

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

ORDER

Appropriate public notice and an opportunity for comment having been given, pursuant to a majority vote of the active judges of this court;

IT IS ORDERED that effective March 1, 2022, the Local Rules of the United States District Court for the Eastern District of Louisiana are hereby amended as follows:

Proposed Amendments to Local Civil Rules

LR 9.2, Social Security Cases:

(D) In all cases under this local rule, filings must comport with the privacy protections of FRCP 5.2.

LR 23.1(B), Class Actions:

~~Within 91 days after filing of a complaint in a class action or filing of a notice of removal of the class action from state court, whichever is later, plaintiff must move for class certification under FRCP 23(c)(1), unless this period is extended upon motion for good cause and order by the court.~~ In all civil actions in which a class action is pleaded, the party alleging the class action must, at a time directed by the case management or scheduling order approved by the court, move for class certification under FRCP 23(c)(1).

Local Admiralty Rules

LAR 64.5, Notices:

Unless otherwise ordered by the court, or otherwise provided by law, all notices required to be published by statute, rule or order of court must be published in *The Times-Picayune* [New Orleans Advocate](#).

Proposed Amendments to Local Rules for Lawyer Disciplinary Enforcement

LRLD 5, Recommendation by Lawyer Disciplinary Committee:

5. Recommendation by Lawyer Disciplinary Committee. The Lawyer Disciplinary Committee assists the court with the administration of lawyer disciplinary enforcement. Among other duties, the committee reviews disciplinary complaints and makes recommendations to the court regarding the disposition of complaints. The Committee may conduct a limited investigation prior to making a recommendation to the court. The Committee may request non-compulsory (a) interviews and (b) production of documents. The Committee may issue subpoenas for documents and the appearance of witnesses, with the approval of the Chief Judge. The Committee may request additional investigative powers from the Chief Judge as necessary. The Committee may also request additional documents from the original jurisdiction imposing discipline, if applicable.

LRLD 6.3, Matters Resolved by Summary Discipline:

- 6.3. Evaluation by *En Banc* Court. After consideration of the materials set forth above, the *en banc* court must:
 - 6.3.1. Dismiss the complaint,
 - 6.3.2. Impose summary discipline, or
 - 6.3.3. Docket the matter for hearing. ~~or~~
 - ~~6.3.4. Take such other action as the court deems appropriate.~~

LRLD 7.8 and 7.9, Matters Docketed for Hearing:

- 7.8. Proposed Settlement. If the respondent submits a proposed resolution of the disciplinary action after a matter has been allotted to a judge and docketed for hearing, the allotted judge must refer the proposal to the *en banc* court with or without a recommendation, for a determination of whether the settlement proposal should be accepted or rejected by the *en banc* court. After the *en banc* court determines whether to accept or reject the settlement proposal, the matter will be returned to the docket of the allotted judge for handling in the appropriate manner.
- ~~7.8~~7.9. Dismissal or Imposition of Discipline by *En Banc* Court. Except as provided in LRLD 7.8, A after the allotted judge's report is submitted to the *en banc* court, the matter will be reallocated to the Chief Judge. All motions filed thereafter must be submitted to and decided by the Chief Judge. After consideration of the record, including but not limited to the complaint and the response, the information received from a jurisdiction that has imposed

discipline, the Lawyer Disciplinary Committee's recommendation and results of its limited investigation, the transcript of the hearing and any exhibits admitted into the record, and the allotted judge's internal report, the *en banc* court must determine whether a violation occurred and, if so, the disciplinary sanctions, if any, to be imposed and enter its order and findings either dismissing the complaint or imposing appropriate discipline. The clerk of court must send the respondent the *en banc* court's order by email, and also serve the respondent with a copy of the *en banc* court's order by certified mail, return receipt requested.

Proposed Amendments to Local Rules for Disability Inactive Status [LRDisability]

LRDisability 1.5:

- 1.5. Confidentiality. All pleadings and attachments containing confidential health information shall be filed under seal, and all filings are subject to the privacy protections of Rule 5.2(d), (e), and (f) of the Federal Rules of Civil Procedure.

LRDisability 4:

4. Transfer to Disability Inactive Status When No Disciplinary Proceeding Is Pending. Any lawyer claiming that he or she should be transferred to disability inactive status, when there is no disciplinary proceeding or investigation is pending, shall file an appropriate pleading in this court. The lawyer shall append to the pleading pertinent information, documentation, and evidence which supports the lawyer's claim that he or she should be transferred to disability inactive status. The lawyer shall also certify in the pleading that there is no disciplinary proceeding or investigation pending against him or her and that he or she has not been notified and has no knowledge or reason to believe that such an investigation or proceeding is about to commence. The *en banc* court may then summarily transfer the lawyer to disability inactive status, without the need for a hearing, or take any other action the court deems appropriate. A copy of the order transferring the lawyer to disability inactive status shall be sent to the respondent or his or her legal representative by email and served on the lawyer or the lawyer's legal representative by United States certified mail, return receipt requested.

LRDisability 5. Transfer to Disability Inactive Status When Disciplinary Proceeding Is Pending.

- 5.2. The hearing shall be conducted before a judge randomly allotted the case on expedited basis and shall be confidential. The Lawyer Disciplinary

[Committee shall be allowed to file a motion to question the attorney and review documents and evidence in a hearing under this Rule.](#) Within fifteen (15) days of the hearing, or as soon as practicable, the allotted judge shall file an internal report to the *en banc* court.

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- 5.4. If, after receiving the internal report of the allotted judge and materials submitted by the lawyer, the *en banc* court determines the claim of inability to defend to be invalid, the disciplinary proceeding or investigation shall resume immediately. A finding by the *en banc* court that the lawyer's claim of an inability to assist in his/her defense due to mental or physical incapacity was frivolous, [or that any documents submitted or statements made by the attorney in making such a claim were frivolous,](#) may be considered in recommending discipline in the underlying proceeding.

The Disciplinary Rules shall include the preamble, [“The Local Lawyer Disciplinary Rules may be cited as ‘LRD___’”](#) and Disability Rules shall include the preamble, [“The Local Lawyer Disability Rules may be cited as ‘LRDisability___’.”](#) and the preambles and designations shall be included on both of the court's websites, and the court shall request that they be included in the next Thomson Reuters publication.

Proposed Amendments to Local Criminal Rules

LCrR 5.2 Assignment of Matters to the Magistrate Judge

A magistrate judge will be designated as the criminal [duty](#) magistrate judge. All magistrate judges shall perform criminal duty responsibilities on a rotating basis after regular business hours, on weekends, and as the court specifies. The criminal [duty](#) magistrate judge shall:

1. Conduct preliminary proceedings in criminal cases, pursuant to Rules 3, 4, 5, 5.1, 40 and 41 of the Federal Rules of Criminal Procedure;
2. Receive returns of the Grand Jury;
3. Set conditions of bail and order release or detention of arrested persons in accordance with 18 U.S.C. §3141, except that [\(1\) pursuant to 18 U.S.C. §3142,](#) the magistrate judge who initially sets the conditions of release shall also conduct any subsequent proceedings related to detention or [conditions of release of the defendant while pending trial, and \(2\) pursuant to 18 U.S.C. §3141, the assigned district judge shall conduct all subsequent proceedings related to detention or conditions of release while pending sentence or](#)

appeal unless referred by the judge to the magistrate judge who initially sets the conditions of release;

4. Conduct the arraignment in criminal cases;
5. Conduct proceedings in petty offense cases brought pursuant to the Migratory Bird Treaty Act and under the Central Violations Bureau.

New Orleans, Louisiana, this 28th day of February, 2022.

Nannette Jolivette Brown

NANNETTE JOLIVETTE BROWN, CHIEF JUDGE