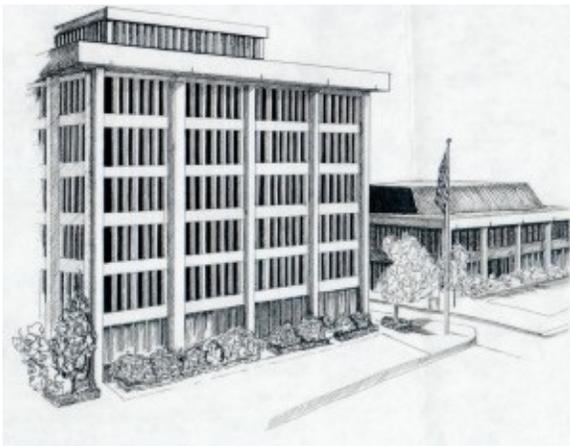


**UNITED STATES DISTRICT COURT  
FOR THE  
WESTERN DISTRICT OF NEW YORK**

**CLERK'S OFFICE GUIDE TO  
SERVICES AND PROCEDURES**



**(Available On-Line at [www.nywd.uscourts.gov](http://www.nywd.uscourts.gov))**

rev. May 2013

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**This summary is intended only as a general guide and is not exhaustive. Where applicable, the guidelines cite to the actual rules governing procedure in the federal courts generally and the local rules which are used in the Western District of New York. This summary does not take the place of or relieve a litigant of the responsibility for complying with the Local Rules, the Federal Rules of Civil and Criminal Procedure, the Federal Rules of Evidence, or any other obligations imposed by the law.**



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## GENERAL INFORMATION ABOUT THE COURT

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### HOURS

The Clerk's Offices in Buffalo and Rochester are open to the public weekdays from 9:00 a.m. to 5:00 p.m. **No payments are accepted after 4:15 p.m. in either city, unless prior permission has been received from the Court.**

### LOCATION

Buffalo Clerk's Office address: 2 Niagara Square  
Buffalo, New York 14202

The telephone number of the Buffalo Clerk's Office is: (716) 551-1700

The fax number of the Buffalo Clerk's Office is: (716) 551-1705

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The address of the Rochester Clerk's Office is: 2120 United States Courthouse  
100 State Street  
Rochester, New York 14614

The telephone number of the Rochester Clerk's Office is: (585) 613-4000

The fax number of the Rochester Clerk's Office is: (585) 613-4035

### LEGAL HOLIDAYS

- New Year's Day
- Martin Luther King Day
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veteran's Day
- Thanksgiving Day
- Christmas Day

### CELLULAR PHONES AND BEEPERS

Pagers are not permitted above the first floor in the Buffalo courthouse. Pagers are not permitted in the courtrooms or judges' chambers in the Rochester courthouse. Cellular phones are permitted in other areas in both courthouses after an attorney has received a Court issued identification Card and received a copy of the standing order regarding electronic devices.

For those without an identification card, cellular phones will be retained at the guard's station for pickup upon leaving the building.

## **CAMERAS AND RECORDING DEVICES**

Cameras and recording devices are not permitted beyond the public lobby of either the Rochester or Buffalo courthouses.

## **PUBLIC TELEPHONES**

The Clerk's Office and chambers' phones cannot be made available for public use. However, public telephones are available for use in various locations in the Rochester courthouse and are located on each floor of the courthouse. There are no public telephones in the Buffalo courthouse.

## **LIBRARY**

The U.S. Courts Library, located on the fourth floor of the courthouse in Buffalo, is part of the Second Circuit's system of libraries, as well as a part of a wider network of federal court libraries spanning all of the eleven circuits and the D.C. and Federal circuits. The Buffalo branch acts in cooperation with more than 115 other federal court libraries to supply information and fulfill research requirements for the federal judiciary.

The library is open to the public from 8:30 a.m. to 5:00 p.m. Monday through Friday, excluding legal holidays.

## **FOOD SERVICE AND VENDING MACHINES**

A cafeteria is located on the basement level of the Rochester courthouse.

Vending machines are located on the second floor of the Buffalo courthouse.



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## COURT DIRECTORY

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### UNITED STATES DISTRICT JUDGES

Honorable Richard J. Arcara  
United States District Judge  
974 United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-1810

Honorable John T. Curtin  
Senior United States District Judge  
724 United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-1830

Honorable David G. Larimer  
Senior United States District Judge  
2500 United States Courthouse  
100 State Street  
Rochester, New York 14614  
(585) 613-4040

Honorable Michael A. Telesca  
Senior United States District Judge  
2720 United States Courthouse  
100 State Street  
Rochester, New York 14614  
(585) 613-4060

Honorable William M. Skretny  
Chief United States District Judge  
924 United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-1820

Honorable Charles J. Siragusa  
United States District Judge  
1360 United States Courthouse  
100 State Street  
Rochester, New York 14614  
(585) 613-4050

## UNITED STATES MAGISTRATE JUDGES

Honorable Hugh B. Scott  
United States Magistrate Judge  
693 United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-1860

Honorable Jeremiah J. McCarthy  
United States Magistrate Judge  
643 United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-1880

Honorable Jonathan W. Feldman  
United States Magistrate Judge  
2330 United States Courthouse  
100 State Street  
Rochester, New York 14614  
(585) 613-4070

Honorable Leslie G. Foschio  
Recalled United States Magistrate Judge  
543 United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-1850

Honorable H. Kenneth Schroeder, Jr.  
United States Magistrate Judge  
593 United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-1870

Honorable Marian W. Payson  
United States Magistrate Judge  
2310 United States Courthouse  
100 State Street  
Rochester, New York 14614  
(585) 613-4080

## UNITED STATES DISTRICT COURT CLERK'S OFFICE

Michael J. Roemer  
Clerk of Court  
200 United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-1700

Patrick J. Healy  
IT Manager  
200 United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-1770

Jeanne M. Spampata  
Chief Deputy Clerk  
200 United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-1756

Jean Marie McCarthy  
Operations Manager  
200 United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-1711

## COURT REPORTERS

Yvonne M. Garrison  
Court Reporter assigned to Chief Judge Arcara  
United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 861-7568

Karen J. Bush  
Court Reporter assigned to Judge Siragusa  
1360 United States Courthouse  
100 State Street  
Rochester, New York 14614  
(585) 262-4110

Christi A. Macri  
Court Reporter assigned to Judge Larimer  
2441 United States Courthouse  
100 State Street  
Rochester, New York 14614  
(585) 513-4310

Michelle L. McLaughlin  
Court Reporter assigned to Judge Skretny  
United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 332-3560

## COURTROOM DEPUTIES

Denise J. Daniels  
Courtroom Deputy for Chief Judge Arcara  
974 United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-1814

Paula J. Rand  
Courtroom Deputy for Judge Larimer  
2500 United States Courthouse  
100 State Street  
Rochester, New York 14614  
(585) 613-4044

Mary E. Labuzzetta  
Courtroom Deputy for Judge Skretny  
924 United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-1824

Kathy Allen  
Courtroom Deputy for Judge Siragusa  
1360 United States Courthouse  
100 State Street  
Rochester, New York 14614  
(585) 613-4054

Janet E. K. Curry  
Judicial Assistant for Judge Curtin  
774 United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-1831

Llane Guidotti  
Courtroom Deputy for Magistrate Judge Schroeder  
593 United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-1871

Giuseppe Ippolito  
Courtroom Deputy for Magistrate Judge Scott  
693 United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-1864

Lisa M. Duque  
Courtroom Deputy for Magistrate Judge Feldman  
2330 United States Courthouse  
100 State Street  
Rochester, New York 14614  
(585) 613-4074

Catherine A. Marr  
Courtroom Deputy for Magistrate Judge Payson  
2310 United States Courthouse  
100 State Street  
Rochester, New York 14614  
(585) 613-4084

M. Linda Lewis  
Courtroom Deputy for Magistrate Judge McCarthy  
643 United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-1884

## **UNITED STATES BANKRUPTCY COURT**

Honorable Paul R. Warren  
United States Bankruptcy Judge  
1400 United States Courthouse  
100 State Street  
Rochester, New York 14614  
(585) 613-4290

Honorable Michael J. Kaplan  
United States Bankruptcy Judge  
Olympic Towers  
300 Pearl Street, Suite 350  
Buffalo, New York 14202-2501  
(716) 362-3270

Honorable Carl L. Bucki  
Chief United States Bankruptcy Judge  
Olympic Towers  
300 Pearl Street, Suite 350  
Buffalo, New York 14202-2501  
(716) 362-3280

Clerk, United States Bankruptcy Court  
Olympic Towers  
300 Pearl Street, Suite 250  
Buffalo, New York 14202-2501  
(716) 551-4130

## **UNITED STATES PROBATION OFFICE**

Anthony M. San Giacomo  
Chief United States Probation Officer  
United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 362-5238

David W. Bovard  
Deputy Chief U. S. Probation Officer  
234 United States Courthouse  
68 Court Street  
Buffalo, New York 14202  
(716) 362-5224 or (585) 666-5950

## **UNITED STATES MARSHALS SERVICE**

Charles Salina  
United States Marshal  
2240 United States Courthouse  
100 State Street  
Rochester, New York 14614  
(585) 263-5787

(vacant)  
Chief Deputy United States Marshal  
129 United States Courthouse  
68 Court Street  
Buffalo, New York 14202  
(716) 551-4851

## **UNITED STATES ATTORNEY'S OFFICE**

William J. Hochul, Jr.  
United States Attorney  
Federal Centre  
138 Delaware Avenue  
Buffalo, New York 14202  
(716) 843-5700

Room 6200  
100 State Street  
Rochester, New York 14614  
(585) 263-6760

**FEDERAL PUBLIC DEFENDER'S OFFICE**

Marianne Mariano  
Federal Public Defender  
300 Pearl Street  
Suite 450  
Buffalo, New York 14202  
(716) 551-3341

28 East Main Street  
Suite 400  
Rochester, New York 14614  
(585) 263-6201

**UNITED STATES COURT LIBRARY**

(Vacant)  
Librarian  
United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-4903

**UNITED STATES DISTRICT COURT PRO SE OFFICE**

Charles S. Carra  
Sr. Pro Se Staff Attorney  
570 U.S. Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-1501

Betsy Sterling  
Pro Se Staff Attorney  
2120 United States Courthouse  
100 State Street  
Rochester, New York 14614  
(585) 613-4000

Helen E. Reagan  
Pro Se Staff Attorney  
2120 United States Courthouse  
100 State Street  
Rochester, New York 14614  
(585) 613-4000

Robert A. Klump  
Pro Se Staff Attorney  
570 U.S. Courthouse  
2 Niagara Square  
Buffalo, New York 14202  
(716) 551-1502



# ORGANIZATION AND STRUCTURE OF THE COURT



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## **THE UNITED STATES COURT SYSTEM**

The United States court system consists of the Supreme Court of the United States, twelve circuit courts of appeals, the United States Court of Appeals for the Federal Circuit, the Court of International Trade, the United States Court of Federal Claims, the United States Tax Court, 94 district courts, and the bankruptcy courts. The Supreme Court was established by the Constitution. All other courts were created by Congress based upon authority granted by the Constitution, and their organization and jurisdiction are described in Title 28 of the United States Code.

Every state has at least one district court, and many states are divided into two, three, or four districts, each having a district court. The State of New York is divided into four districts (Northern, Southern, Eastern, and Western). The number of active judges in a given district varies according to the volume of cases filed. Within each district, a clerk's office, a bankruptcy court, and a probation office have been established and one or more United States magistrate judges have been appointed. There is a United States Attorney's Office and a United States Marshals Office in every district, and some districts have a Federal Public Defender's Office. Large or populous districts may be divided into two or more divisions for holding court.

## **HISTORY AND ORGANIZATION OF THE WESTERN DISTRICT OF NEW YORK**

The United States District Court for the Western District of New York was formed in 1900. Until then, the territory of the Western District of New York was included in the Northern District of New York, which in 1900 was the largest district in the country, serving a population of 2,900,000 and spanning 46 counties. Because the Northern District had grown to that size, Congress enacted legislation designating the 17 western-most counties of New York as the Western District of New York. At the time of its establishment, approximately 1,500,000 persons lived within its boundaries. The district court for the Western District of New York currently serves a population of approximately 2,870,000.

The legislation establishing the Western District of New York designated six locations for holding court: Elmira, Buffalo, Rochester, Jamestown, Lockport, and Canandaigua. In 1948 Lockport was omitted as a place of holding court in the district because 32 years had passed since court had been held there. Although by statute five locations for holding court remain in the Western District of New York, regular sessions of the court are held only in Buffalo and Rochester.

When the district was established, only one judge was authorized by Congress. A second judge was approved and appointed in 1927. Forty years later, in 1967, a third judgeship was approved and in 1984, Congress authorized a fourth judge for the district. Currently, the district has four active and three senior judges. In addition, the district has five magistrate judges and two recalled magistrate judges. Two active judges, one senior judge, and two magistrate judges

are stationed in Rochester. The Chief Judge and all other judicial officers have chambers and hold court in Buffalo.

## **STRUCTURE OF THE COURT**

### **District Judges and Their Staffs**

Federal judges are appointed by the President of the United States with the advice and consent of the Senate. They have life tenure and can be removed from office only by impeachment. Each judge has his or her own personal staff, generally consisting of a secretary and two law clerks. In addition, one courtroom deputy and one court reporter are assigned to each active judge. Senior judges maintaining caseloads are assigned a courtroom deputy. Court reporters are appointed by the court *en banc*. Both courtroom deputies and court reporters are under the management of the Clerk of Court.

### **Magistrate Judges**

Magistrate judges are judicial officers and are appointed by the court. Full-time magistrate judges serve for eight-year terms. Five full-time magistrate judges serve in the Western District of New York.

Magistrate judges are authorized to try any civil case pending in the district court, either jury or non-jury, and to enter judgment in the case upon the special designation of the judges of the district court and the freely-given consent of the litigants. Judges may also refer discovery matters to the magistrate judges for decision and also refer dispositive motions for their report and recommendation. Magistrate judges preside over initial court appearances in criminal cases as well as bond and detention hearings. The criminal trial jurisdiction of magistrate judges covers misdemeanors and petty offenses.

Duties of the magistrate judges in the Western District of New York include overseeing criminal intake matters such as conducting arraignments, setting bail, providing for assigned counsel, conducting preliminary hearings and detention hearings, and presiding at trial and sentencing of misdemeanor cases and petty offenses. When a civil case is filed, it is randomly assigned to a district judge and a standby magistrate judge is simultaneously selected. At some point, usually early in the proceedings, the district judge may decide to refer the case to the magistrate judge for specific pretrial matters such as issuing a schedule for discovery and motion practice, holding settlement and status conferences, and ruling on non-dispositive motions. The district judge may also refer the case to the magistrate judge for hearing and recommendation on dispositive matters. Also, the district judge can refer the case to the magistrate judge, upon consent of the parties, for all further proceedings in the case, including jury or non-jury trial and entry of judgment. In such cases, the magistrate judge's ruling is appealable directly to the United States Court of Appeals. For more specific information on jurisdiction of magistrate judges, please see 28 U.S.C. §636, Federal Rules of Civil Procedure 72 and 73, Federal Rules of Criminal Procedure 5 and 58, Local Rules of Civil Procedure 72.1, 72.2 and 72.3, and Local Rules of Criminal Procedure 58.1 and 58.2.

## **Clerk of Court**

The Clerk is appointed by and serves at the pleasure of the court, and is considered the chief operating officer for the court. Subject to the discretion of the court, the Clerk manages a variety of non-judicial administrative functions for the district judges, the magistrate judges, the chief probation officer, and their respective staffs. These administrative duties include maintaining court records; providing courtroom support; managing jury services; and directing personnel, financial, property and procurement, and court reporter services. The Clerk is also responsible for the court budget, space management, research and evaluation, management of data collection and computer services, and other administrative services required by the court.

## **United States Bankruptcy Court**

The United States Bankruptcy Court, by delegation from the district court, has jurisdiction over bankruptcy cases and related cases known as adversary proceedings. Practice in the bankruptcy court is governed by Title 11 of the United States Code, the Federal Rules of Bankruptcy Procedure, the local rules of the district and bankruptcy courts, and sections of Title 28 of the United States Code. Copies of the local rules of the United States Bankruptcy Court for the Western District of New York are available in both bankruptcy court clerk's offices.

Attorney admissions to the bankruptcy court are conducted separately from attorney admissions to the district court. Admission in the district court is a prerequisite for admission to the bankruptcy court. For more information, contact the bankruptcy court clerk's office.

## **United States Attorney**

One United States Attorney is appointed to serve each judicial district. The United States Attorney is appointed by the President, with the advice and consent of the Senate, for a term of four years. Assistant United States Attorneys, within each district, are appointed by the Attorney General of the United States.

The duties of the United States Attorney are to prosecute persons accused of committing violations of the laws of the United States, to prosecute or defend in civil actions brought by or against the United States, and to appear on behalf of federal officials in cases filed against them in their official capacity.

## **United States Marshal**

The United States Marshal is appointed by the President, with the advice and consent of the Senate, for a term of four years. The duties of this office include, but are not limited to, acting on behalf of the district court as directed and executing writs, processes, and orders issued under authority of the United States. The Marshal is also responsible, under the direction of the court, for providing security for the courtrooms and all court areas.

### **Chief Probation Officer**

The Chief Probation Officer is appointed by and serves at the pleasure of the court. The probation staff consists of probation officers, who are appointed by the court, and clerical personnel, who are appointed and subject to removal by the chief probation officer with the approval of the chief judge. It is the responsibility of the Probation Office to conduct the pre-sentence investigations for the courts and to provide supervision for the federal probationers and supervised releasees. The United States Probation Office is also responsible for the Pretrial Services program.

### **Federal Public Defender**

The Federal Public Defender is appointed by the Second Circuit Court of Appeals for a term of four years. The role of the Federal Public Defender's office is to provide legal representation to any party who is found to be financially unable to obtain adequate counsel and who is adjudged by the court to be eligible for such legal assistance.



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## RULES AND GUIDELINES FOR PRACTICE

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### **RULES, PLANS AND STANDING ORDERS**

Procedures in the United States District Court for the Western District of New York are governed by the Federal Rules of Civil and Criminal Procedure and the Local Rules of Civil and Criminal Procedure.

Copies of the court's local rules are distributed to attorneys upon admission to the bar of the district court and are otherwise available on request from the clerk's office. Persons requesting copies of the local rules by mail ordinarily are required to provide the clerk's office with a self-addressed 9" x 12" envelope with the proper amount of postage affixed. The Rules are also available on the Court's website, [www.nywd.uscourts.gov](http://www.nywd.uscourts.gov).

In addition to its local rules, the court has promulgated a variety of plans and standing orders that affect the litigation of certain types of cases before the court. The following is a list of the court's plans and relevant standing orders that are available on request from the clerk's office:

- Court Reporter Management Plan
- Criminal Justice Act Plan
- Jury Plan
- Plan for the Administration of the District Court Fund
- Amended Plan for the Disposition of Pro Se Cases in the Western District of New York
- Revised Plan for the Prompt Disposition of Criminal Cases
- Standing Order Governing Claims under the Racketeer Influenced & Corrupt Organizations Act

### **INDIVIDUAL JUDGES' GUIDELINES**

In addition to the local rules, plans and standing orders that govern practice in the district, several of the judges and magistrate judges have developed practice guidelines. Currently, Judges Arcara, Skretny, Telesca, Scott and Foschio have individual guidelines. However, counsel are advised to contact the clerk's office to determine whether a particular judge or magistrate judge has individual guidelines or requirements with respect to certain matters. Copies of guidelines are available from the judges' chambers and the clerk's office, and may be available on the court's website.



# CLERK'S OFFICE GENERAL PROCEDURES



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## **MISSION OF THE CLERK'S OFFICE**

We, the staff of the Clerk's office, work for the court family and the community at large. Our mission is to provide quality service in a courteous, professional and knowledgeable manner. We take pride in our work and therefore hold ourselves accountable to a higher standard of performance. Our goals are achieved through mutual cooperation, a positive attitude and teamwork.

## **MAINTENANCE OF FILES AND DOCKETS**

All cases are numbered with a two-digit indicator of the year the case was filed followed by "cv" if the case is a civil case or "cr" if the case is a criminal matter, followed by a 4-digit sequential case number, followed by a letter or letters indicating the identity of the assigned judge, and, in parentheses, a letter or letters identifying the assigned magistrate judge. All open cases and cases on appeal are maintained in electronic form with some manually filed documents retained in the case file in the clerk's office. Closed cases are kept in the clerk's office for up to three years after the final disposition of the case, after which they are transferred to the Federal Records Center in Lee's Summit, Missouri.

Files are maintained at the Federal Records Center for twenty years. After twenty years of storage, some files are then forwarded to the National Archives and others are destroyed. The Federal Records Center is open to the public to review court records and to obtain copies of entire case files or specific documents. Information on the Federal Records Center is available in both clerk's offices and on the court's website.

## **DOCKETING RECORDS**

All case records of the court are now maintained on an automated system. Automated docketing of newly filed civil cases began on November 1, 1990. Automated docketing of events in pending civil cases began on January 1, 1991. Docketing information for civil cases filed before November 1, 1990 is partially contained on paper docket sheets maintained in the clerk's office. If a computerized docket record starts with a document number other than "1", previous filings are contained on a paper docket.

Automated docketing of newly filed criminal cases began on August 1, 1993. Criminal cases pending before August 1993 have never been docketed on the computer and are still maintained on paper dockets.

Both of the clerk's offices have a computer terminal available to the public for use in searching docket records. If you need to review a paper docket, please ask the staff for assistance. Questions about customized searches and fees therefor should be directed to the Systems Manager in Buffalo.

## **ELECTRONIC FILING OF PAPERS**

Pursuant to Local Rule of Civil Procedure 5.6, Filing by Facsimile or Electronic Means, Local Rule of Civil Procedure 7.1(k), Service and Filing of Papers, Local Rule of Criminal Procedure 49.8, Filing by Facsimile or Electronic Means, and Local Rule of Criminal Procedure 49.1(j), Service and Filing of Papers, all adopted and effective December 15, 2003, the Court has implemented a system for the electronic filing and retrieval of case documents. Complete information about the system and its procedures are available on the court's website and from the Clerk's Office.

Attorneys admitted in the Western District of New York **must** register for the Electronic Filing System. The registration form is available on the court's website. Please refer to the court's Administrative Procedures Guide, available on our website, for complete information and instructions with respect to electronic filing.

Case participants are urged to check the court's website regularly for important announcements and changes in procedure with respect to the court's Electronic Filing System.

## **PUBLIC ACCESS TO COURT ELECTRONIC RECORDS (PACER)**

PACER allows you to retrieve electronic case summaries and docket information using your computer and an internet connection. The service is available 24 hours a day, seven days a week. You can reach the PACER system using your browser. Simply enter <https://ecf.nywd.uscourts.gov/cgi-bin/login.pl> into your browser's "Location" or "Address" window and press enter. You will be brought to a screen that will ask for the necessary login information. Cost for this type of access is billed at \$.08 per page. Full explanation of the billing process is available at the PACER Service Center's web site <http://pacer.psc.uscourts.gov>. For further information or to sign up for the service, contact the PACER Service Center at 1-800-676-6856.

## **INTERNET ACCESS**

The court has an internet web site that can be accessed at [www.nywd.uscourts.gov](http://www.nywd.uscourts.gov).

## **REQUESTS FOR PHOTOCOPIES**

Persons requesting photocopies must complete a photocopy request form. The form is available in both clerks offices and on the court's website at [www.nywd.uscourts.gov](http://www.nywd.uscourts.gov). The fee for clerk's office staff photocopying of records is 50¢ per page. The fee for clerk's office staff printing out copies of electronic documents is 10¢ per page. Fees for copy work must be paid in advance and requests will be processed as quickly as possible. You may be asked to return to pick up copy work, or it can be mailed to you. The fees are determined by the Judicial Conference and are published in the "Electronic Public Access Fee Schedule," which is available on the PACER web site. The fees apply to the United States, excepting federal agencies or programs which are funded from Judiciary appropriations.

## **ATTORNEY ADMISSIONS**

Applications for attorney admissions are available in the clerk's offices. Prerequisites for admission are set forth in Local Rule of Civil Procedure 83.1. Admission days vary, so please contact the clerk's office for specific dates and times. The fee for admission is \$200.00. The fee for pro hac vice admission is \$75.00.

## **CHANGES OF ADDRESS**

The clerk's office maintains records of all attorneys admitted to practice in the district. If an attorney has a change of name, firm affiliation, office address or telephone number, he or she must notify the clerk within thirty days of the change. If counsel is changing firm affiliation, it is requested that the clerk's office be notified of those pending cases on which he or she will continue to be counsel of record. This permits accurate record keeping and avoids unnecessary mailings. Your cooperation is appreciated.

## **TRANSCRIPTS**

Orders for production of transcripts should be directed to the attention of the transcription coordinator. Copies of transcripts on file with the clerk of court are available for public inspection in the clerk's office. Members of the public may obtain a copy of a transcript on file with the clerk of court and request the clerk of court to certify it as a true copy. A copying fee will apply to all such requests.

## **FEES OF THE DISTRICT COURT**

Filing a Civil Case. . . . .	\$400.00
Filing a Miscellaneous Civil Action. . . . .	\$46.00
Filing a Writ of Habeas Corpus. . . . .	\$5.00
Filing a Notice of Appeal. . . . .	\$455.00
Filing a Power of Attorney. . . . .	\$46.00
Filing an Appeal to a District Judge from a Judgment of Conviction by a Magistrate Judge in a Misdemeanor or Petty Offense Case. . . . .	\$37.00
Filing a Motion to Quash a Grand Jury Subpoena. . . . .	\$46.00
Registration of a Judgment from Another District. . . . .	\$46.00
Transcript of Judgment. . . . .	\$11.00
Certificate of Search. . . . .	\$30.00
Certification of any Document. . . . .	\$11.00
Exemplification of any Document. . . . .	\$18.00
Reproduction of Magnetic Tape Recording. . . . .	\$30.00
Retrieval of Case File from Federal Records Center. . . . .	\$53.00
Fee for Check Returned for Lack of Funds. . . . .	\$53.00
Printing an Electronic Document. . . . .	10¢ per page
Photocopies. . . . .	50¢ per page
Microfiche Sheets, Films, Microfilm Jacket Copies. . . . .	\$6.00
Attorney Admission. . . . .	\$200.00
<u>Pro Hac Vice</u> Attorney Admission. . . . .	\$75.00
Duplicate Certificate of Admission or Good Standing. . . . .	\$18.00

Payments of the above-listed court fees can be made by personal check, cashier's check, law firm check, or money order. Please note that cash **is not** accepted in the Rochester Office. All checks must be payable to "Clerk, U.S. District Court". Credit cards are not accepted at our counters but are accepted when filing certain new civil actions on line, filing motions to appear pro hac vice on line and for notices of appeal when filed on line. Please note that the Western District of New York does not accept cash for payment of bail or bonds. No payments for any purpose are accepted after 4:15 P.M. daily, unless prior permission from Chambers has been received.



## GENERAL CIVIL CASE PROCEDURES



### **FILING A COMPLAINT**

To commence a civil action in federal court requires a complaint with an original signature, an original summons plus a copy for each defendant to be served, a completed civil cover sheet and the \$400.00 filing fee. Please refer to Local Rules of Civil Procedure 5.1 and 5.2 for more detailed information.

### **SERVICE OF THE SUMMONS AND COMPLAINT**

Service of the summons and complaint is governed by Federal Rule of Civil Procedure 4. Forms to request waiver of service pursuant to Fed. R. Civ. P. 4(d) are available in the clerk's office.

### **SERVICE OF PROCESS IN FOREIGN COUNTRIES**

The Federal Rules of Civil Procedure provide for service of process by mail on foreign states. However, the State Department has advised the judiciary that a number of countries object to service by mail. Accordingly, the Administrative Office of the United States Courts has directed clerks of court to refrain from effecting service by mail addressed to the following countries: China, Czech Republic, Egypt, Germany, Greece, Republic of South Korea, Latvia, Luxembourg, Norway, Poland, Slovak Republic, Switzerland, Turkey, Venezuela, Kuwait and the Russian Federation. Additional information about service of process in foreign countries can be obtained on the Department of State web site at <http://www.state.gov/m/a/auth/> and from the Court's website.

### **DEMAND FOR JURY TRIAL**

A demand for a trial by jury must be made in accordance with Federal Rule of Civil Procedure 38.

### **REMOVAL OF CASES FROM STATE COURT**

Parties seeking to remove an action from state to federal court pursuant to 28 U.S.C. §1441 must file with the clerk's office the petition or notice of removal which shall include a copy of the summons and complaint filed in state court. In addition, an appendix and copies of all other documents filed in state court must be included (Please refer to Local Rules for requirements). The removal papers must bear the same caption as the state court matter and must be accompanied by a completed civil cover sheet and a \$400.00 filing fee.

### **DISCOVERY**

Discovery in civil cases in the Western District of New York is governed by Local Rule

of Civil Procedure 26 as well as the Federal Rules of Civil Procedure.

Subpoenas may be issued by counsel pursuant to Federal Rule of Civil Procedure 45(a)(3). Subpoenas may also be issued by the clerk's office.

Discovery materials are not to be filed with the court except in pro se cases or when otherwise ordered by the court. See Local Rule of Civil Procedure 7.1(a)(1).

## **MOTION PRACTICE**

Local Rule of Civil Procedure 7.1(c) sets forth the timing of filing and serving motion papers in civil cases.

Motions for relief under Federal Rules of Civil Procedure 12, 56 or 65(a) and responding papers must be accompanied by an affidavit and a memorandum of law. See Local Rule of Civil Procedure 7.1(e). Supporting and opposing memoranda of law must be no longer than twenty-five pages and reply briefs must be no longer than ten pages without prior court approval. Applications for approval to exceed the established page limits must be made by letter to the court with copies to all counsel. See Local Rule of Civil Procedure 7.1(f).

Discovery motions must be accompanied by moving counsel's affidavit indicating that sincere attempts to resolve the discovery dispute have been made. Pursuant to Local Rules of Civil Procedure, the affidavit must detail the times and places of the parties' meetings, correspondence or discussions concerning the discovery dispute and the names of all parties participating therein.

Parties seeking a temporary restraining order before Judges Arcara and Skretny are advised that they have issued guidelines for requesting a temporary restraining order. Copies are available in the clerk's office or from chambers.

## **MOTION HEARING DAYS**

As of this manual's publication, the following are the judges' and magistrate judges' motion days:

- Judge Arcara hears motions daily. The motion date will be determined by the Court upon receipt of the motion papers. The Court will send a notice to the parties indicating the motion return date.
- Judge Larimer hears civil and criminal motions daily. Upon the filing of a motion, the Court will issue a scheduling order for briefing. The Court will determine whether oral argument is necessary and will advise the parties accordingly.
- Judge Skretny hears civil and criminal motions daily. Counsel must contact Judge Skretny's courtroom deputy for scheduling prior to filing motions.
- Judge Siragusa hears civil motions at 3:00 p.m. on Thursday and criminal motions daily. Once a motion is filed, the Judge will set a return date and issue a motion scheduling order.
- Judge Curtin hears motions on Mondays and Wednesdays. Please contact chambers to schedule dates.
- Judge Telesca hears civil motions at 9:00 a.m. on Wednesday and Thursday of the first

- full three weeks of each month.
- Magistrate Judge Scott hears civil motions on Tuesdays and Thursdays and criminal motions on Monday and Wednesday afternoons and Fridays.
  - Magistrate Judge Feldman hears motions daily. File your motion indicating the oral argument to be set by the court and the court will issue a notice setting the briefing schedule and oral argument date.
  - Magistrate Judge Payson hears civil and criminal motions daily. Upon the filing of a motion, the Court will issue a scheduling order for briefing. The Court will determine whether oral argument is necessary and will advise the parties accordingly.
  - Magistrate Judge Schroeder hears motions daily; date and time determined by the Court.
  - Magistrate Judge McCarthy hears criminal and civil motions at the Court's discretion. Once a motion is filed, the Judge will set a return date and issue a motion scheduling order.
  - Magistrate Judge Foschio hears criminal and civil motions at the court's discretion. Parties are directed to file their motions with the notation "Oral argument to be determined by the court."

## **TRIAL**

Trial dates are set by the assigned judge or magistrate judge. Your attention is directed to Local Rule of Civil Procedure 16.1 which details the filing of pretrial materials.

Subpoenas in civil and criminal cases are issued in accordance with Federal Rule of Civil Procedure 45 and Federal Rule of Criminal Procedure 17, respectively.

Pursuant to Local Rules of Civil Procedure, all exhibits are to be premarked by counsel. Ordinarily exhibits are not filed with the court. Immediately after a case is submitted to the trier of fact, all exhibits received into evidence are to be delivered to the courtroom deputy. Once the time for appeal has expired, the parties will be allowed thirty days to claim the exhibits. Unclaimed exhibits may be destroyed. For further information, see Local Rule of Civil Procedure 79.

The court has an evidence presentation system that is available for use at trial upon request of a party. For more information on the evidence presentation system, please contact the clerk's office.

## **REQUESTS FOR ADJOURNMENT**

The clerk's office cannot change court dates. Therefore, all requests to adjourn motion or trial dates must be made to the assigned judge or magistrate judge and must comply with his or her individual practice guidelines, if any. Pursuant to Local Rule of Civil Procedure 16.1(o), the court may direct that a request to postpone a trial date be signed by both the attorney and the party making the request.

Requests to extend scheduling deadlines also must be made to the assigned judge or magistrate judge and must comply with his or her individual practice guidelines, if any. Note that Local Rule of Civil Procedure 16.1(e) provides that no extensions of the discovery period will be granted, except for good cause shown in writing.

## **BILLS OF COST**

Pursuant to Federal Rule of Civil Procedure 54 and 28 U.S.C. §1920, ordinarily a prevailing party is entitled to an award of costs. Local Rule of Civil Procedure 54 requires a verified bill of costs to be filed within thirty days after entry of final judgment. Bill of cost forms are available on request from the clerk's office, and at <http://www.nywd.uscourts.gov/forms.php>. Not all expenses may be taxed as costs. Therefore, in preparing an application for costs, careful attention should be paid to the provisions of Federal Rule of Civil Procedure 54 and 28 U.S.C. §§1821 and 1920.

## **REVIEW AND APPEAL OF MAGISTRATE JUDGES' ACTIONS**

Review of a magistrate judge's orders and report and recommendations is governed by 28 U.S.C. section 636(b) (1) and Local Rule of Civil Procedure 72.3. In accordance with these provisions, written objections must be filed within ten days of being served with a magistrate judge's order or report and recommendation.

## **APPEALS**

Pursuant to Fed. R. App. P. 4(a), a notice of appeal must be filed with the clerk's office within 30 days of the entry of judgment or the order appealed from (the government has 60 days to file). The fee for filing a notice of appeal is \$455.00.



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## GENERAL CRIMINAL CASE PROCEDURES



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### **SPEEDY TRIAL ACT**

Proceedings in criminal cases are subject to the provisions of the Speedy Trial Act, 18 U.S.C. §3161 et seq. Reference is also directed to the court's Revised Plan for the Prompt Disposition of Criminal Cases.

### **MISDEMEANOR AND PETTY OFFENSE MATTERS**

Misdemeanor and petty offense cases are assigned to the magistrate judges pursuant to Local Rule of Criminal Procedure 58.1, and may be tried by the magistrate judge upon consent of the defendant in accordance with Federal Rule of Criminal Procedure 58(b)(3).

### **ASSIGNMENT OF COUNSEL**

Pursuant to 18 U.S.C. §3006A, a defendant who is financially unable to obtain counsel will be assigned an attorney. Assignment of counsel in criminal cases is governed by the court's Criminal Justice Act Plan dated April 3, 1998. Assignments may be made to the Federal Public Defender or to members of the court's CJA Panel.

The Judicial Conference of the United States authorizes payment to assigned defense counsel for services performed after March 11, 2009 at the rate of \$110.00 per hour for in court and out of court time. Vouchers for payment are available in the clerk's office and at <http://www.nywd.uscourts.gov/finance/cjanelattinfo.php>.

### **SENTENCING**

Sentencing in criminal cases is governed by Federal Rule of Criminal Procedure 32 and the United States Sentencing Guidelines. Additionally, the court has issued sentencing procedures that the Probation Department provides to defendants facing sentencing. Furthermore, Judges Arcara and Skretny have issued individual sentencing guidelines entitled "Procedure to Assist Practitioners Before U.S. District Court Judges Richard J. Arcara and William M. Skretny in Proceedings Under the Sentencing Reform Act of 1984 in the Western District of New York effective 8/1/96". Copies are available in the clerk's office or from chambers.

### **APPEALS**

Pursuant to Fed. R. App. P. 4(b), a notice of appeal must be filed within 10 days after entry of judgment or the order appealed from. The fee for filing a notice of appeal is \$455.00.



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## PROCEDURES IN PRO SE CASES



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### PRO SE STAFF ATTORNEY'S OFFICE

The court has a pro se department that assists the court in the management of pro se cases and monitors the progress of these cases through the court. Additionally, the pro se department acts as liaison between the court and pro se litigants and their counsel.

### PLAN FOR THE DISPOSITION OF PRO SE CASES

Effective October 1, 1996, the court adopted its Amended Plan for the Disposition of Pro Se Cases in the Western District of New York. The Amended Plan sets forth the method by which incoming pro se cases are assigned to judges and magistrate judges, establishes case tracking responsibilities, provides for streamlined management of pro se cases, and otherwise defines the role of the pro se department. Copies of the Amended Plan are available in the clerk's office.

### PRO BONO ASSIGNMENTS AND THE DISTRICT COURT FUND

Pursuant to 28 U.S.C. §1915(e), it is within the court's discretion to appoint counsel to assist indigent litigants in civil cases. In the Western District of New York, pro bono counsel is most commonly appointed in prisoner civil rights actions brought pursuant to 42 U.S.C. §1983. The court occasionally appoints counsel in employment discrimination cases, matters appealing the denial of social security benefits, and habeas corpus proceedings. The Local Rules of Civil Procedure require every member of the bar of this Court to be available upon the Court's request for such appointments. See Local Rule 83.1(g).

The Court's pro se staff attorneys can provide procedural assistance to pro se litigants and appointed counsel. In addition, the Court can provide pro se litigants and appointed counsel with the Clerk's Office Guidelines for Pro Se Litigants and a 1997 Manual for Inmate Litigants which was prepared by Prisoner's Legal Services of New York, Inc. Furthermore, the clerk's office and the pro se office have some forms available upon request to assist pro se litigants in presenting their claims to the Court.

Attorneys assigned to habeas corpus cases are reimbursed pursuant to 18 U.S.C. §3006A(d). In civil rights actions, attorney's fees are available to prevailing plaintiffs pursuant to 42 U.S.C. §1988 and 42 U.S.C. §2000e-5(k). To assist pro bono counsel in meeting the economic burdens incurred in representing indigent litigants, the court has established the District Court Fund from which counsel may seek reimbursement of certain out-of-pocket expenses up to \$1,200 per client represented. The court's Guidelines Governing Reimbursement from the District Court Fund of Expenses Incurred by Court Appointed Counsel and expense reimbursement vouchers are available in the clerk's office, and at <http://www.nywd.uscourts.gov/attorneyadmission/probonoprogram.php>. Attorneys who wish to volunteer for pro bono assignments should contact the pro se office at (716) 551-1501 for more information. In addition, all attorneys must immediately complete and return the Pro Bono Notice which the Court will send them from time to time.



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