, U.S. District Court for the District of Maryland, 101 West Lombard Street, Baltimore, MD 21201, or emailed to MDD_Localrules@mdd.uscourts.gov.

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PROPOSED AMENDMENTS TO THE LOCAL RULES

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| RULE 104. DISCOVERY |
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REDLINED VERSION

9. ~~Smoking During Depositions Prohibited~~**[Reserved for Future Use]**

~~Unless all persons present otherwise agree, smoking is prohibited in the room in which a deposition is being taken.~~

PROPOSED VERSION

9. [Reserved for Future Use]

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RULE 105. MOTIONS, BRIEFS, AND MEMORANDA

REDLINED VERSION

1. Memoranda Required; Number of Copies **[; Proposed Order]**

Any motion and opposition to a motion shall be filed with the Clerk and be accompanied by a memorandum setting forth the reasoning and authorities in support of it **[and a proposed order]**.

a) Cases Subject to Electronic Filing

The motion, memorandum, and any exhibits or attachments ~~should~~**[must]** be filed electronically in accordance with the procedures adopted by the Court. **[When the number of pages for the motion, memorandum, and any exhibits or attachments total 15 pages or more, one courtesy paper copy of these documents must be submitted to the Clerk. This courtesy copy should be received by the Clerk within 48 hours of the electronic filing of the document, excluding weekends, legal holidays, and days the Court is closed. A paper copy of the notice of electronic filing should also be attached to the front of the courtesy copy. Any document which, because of its length or any other reason, is not filed electronically must be accompanied by the number of copies required by L.R. 105.1.b.]**

* * *

[12. Amicus Briefs

a) **When Permitted**

The United States or its officer or agency or a state may file an amicus brief without the consent of the parties or leave of court. Any other amicus curiae may file a brief only by submitting a motion to obtain leave of court.

b) **Motion for Leave to File**

The motion must be accompanied by the proposed brief and state: (1) the movant's interest; (2) the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case; (3) which party's filing the brief supports, if any; (4) whether a party's counsel authored the brief in whole or part; and (5) whether a party or its counsel contributed money to fund the preparation and/or submission of the brief.

c) **Contents and Form**

The brief shall be no more than 15 pages and otherwise comply with L.R. 102.2, 105.1, 105.4, and 105.5.

d) **Requested Relief**

The Court will not consider amici requests for relief that are different from or in addition to the relief, if any, requested by the party whose brief the amici supports.

e) **Time for Filing**

The motion and accompanying proposed brief must be filed, except with permission of the Court, no later than seven days after the principal brief of the party being supported, or, if it is not filed in support of a party's filing, then within seven days of the opening brief.

f) **Reply Brief**

Amici will not file a reply unless requested by the Court.

g) **Proceedings**

Amici may not participate in oral argument, hearings, or conference calls unless requested by the Court.

h) **Disclosure of Corporate Affiliation**

If the amicus curiae is a corporation, it must file a disclosure statement like that required of parties by L.R. 103.3.a.]

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| RULE 105. MOTIONS, BRIEFS, AND MEMORANDA (CONTINUED) |
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PROPOSED VERSION

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f) Reply Brief

Amici will not file a reply unless requested by the Court.

g) Proceedings

Amici may not participate in oral argument, hearings, or conference calls unless requested by the Court.

h) Disclosure of Corporate Affiliation

If the amicus curiae is a corporation, it must file a disclosure statement like that required of parties by L.R. 103.3.a.

* * *

RULE 108. JUDGMENTS

REDLINED VERSION

1. Judgment by Confession

b) Review by Court Regarding Entry of Judgment

Upon review of the aforesaid documents, the Court may direct the entry of judgment upon a finding that the aforesaid documents prima facie establish (1) a voluntary, knowing, and intelligent waiver by the defendant of the right to notice and a prejudgment hearing on the merits of the claim of the plaintiff for liquidated damages and (2) a meritorious claim of the plaintiff for liquidated damages against the defendant.^[*]

[* Pursuant to Maryland law, “unfair, abusive, or deceptive trade practices” include “use of a contract related to a consumer transaction which contains a confessed judgment clause that waives the consumer’s right to assert a legal defense to an action.” MD Code, Commercial Law, § 13-301(12).]

PROPOSED VERSION

1. Judgment by Confession

b) Review by Court Regarding Entry of Judgment

Upon review of the aforesaid documents, the Court may direct the entry of judgment upon a finding that the aforesaid documents prima facie establish (1) a voluntary, knowing, and intelligent waiver by the defendant of the right to notice and a prejudgment hearing on the merits of the claim of the plaintiff for liquidated damages and (2) a meritorious claim of the plaintiff for liquidated damages against the defendant.*

*Pursuant to Maryland law, “unfair, abusive, or deceptive trade practices” include “use of a contract related to a consumer transaction which contains a confessed judgment clause that waives the consumer’s right to assert a legal defense to an action.” MD Code, Commercial Law, § 13-301(12).

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RULE 109. POST-TRIAL PROCEEDINGS

REDLINED VERSION

1. Bill of Costs

a) Time for Filing

Unless provided by L.R. 109.2.c or otherwise ordered by the Court, a bill of costs shall be filed within fourteen (14) days of the ~~entry of judgment, or of the entry of an order denying a motion filed under Fed. R. Civ. P. 50(b), 52(b), or 59.~~ **[expiration of time allowed for appeal of a final judgment or, if a notice of appeal is filed, within fourteen (14) days of the issuance of the mandate by the Court of Appeals]** A bill for **[additional]** costs incurred on ~~appeal~~ **[review by the Supreme Court]** taxable in this Court ~~should~~ **[shall]** be filed within fourteen (14) days of the ~~issuance of the mandate by the Court of Appeals or, in the event of review by the Supreme Court, within fourteen (14) days of the~~ entry of judgment by the Supreme Court. Non-compliance with these time limits shall be deemed a waiver of costs.

PROPOSED VERSION

1. Bill of Costs

a) Time for Filing

Unless provided by L.R. 109.2.c or otherwise ordered by the Court, a bill of costs shall be filed within fourteen (14) days of the expiration of time allowed for appeal of a final judgment or, if a notice of appeal is filed, within fourteen (14) days of the issuance of the mandate by the Court of Appeals. A bill for additional costs incurred on review by the Supreme Court taxable in this Court shall be filed within fourteen (14) days of the entry of judgment by the Supreme Court. Non-compliance with these time limits shall be deemed a waiver of costs.

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| RULE 201. COUNSEL |
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REDLINED VERSION

1. Who May Appear as Counsel

a) Generally

Except as otherwise provided in this Rule, a defendant in a criminal case may only be represented by a member of the Bar of this Court **[or counsel appointed for that defendant by any United States court]**.

PROPOSED VERSION

1. Who May Appear as Counsel

a) Generally

Except as otherwise provided in this Rule, a defendant in a criminal case may only be represented by a member of the Bar of this Court or counsel appointed for that defendant by any United States court.

* * *

RULE 701. ADMISSION

REDLINED VERSION

1. Qualifications

a) General

Except as provided in subsections (c) ~~and (d)~~ of this Rule, an attorney is qualified for admission to the Bar of this District if the attorney is, and continuously remains, an active member in good standing of the **[Court of Appeals of Maryland, or if the attorney is not a member of the Court of Appeals of Maryland, an active member in good standing of the]**highest court of any state (or the District of Columbia) **[and also an active member in good standing of any United States District Court]**~~in which the attorney maintains his or her principal law office, or of the Court of Appeals of Maryland;~~ is of good private and professional character; is familiar with the Maryland Attorneys' Rules of Professional Conduct, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, the Federal Rules of Appellate Procedure, and these Local Rules; is (to the extent relevant to his or her area(s) of practice) familiar with the Federal Rules of Criminal Procedure, the Federal Rules of Bankruptcy Procedure, ~~and~~ the Local Bankruptcy Rules **[, and substantive Maryland statutory and common law]**; and is willing, available and competent to accept appointments by the Court to represent indigent parties in civil cases in this District unless the acceptance of such appointments is inconsistent with an attorney's professional employment obligations as, for example, a government attorney. **[Although not required, an attorney admitted to the Bar of this Court who is not also a member of the Maryland Bar is strongly urged to consider retaining local counsel when appearing on matters involving Maryland law.]**

b) Federal Government Attorneys

An attorney who is a member of a Federal Public Defender's Office, the Office of the United States Attorney for this District, or other federal government lawyer, is qualified for admission to the Bar of this District for purposes relating to her or his employment if the attorney is an active member in good standing of the highest court of any state (or the District of Columbia); is of good private and professional character; is familiar with the Code of Professional Responsibility, the Federal Rules of Civil Procedure and Criminal Procedure, the Federal Rules of Evidence, the Federal Rules of Appellate Procedure, and these Local Rules.

~~e) Reciprocity with Other Jurisdictions~~

~~No attorney, other than a member of the Maryland Bar, who maintains his or her principal law office outside the District of Maryland may be a member of the Bar of this District if the attorney is, or becomes, a member of the bar of the United States District~~

~~Court for the district in which the attorney maintains his or her principal law office if that district court has a local rule that limits membership in its bar to members of the bar of the highest court of the state (or the District of Columbia) in which the district is located.~~

~~¶(c)~~ Non-Maryland Lawyers Maintaining Any Law Office in Maryland

An attorney who is not a member of the Maryland Bar is not qualified for admission to the Bar of this District if the attorney maintains any law office in Maryland. For the purposes of this subsection, an attorney shall be deemed to maintain an office in Maryland if a Maryland address is used by that attorney on any document filed in this Court for purposes of satisfying L.R. 102.1.b. However, if an attorney is a member of a law firm having offices in multiple jurisdictions, an attorney who is a member of such a firm shall not be deemed to maintain a law office in Maryland if that attorney does not maintain a regular physical presence in the Maryland office of the firm. Failure of an attorney to satisfy this continuing requirement may result in the attorney either being moved to ineligible status or subjected to expedited remedial action as provided for in L.R. 705.1.i.

~~e) Principal Office~~

~~The term “principal law office” as used in this Rule means “the chief or main office in which an attorney usually devotes a substantial period of his or her time to the practice of law during ordinary business hours in the traditional work week.” In determining whether an office is the “principal law office,” the Court shall consider the following non-exclusive factors:~~

- ~~i. The attorney’s representations of his or her “principal law office” or “law office” for purposes of malpractice insurance coverage, tax obligations, and client security trust fund obligations.~~
- ~~ii. The address utilized in pleadings, correspondence with clients, applications for malpractice insurance and bar admissions, advertising, letterhead, and other business matters.~~
- ~~iii. The location of meetings with clients, conduct of depositions, research, and employment of support staff and associates.~~
- ~~iv. Location of client files, accounting records, and other business records, library and communication facilities such as telephone and fax service.~~
- ~~v. Whether the attorney has other offices, their locations and their relative utilization.~~
- ~~vi. The laws under which the law practice is organized, such as the place of incorporation.~~

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| RULE 701. ADMISSION (CONTINUED) |
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PROPOSED VERSION

1. Qualifications

a) General

Except as provided in subsection (c) of this Rule, an attorney is qualified for admission to the Bar of this District if the attorney is, and continuously remains, an active member in good standing of the Court of Appeals of Maryland, or if the attorney is not a member of the Court of Appeals of Maryland, an active member in good standing of the highest court of any state (or the District of Columbia) and also an active member in good standing of any United States District Court; is of good private and professional character; is familiar with the Maryland Attorneys' Rules of Professional Conduct, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, the Federal Rules of Appellate Procedure, and these Local Rules; is (to the extent relevant to his or her area(s) of practice) familiar with the Federal Rules of Criminal Procedure, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules, and substantive Maryland statutory and common law; and is willing, available and competent to accept appointments by the Court to represent indigent parties in civil cases in this District unless the acceptance of such appointments is inconsistent with an attorney's professional employment obligations as, for example, a government attorney. Although not required, an attorney admitted to the Bar of this Court who is not also a member of the Maryland Bar is strongly urged to consider retaining local counsel when appearing on matters involving Maryland law.

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c) Non-Maryland Lawyers Maintaining Any Law Office in Maryland

An attorney who is not a member of the Maryland Bar is not qualified for admission to the Bar of this District if the attorney maintains any law office in Maryland. For the purposes of this subsection, an attorney shall be deemed to maintain an office in Maryland if a Maryland address is used by that attorney on any document filed in this Court for

purposes of satisfying L.R. 102.1.b. However, if an attorney is a member of a law firm having offices in multiple jurisdictions, an attorney who is a member of such a firm shall not be deemed to maintain a law office in Maryland if that attorney does not maintain a regular physical presence in the Maryland office of the firm. Failure of an attorney to satisfy this continuing requirement may result in the attorney either being moved to ineligible status or subjected to expedited remedial action as provided for in L.R. 705.1.i.

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RULE 705. DISCIPLINARY PROCEEDINGS

REDLINED VERSION

4. Reinstatement

b) Time of Application Following Disbarment **[or Suspension for an Indefinite Period]**

An attorney who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five (5) years from the effective date of the disbarment. **[In the case of reciprocal discipline, an attorney who has been indefinitely suspended may only apply for reinstatement upon proof that the attorney has been reinstated by the court in which the attorney was disciplined.]**

c) Hearing on Application

- i) Petitions for reinstatement by a disbarred or suspended attorney shall be filed with the Clerk. Upon receipt of the petition, the Clerk shall promptly refer the petition to the Court's Disciplinary and Admissions Committee for review and determination whether a hearing is necessary. If the Disciplinary and Admissions Committee finds good cause that reinstatement is appropriate without a hearing, then the Court, if in agreement, may grant the petition for reinstatement. **[If the Disciplinary and Admissions Committee determines on the basis of the papers filed that reinstatement is not appropriate and a hearing is not necessary, then the Court, if in agreement, may deny the petition for reinstatement.]**
- ii) Otherwise, the Chief Judge shall assign the matter for prompt hearing. The judge or judges assigned to the matter shall, within thirty (30) days after referral, schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence the petitioner has the moral qualifications, competency, and learning in the law required for admission to practice law before this Court and the petitioner's resumption of the practice of law will not be detrimental to the integrity and standing of the Bar or to the administration of justice, or subversive of the public interest.

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| RULE 705. DISCIPLINARY PROCEEDINGS (CONTINUED) |
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PROPOSED VERSION

4. Reinstatement

b) Time of Application Following Disbarment or Suspension for an Indefinite Period

An attorney who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five (5) years from the effective date of the disbarment. In the case of reciprocal discipline, an attorney who has been indefinitely suspended may only apply for reinstatement upon proof that the attorney has been reinstated by the court in which the attorney was disciplined.

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