

**RULES OF PRACTICE AND PROCEDURE
OF THE
UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF ARIZONA
EFFECTIVE DECEMBER 1, 2018⁹**

Foreword/Explanatory Note

These Rules of Practice and Procedure of the United States District Court for the District of Arizona (Local Rules) are promulgated under the authority of Rule 83 of the Federal Rules of Civil Procedure (F.R.Civ.P.), Rule 57 of the Federal Rules of Criminal Procedure (F.R.Crim.P.), and Rule 47 of the Federal Rules of Appellate Procedure (FRAP).

The Local Rules of Civil Procedure may be cited as "LRCiv".

The Local Rules of Criminal Procedure may be cited as "LRCrim".

The Local Rules of Bankruptcy Appeal Procedure may be cited as "LRBankr".

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LRCiv 83.1

ATTORNEYS

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(b) Practice in this Court. Except as herein otherwise provided, only members of the bar of this Court may practice in this District.

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(2) *Pro Hac Vice.* An attorney who is admitted to practice in another U.S. District Court, and who has been retained to appear in this Court may, upon written application and in the discretion of the Court, be permitted to appear and participate in a particular case. Unless authorized by the Constitution of the United States or an Act of Congress, an attorney is not eligible to practice pursuant to this subparagraph (b)(2) if any one or more of the following apply: (i) the attorney resides in Arizona, (ii) the attorney is regularly employed in Arizona, or (iii) the attorney is regularly engaged in the practice of law in Arizona. The pro hac vice application must be presented to the Clerk and must state under penalty of perjury (i) the attorney's principal office address and city and state of principal residence as well as current telephone number, facsimile number and electronic mailing address, if any, (ii) by what courts the attorney has been admitted to practice and the dates of admissions, (iii) that the attorney is in good standing and eligible to practice in those courts, (iv) that the attorney is not currently suspended, disbarred or subject to disciplinary proceedings in any court, and (v) if the attorney has concurrently or within the year preceding the current application made any other pro hac vice applications to this Court, the title and number of each action in which such application was made, the date of each application, and whether each application was granted. The pro hac vice application must also be accompanied by payment of a pro hac vice fee to the Clerk, U.S. District Court and a current, original certificate of good

standing from a federal court. The amount of the fee is available on the District Court's website. If the pro hac vice application is denied, the Court may refund any or all of the fee paid by the attorney. If the application is granted, the attorney is subject to the jurisdiction of the Court to the same extent as a member of the bar of this Court. Attorneys admitted to practice pro hac vice must comply with the Rules of Practice and Procedure of the United States District Court for the District of Arizona.

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(f) Sanctions for Noncompliance with Rules or Failure to Appear.

(1) When Appropriate. After notice and a reasonable opportunity to be heard, the Court upon its own initiative may impose appropriate sanctions upon the party, attorney, supervising attorney or law firm who without just cause:

(A) violates, or fails to conform to, the Federal Rules of Civil or Criminal Procedure, the Local Rules of Practice and Procedure for the District, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules and/or any order of the Court; or

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LRCiv 83.4

STUDENT PRACTICE RULE

(a) **Purpose.** The following Student Practice Rule is designed to encourage law schools to provide clinical instruction in litigation of varying kinds, and thereby enhance the training of lawyers in federal practice in this District.

(b) **Student Requirements.** An eligible student must:

(1) Be duly enrolled in an American Bar Association (ABA) accredited law school;

(2) Have successfully completed at least three (3) semesters of legal studies, or the equivalent;

(3) Have knowledge of the Federal Rules of Civil and Criminal Procedure, Evidence, the Code of Professional Responsibility, and the Local Rules of Practice and Procedure of this Court;

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LRCiv 83.9

AMENDMENT OF THE RULES OF PRACTICE AND PROCEDURE

(a) Rules of Practice and Procedure Advisory Committee.

(1) Appointment. The Chief Judge shall appoint members of a Rules of Practice and Procedure Advisory Committee (Committee) to serve such terms as the Chief Judge designates. The Chief Judge will appoint a District Judge as the Chair of the Committee (Chair).

(2) Responsibilities. The Committee shall make reports and recommendations to the Court regarding the following matters:

(A) The consistency of the Rules of Practice and Procedure (Local Rules) with the United States Constitution, Acts of Congress, the Federal Rules and General Orders of the Court; and

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LRCrim 57.18

AMENDMENT OF THE RULES OF PRACTICE AND PROCEDURE

With regard to amendment of the Rules of Practice and Procedure of the United States District Court for the District of Arizona, see Rule 83.9, Local Rules of Civil Procedure.

LRCiv 5.2

FILING OF DISCOVERY AND DISCLOSURE NOTICES

A "Notice of Service" of the disclosures and discovery requests and responses listed in ~~Rule 5(d)~~ Rule 5(d)(1)(A) of the Federal Rules of Civil Procedure must be filed within a reasonable time after service of such papers.

LRCiv 5.5

ELECTRONIC FILING

(a) Electronic Case Filing Administrative Policies and Procedures Manual.

The Clerk of Court is authorized to develop, publish and implement an Electronic Case Filing Administrative Policies and Procedures Manual for the District of Arizona (Administrative Manual).

(b) Filing of Documents Electronically. The Court will accept for filing documents submitted, signed or verified by electronic means consistent with these rules and the Administrative Manual. ~~Filing of documents electronically in compliance with these rules and the Administrative Manual will constitute filing with the Court for purposes of Rule 5(d)(3) of the Federal Rules of Civil Procedure.~~

(c) Scope of Electronic Filing. All cases filed in this Court will be maintained in the Electronic Case Filing (ECF) System in accordance with these rules and the Administrative Manual. Unless otherwise ordered by the Court or as provided by the Administrative Manual, electronic filing is mandatory for attorneys.

(d) Registered User Eligibility. Attorneys admitted to the bar of this Court and attorneys and certified students permitted to practice in this Court under Local Rule 83.1(b) are eligible to become Registered Users of the ECF system. Unless the Court orders otherwise, parties appearing without an attorney shall not file documents electronically.

(e) Registration. Applicants shall register to file electronically in a form prescribed by the Clerk of Court.

(f) Password Security. Registered Users shall protect the security of their passwords and shall immediately notify the Clerk of Court if they learn that their password has been compromised.

(g) Signatures. The log-in and password required to submit documents to the ECF System constitute the Registered User's signature on all electronic documents filed with the Court for purposes of Rule 11 of the Federal Rules of Civil Procedure. Documents signed by an attorney shall be filed using that attorney's ECF log-in and password and shall not be filed using a log-in and password belonging to another attorney. No person shall

knowingly permit or cause to permit a Registered User's password to be used by anyone other than an authorized agent of the Registered User.

~~(h) **Service of Electronic Filings.** Registration as an ECF user constitutes consent to the electronic service of all documents through the Court's transmission facilities for purposes of Rule 5(b)(3) of the Federal Rules of Civil Procedure. Transmission of the Notice of Electronic Filing to a Registered User's e-mail address constitutes service of the hyperlinked document(s). Only the Notice of Electronic Filing, generated and transmitted by the ECF system, is sufficient to constitute electronic service of an electronically filed document. Non-registered users shall be provided notice of the filing by other means in accordance with the Federal Rules of Civil Procedure.~~

~~——(i)——~~ **Request for Electronic Notice by Nonparties.** A Registered User may subscribe to receive Notices of Electronic Filing in an unsealed case in which the Registered User is not a party or counsel of record by filing a text-only Notice of Request for E-Notice event on the electronic docket. The subscriber must notify any unrepresented parties in the case of the subscription by letter. United States Attorney Victim Witness Personnel who are authorized subscription rights by the Court are exempt from the notice requirements of this rule. The Court may sanction any Registered User who subscribes to receive Notices of Electronic Filing without notifying the Court and the parties by filing and serving a Notice of Request for E-Notice.

Title III. Pleadings and Motions

F.R.Civ.P. 7. Pleadings Allowed; Form of Motions and Other Papers

LRCiv 7.1

FORMS OF PAPERS

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(b) Pleadings and Other Papers.

(1) All pleadings and other papers shall be written in the English language, submitted in letter size (8 ½ inches by 11 inches) format and shall be signed as provided in Rule 11 of the Federal Rules of Civil Procedure. The body of all documents shall be typed double-spaced and shall not exceed 28 lines per page; they shall not be single-spaced except for footnotes and indented quotations. All pleadings, motions and other original documents filed with the Clerk shall be in a fixed-pitch type size no smaller than ten (10) pitch (10 letters per inch) or in a proportional font size no smaller than 13 point, including any footnotes. Pages of the document must be numbered. The left margin shall not be less than 1 ½ inches and the right margin shall not be less than ½ inch. All paper documents presented for filing shall be on unglazed paper stapled in the upper left-hand corner. Paper documents intended for filing shall be presented to the Clerk's Office without being folded or rolled and shall be kept in flat files. Paper documents which are too large for stapling should be bound with a metal prong fastener at the top, center of the document. Documents filed by incarcerated persons are exempt from the stapling and fastening requirements.

(2) In civil cases when a party requests specific relief, except for dismissal or summary judgment pursuant to Federal Rules of Civil Procedure 12(b) or 56, the party must ~~lodge with the Clerk a separate proposed order~~ submit a proposed order as an attachment to the motion or stipulation.

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LRCiv 54.2

ATTORNEYS' FEES AND RELATED NON-TAXABLE EXPENSES

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(e) **Task-Based Itemized Statement of Attorneys' Fees and Related Non-Taxable Expenses.** Unless otherwise ordered, the itemized account of the time expended and expenses incurred shall be in the format described in this Local Rule.

(1) **Format.** The itemized statement for legal services rendered shall reflect, in chronological order, the following information:

- (A) The date on which the service was performed;
- (B) The time devoted to each individual unrelated task performed on such day;
- (C) A description of the service provided; and
- (D) The identity of the attorney, paralegal, or other person performing such service.

(2) **Description of Services Rendered.** The party seeking an award of fees must adequately describe the services rendered so that the reasonableness of the charge can be evaluated. In describing such services, however, counsel should be sensitive to matters giving rise to issues associated with the attorney-client privilege and attorney work-product doctrine, but must nevertheless furnish an adequate nonprivileged description of the services in question. If the time descriptions are incomplete, or if such descriptions fail to adequately describe the service rendered, the court may reduce the award accordingly. Explanatory examples are set forth below.

(A) **Telephone Conferences.** This time entry must identify all participants and the reason for the telephone call.

Ex.: Telephone conference with J. Doe (attorney for Defendant Baker) re response to settlement proposal and further negotiations.

(B) Legal Research. This time entry must identify the specific legal issue researched and, if appropriate, should identify the pleading or document the preparation of which occasioned the conduct of the research. Time entries simply stating "research" or "legal research" are inadequate and the court may reduce the award accordingly.

Ex.: Work on motion for summary judgment including (1) legal research re statute of limitations applicable to Title VII cases and (2) factual investigation pertaining to claimed discrimination.

(C) Preparation of Pleadings and Other Papers. This time entry must identify the pleading, paper or other document prepared and the activities associated with its preparation.

Ex.: Prepare first amended complaint including factual investigation underlying newly asserted Lanham Act claim and legal research related to elements of such claim.

~~(D) Travel Time. Ordinarily air travel time should not be charged. If services were performed during such time, then describe such services rather than charging for the travel time.~~

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LRCrim 5.2

~~RELATED CASES; CONSOLIDATION; SERVICE; ASSIGNMENT~~

TRANSFER OF CASES; FILING OF MOTION TO TRANSFER; RESPONSIVE AND REPLY MEMORANDA; ASSIGNMENT

~~With regard to transfer of related cases assigned to different Judges to a single judge, consolidation, service, and assignment, see Rule 42.1, Local Rules of Civil Procedure.~~

(a) Transfer of Cases. Whenever two or more cases are pending before different Judges and any party believes that such cases arise from substantially the same transaction or event; involve substantially the same parties; or, for any other reason would entail substantial duplication of labor if heard by different Judges, any party may file a motion to transfer the case or cases involved to a single Judge.

(b) Filing of a Motion to Transfer. A motion to transfer must identify all the cases that are the subject of the motion by case name and case number. The movant must file the motion in a case in which the movant is a party. If the movant is a party in more than one of the affected cases, the movant must file the motion in the case with the lowest case number in which the movant is a party. The Clerk's Office will electronically file the motion in each of the other affected cases identified in the motion. The motion will be heard and decided, after consulting with the Judges assigned to the other affected cases, in the case with the lowest case number.

(c) Responsive and Reply Memoranda. Any party in any case that is the subject of a motion to transfer may file a responsive memorandum, and the movant may file a reply memorandum. Any responsive or reply memorandum must identify all the cases affected by the underlying motion. The filer must file the responsive or reply memorandum in a case in which the filer is a party. The Clerk's Office will electronically file the responsive or reply memorandum in each affected case identified in the memorandum.

(d) Assignment. If a motion to transfer is granted, the following factors may be considered in determining the Judge to whom the case or cases will be assigned: (1)

whether substantive matters have been considered in a case; (2) which Judge has the most familiarity with the issues involved in the cases; (3) whether a case is reasonably viewed as the lead or principal case; or (4) any other factor serving the interest of judicial economy.

LRCrim 49.6

ACCESSING SEALED COURT RECORDS

(a) A defendant may file an application to access a sealed court record if the defendant is unable to obtain the sealed record from another source. In the case of a defendant's attorney substitution, a defendant should seek to obtain a sealed court record from the defendant's former attorney before filing a motion to access a sealed court record.

(b) An application to access a sealed court record should:

(1) identify the requested sealed court record by docket number;

(2) limit the application to the sealed record(s) the defendant is unable to obtain from any other source;

(3) certify that the defendant made reasonable effort to obtain the sealed record from another source; and

(4) identify the reason the defendant requires access to the sealed record.

Applications requesting access to all sealed court records in a case are disfavored.

(c) The Court may grant a defendant's application to access a sealed court record without a motion to unseal.

(d) A defendant shall not have access to sealed *ex parte* filings of an opposing party or a co-defendant unless the defendant was permitted to review the filing at the time it was placed on the Court's docket. A defendant shall not have access to an *ex parte* sealed proceeding involving an opposing party or a codefendant unless the defendant was permitted to attend the proceeding when it occurred. A defendant should have access to *ex parte* motions for investigative, expert, or other services pursuant to the Criminal Justice Act filed by the defendant's attorney.

(e) The Court may refer an application to access a sealed record to a Magistrate Judge for ruling pursuant to LRCrim 57.6(d)(26).

(f) Any sealed court records received by a defendant's attorney on behalf

of the defendant shall be maintained consistent with the attorney's duty to maintain a client file under the Arizona Rules of Professional Conduct.

LRCrim 57.6
UNITED STATES MAGISTRATE JUDGES

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(d) **Other Duties.** Subject to the Constitution and laws of the United States, the full-time Magistrate Judges in the District of Arizona shall perform the following duties:

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(26) Issue orders upon appropriate application for access to sealed records pursuant to LRCrim 49.6.

(~~26~~7) Perform such additional duties as are not inconsistent with the Constitution and laws of the United States as may be assigned by the Court pursuant to 28 U.S.C. § 636(b).

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