

Civil Practitioner's Guide to D.R.I. Local Practice

This article serves as a guide for Civil Practitioners when litigating in the United States District Court for the District of Rhode Island. In so doing, it outlines the notable Local Rules regarding: 1) Motions; 2) Discovery; 3) Motions for Summary Judgment; 4) Trial; 5) Costs; and 6) *Pro Hac Vice* Admission and Practice.¹

Motions

1. General

a. Deadlines and Format

- i. Motions must state with particularity the grounds for seeking an order, the relief sought, and the legal argument necessary to support it.
 1. They may be accompanied by a supporting memorandum of law, although a separate memorandum is not required.
 2. If a separate memorandum of law accompanies a motion, it must be filed as an attachment to the motion and not a separate docket entry.
- ii. Responses to Motions are due within fourteen days of service of the motion.
- iii. Replies are due within seven days of service of the response.
 1. Replies may only present matters related to the response. Parties may not reargue or expand on previously made arguments.
- iv. Sur-replies are only permitted with leave of Court.

b. Page Limits

- i. There are no page limits on motions, oppositions, or replies, unless otherwise ordered by the Court.

c. Request for Hearing

- i. All motions and responses must identify whether oral argument and/or an evidentiary hearing is necessary, as well as the estimated time required.

2. Motions to Amend

- a. Motion must be accompanied by a signed copy of the proposed pleading.
 - i. If granted, the Court will docket the proposed pleading.

3. Motions Seeking Emergency Relief

- a. Motions seeking either temporary restraining orders or other forms of emergency relief must identify the request in capital letters on either the right of or underneath the case caption.

4. Motions to Seal

- a. Documents may only be sealed following the filing of a motion to seal.
- b. The document at issue must accompany the motion to seal and will remain provisionally under seal until the Court issues an order.

¹ The Article solely addresses the District of Rhode Island's Local Rules on these issues. It does not address the requirements and standards set forth in the Federal Rules of Civil Procedure.

- i. The document at issue must be stamped or labeled on the cover page as “FILED UNDER SEAL.”

Discovery

1. Initial Discovery Conference

- a. Parties must confer under Fed. R. Civ. P. 26(f) to develop a discovery plan prior to participating in a Rule 16(b) scheduling conference.
- b. Seven days prior to the conference, counsel for each party must file a 2-3 page written statement listing the elements of the claims/counterclaims, with a short description of the facts in support thereof.
- c. Counsel must also be prepared to discuss a discovery plan and may file a written discovery plan prior to the conference.
- d. Lead counsel and local counsel must attend, unless the Court excuses counsel prior to the conference.

2. Scheduling Order

- a. Following the conference, the Court will issue a scheduling order that sets forth the deadlines for discovery, dispositive motions, and pretrial filings.

3. Depositions

- a. Unless stipulated otherwise, the deposition of an individual or entity located outside the District of Rhode Island is taken remotely.

4. Interrogatories/Requests for Production/Requests for Admission

- a. They are not to be filed with the Court unless they are in connection with a motion to compel.
- b. The responding party must state each objection and the grounds therefor separately under each individual request.
 - i. Any ground not stated in an objection is waived.
 - ii. This requirement precludes the consideration of any generic general objections.

5. Discovery Motions

- a. A party may not file a discovery motion without:
 - i. Attempting in good faith to resolve the issue with opposing counsel; and
 - ii. Participating in an informal discovery conference with the Court and opposing counsel, which is scheduled by contacting each judge’s clerk.
- b. Form of Motions
 - i. They must comply with general requirements governing motions (LR Cv 7).
 - ii. They must identify the request(s) at issue, the response made, and the reasons why the response is inadequate.
- c. Time for Compliance
 - i. When the Court grants a motion to compel, a party has 21 days to comply with the order unless the Court provides otherwise.

Motions for Summary Judgment

1. Statements of Fact

- a. Motions for summary judgment must be accompanied by a separate Statement of Undisputed Facts. The Statement is a separate filing.
 - i. Each fact shall be set forth in a separate, numbered paragraph and identify the evidence establishing the fact.
- b. Parties opposing summary judgment motions shall file a Statement of Disputed Facts.
 - i. The Statement of Disputed Facts is numbered correspondingly to the Statement of Undisputed Facts and must identify the evidence establishing the dispute.
- c. Parties opposing summary judgment motions may also file a Statement of Undisputed Facts setting forth additional undisputed facts that were not included in the moving party's Statement.
 - i. The additional undisputed facts shall be numbered consecutively to the moving party's Statement.

2. Supporting Documents

- a. A party need only include the relevant portion(s) of documents submitted in support of or in opposition to a motion for summary judgment.

3. Limitation on Filing

- a. A party may not file more than one motion for summary judgment unless otherwise ordered by the Court.

4. Deadlines

- a. The deadlines for objections and replies are governed by LR Cv 7, unless otherwise ordered by the Court.

5. Conference

- a. Counsel should review the case scheduling order to determine whether a conference is necessary.
- b. Judges Smith and Dubose require that counsel request a conference with the Court prior to filing a motion for summary judgment

Trial

1. Opening statements

- a. The opening statement may not exceed thirty minutes unless otherwise permitted by the Court.
- b. A defendant may make an opening statement either after the opening statement of the plaintiff or after the plaintiff has rested.
 - i. A defendant may only make an opening statement after the plaintiff has rested if it intends to present evidence on its own behalf.

2. Recorded Conversations/Testimony

- a. A party intending to offer a recorded conversation as evidence must furnish it to the Court and counsel at least fourteen days prior to trial.
- b. In so doing, the party must provide the Court and opposing counsel:
 - i. A chronologically arranged list of the recordings and identify the date of the recording, the participants in it, and the approximate playing time of each such recording; and
 - ii. A transcript of each conversation.
- c. The parties should meet and confer regarding footage that is shown to the jury.
 - i. The opposing party may file an objection regarding audible, completeness, or admissibility seven days after receiving the list and transcript.

3. Time Limits

- a. The Court may limit the time for any trial, hearing, or other proceeding, for any argument, or for the examination of any witness as may be just under the circumstances.

4. Empanelment/Jury Selection

- a. The presiding judicial officer determines the manner of jury empanelment and does so in compliance with applicable statutes and rules of procedure.
- b. Counsel must submit a list of questions for the Court to ask prospective jurors during voir dire examination.
 - i. The questions must be served and submitted to the Court at least five days prior to empanelment.
- c. Challenges of jurors for cause shall be made on the record but out of hearing of other prospective jurors.
 - i. The court may decide whether challenges are made orally or by executing challenge slips that are presented to the Clerk.
 - ii. In a case with a single plaintiff and single defendant, each party receives an equal number of challenges, the challenges are exercised alternatively and one by one, with the plaintiff exercising the first challenge.

5. Jury Instructions

- a. The failure to submit proposed jury instructions or objections to instructions may be deemed a waiver.

Costs

1. Bill of Costs

- a. The bill of costs must be filed and served within fourteen days of judgment.
- b. The failure to timely file will constitute a waiver unless the court finds good cause.
- c. The bill of costs is prepared on forms provided by the Clerk's Office and specifies each item of costs claimed.

2. Supporting Memorandum of Law and Affidavit

- a. The bill of costs must have a supporting memorandum of law.
- b. It must also have an affidavit stating:
 - i. The amounts listed are correct;
 - ii. All services were actually performed and were necessary to the presentation of the case;
 - iii. All disbursements represent obligations actually incurred and necessary to the presentation of the case; and
 - iv. All costs are properly claimed and allowable.

3. Taxation of Costs

- a. The taxation of costs is issued in accordance with Fed. R. Civ. P. 54(d)(1).

4. Motion to Review Taxation of Costs

- a. A party seeking to challenge the taxation of costs must file a motion to review within seven days after notification of the bill of costs.
- b. A party objecting to the motion to review has seven days to respond.
- c. Within fourteen days of the motion to review, all interested parties shall meet and confer to try to resolve the motion. The moving party must initiate the meeting and must inform the Court as to whether the issues have been resolved.

Pro Hac Vice Admission and Practice

1. Eligibility

- a. An applicant must be in good standing of another state and another federal district court and the bar in every jurisdiction in which the attorney has been admitted; and
- b. Establish that he or she is of good moral character and otherwise qualified and fit to be admitted.

2. Procedure

- a. An applicant shall complete and file a motion.
 - i. The Clerk will provide the motion upon request.
 - ii. Both local counsel and the applicant must sign the motion.
- b. An applicant must pay the admission fee, which will not be refunded if the Court denies the motion.

3. Local Counsel

- a. An applicant must be affiliated with local counsel who is a member of the Bar of the Court and who has entered an appearance as co-counsel.
- b. Local Counsel shall:
 - i. Sign and be responsible for the content of all documents filed or served in the case;
 - ii. Attend all court proceedings unless excluded by the Court for good cause shown;
 - iii. Be fully prepared to assume sole responsibility for the conduct of the case in the event that *pro hac vice* counsel does not appear or if the Court revokes his or her *pro hac vice* status.

4. Conduct of Pro Hac Vice Counsel

- a. *Pro hac vice* counsel may sign pleadings, motions, and other documents filed or served in the case.
- b. *Pro hac vice* counsel may file documents with the court if:
 - i. The documents have the required signature of local counsel; and
 - ii. Local counsel has given *pro hac vice* counsel permission to affix local counsel's signature.
- c. *Pro hac vice* counsel must consult with, involve, and fully inform local counsel with respect to all matters affecting the case.

5. Admission and Revocation

- a. The district judge has discretion to grant or deny *pro hac vice* motions based on the applicant's qualifications, character, past conduct, and other factors that bear on the fitness to practice in the Court.
- b. Revocation of *pro hac vice* admission
 - i. A party can move for revocation, or the Court can order it *sua sponte*.

- ii. The Court must determine that *pro hac vice* counsel has filed to satisfy any applicable requirement of the Local Rules or that the proper administration of justice requires revocation.
- iii. No formal hearing is required prior to revocation, although the trial judge must provide counsel with notice and opportunity to explain why the *pro hac vice* status should not be revoked.