U.S. District Court, District of Colorado

Summary of Local and Federal Rule Changes
Effective December 1, 2015

The Advisory Committee on the Local Rules of Practice completed the following in this cycle of rule changes:

- considered 16 proposals or suggestions from the bar and the public submitted in 2015, and addressed 9 matters continued from previous years, resulting in 6 comments declined for adoption, 5 tabled for later consideration, 3 issues resolved administratively, and 10 comments adopted;
- oversaw the continued conversion of successful pilot programs into formalized local rules; and
- provided updates to the rules to members of the bar by means of regular website postings and by hosting a "town hall" question-and-answer forum.

As a result, the Local Rules revisions do the following:

- converted the magistrate judge direct assignment pilot programs into corresponding local rules;
- refined the criminal rules (sentencing and restricted documents);
- refined the AP rules (forms of pleadings and case management);
- refined the court's attorney rules (discipline matters);
- undertook certain minor restyling and reformatting changes (stylistic changes are not listed below).

For the complete versions of the Local Rules of Practice, in both final and redline form, visit the Local Rules page of the court's website: http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/LocalRules.aspx.

Also, the Advisory Committee urges court staff, members of the bar, and the general public to be aware that the Federal Rules of Civil Procedure have undergone significant changes regarding the scope of discovery and efforts to streamline the process. Those changes are addressed in the summary provided below, but for a comprehensive account of the federal rule changes, please visit the Committee Reports / Records and Archives of the Rules Committees subpages of the Rules and Policies section of the U.S. Courts website: http://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/committee-reports.

The Advisory Committee on the Local Rules always welcomes comments from court users, members of the bar, and the public at large. Please send your comments or suggestions to:

LocalRule_Comments@cod.uscourts.gov

Local Rule Number and Title	Practice Under Previous Local Rule	New Practice Under Revised Local Rule (new provisions important for staff consideration are listed in blue).	Related Federal Rule or Statute (listed in red if revised in this year's federal rules cycle).
CIVIL RULES			
D.C.COLO.LCivR 1.1 Scope Of The Local Civil Rules	-- Provides guidance on citation and numbering format, scope, effective date, definitions, and pilot project procedures.	No change to the Local Rule. The corresponding federal rule has been revised.	**Fed. R. Civ. P. 1, Scope and Purpose.** Revised. "These rules govern the procedure in all civil actions and proceedings in the United States district courts, except as stated in Rule 81. They should be construed**,** ~~and~~ administered**, and employed by the court and the parties** to secure the just, speedy, and inexpensive determination of every action and proceeding." Federal Rules Committee Note: Rule 1 is amended to emphasize that just as the court should construe and administer these rules to secure the just, speedy, and inexpensive determination of every action, so the parties share the responsibility to employ the rules in the same way…Effective advocacy is consistent with — and indeed depends upon — cooperative and proportional use of procedure.

D.C.COLO.LCivR 1.2 Forms	-- Court approved forms are found on the court website. -- Judicial officers may have their own specific forms on their website.	No change to the Local Rule. The corresponding federal rule has been eliminated.	**Fed. R. Civ. P. 84, Forms;** and **Federal Rules' Appendix of Forms.** Abrogated, eff. Dec. 1, 2015. ~~The forms in the Appendix suffice under these rules and illustrate the simplicity and brevity that these rules contemplate.~~ Federal Rules Committee Note: Rule 84 was adopted when the Civil Rules were established in 1938 "to indicate, subject to the provisions of these rules, the simplicity and brevity of statement which the rules contemplate." The purpose of providing illustrations for the rules, although useful when the rules were adopted, has been fulfilled. Accordingly, **recognizing that there are many excellent alternative sources for forms, including the website of the Administrative Office of the United States Courts, the websites of many district courts**, and local law libraries that contain many commercially published forms, Rule 84 and the Appendix of Forms are no longer necessary and have been abrogated. The abrogation of Rule 84 does not alter existing pleading standards or otherwise change the requirements of Civil Rule 8.
Fed. R. Civ. P. 4, Summons. **(No corresponding local rule.)**	Summons-related forms … • Summons in a Civil Action, • Third Party Summons in a Civil Action, • Notice and Waiver of Service	No change to the Local Rule.	**Fed. R. Civ. P. 4, Summons.** Revised. **(d) Waiving Service.** (1) Requesting a Waiver. (C) be accompanied by a copy of the complaint, 2 copies of ~~a~~**the** waiver

	of Summons … are located on the U.S. District Court website Forms page, under Filing a Civil Action (General Public). See: http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/Forms.aspx.		form **appended to this Rule 4**, and a prepaid means for returning the form; (D) inform the defendant, using ~~text prescribed in Form 5~~**the form appended to this Rule 4**, of the consequences of waiving and not waiving service; **(m) Time Limit for Service.** If a defendant is not served within ~~120~~ **90** days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against the defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under Rule 4(f) or 4(j)(1) **or to service of a notice under Rule 71.1(d)(3)(A)**. Federal Rules Committee Note: Subdivision (d). Abrogation of Rule 84 and the other official forms requires that **former Forms 5 and 6 be directly incorporated into Rule 4**. Subdivision (m). **The presumptive time for serving a defendant is reduced from 120 days to 90 days.** This change, together with the shortened times for issuing a scheduling order set by amended Rule 16(b)(2), will reduce delay at the beginning of litigation. Shortening the presumptive time for service will increase the frequency of occasions to extend the time for good

			cause. More time may be needed, for example, when a request to waive service fails, a defendant is difficult to serve, or a marshal is to make service in an in forma pauperis action. The final sentence is amended to make it clear that the reference to Rule 4 in Rule 71.1(d)(3)(A) **[Condemnation Actions]** does not include Rule 4(m). Dismissal under Rule 4(m) for failure to make timely service would be inconsistent with the limits on dismissal established by Rule 71.1(i)(1)(C). Shortening the time to serve under Rule 4(m) means that the time of the notice required by Rule 15(c)(1)(C) for relation back is also shortened.
D.C.COLO.LCivR 5.1 Formatting, Signatures, Filing, And Serving Pleadings And Documents	-- Electronic Filing through CM/ECF mandated, with certain exceptions -- paper filings for unrepresented parties, unconventional materials, certain documents that must be e-mailed. -- Facsimile filing eliminated. -- The Notice of Electronic Filing (NEF) serves as the Certificate of Service [therefore, mailing the NEF to non e-filers suffices]. -- Response/reply time calculated from date of electronic filing. -- Forms and procedures for unrepresented parties are posted on the court website. -- Response/reply time calculated from date of electronic filing.	**Subdivision (c) of LCivR 5.1** is revised: **(c) Formatting and Filing of Pleadings and Documents and Maintenance of Contact Information by an Unrepresented Prisoner~~s~~ or Party~~ies~~.** If not filed electronically, an unrepresented prisoner or party shall use the procedures, forms, and instructions posted on the court's website HERE. If the unrepresented party is a prisoner and is unable to access the website, on request the clerk shall provide copies of the necessary procedures, forms, and instructions. **Notice of change of name, mailing address, or telephone number of an unrepresented prisoner or party shall be filed not later than five days after the change. A user of CM/ECF shall keep his/her primary and alternative e-mail address current. Instructions for a user to update and maintain his/her CM/ECF account are HERE.** Advisory Committee Note: The responsibility of Unrepresented Parties (Pro Se	Fed. R. Civ. P. 5, Serving and Filing Pleadings and Other Papers. E-Government Act of 2002, Pub. L. No. 107-347, Sec. 205 Fed. R. Civ. P. 6, Computing and Extending Time; Time for Motion Papers.

		litigants, including *Prisoner* Pro Se litigants) for maintaining contact information continues. The new provision in 5.1(c) for unrepresented parties to update all name, mailing address and telephone number changes within 5 days of such changes is located in this rule to make it more visible and accessible. This provision is already located in LAttyR 5(c)[and formerly, in LCivR 10.1.M.], which includes a reference to unrepresented parties; adding a reference to LCivR 5.1 here is more user-friendly and logical.	
D.C.COLO.LCivR 16.1 Scheduling Conference	-- Instructions for Scheduling Conference. Fed. Rule 26 guidelines followed. Preparation of Scheduling Order responsibilities.	No change to the Local Rule.	**Fed. R. Civ. P. 16 Pretrial Conferences; Scheduling Management.** Revised. **(b) Scheduling.** **(1)** ***Scheduling Order.*** Except in categories of actions exempted by local rule, the district judge — or a magistrate judge when authorized by local rule — must issue a scheduling order: **(A)** after receiving the parties' report under Rule 26(f); or **(B)** after consulting with the parties' attorneys and any unrepresented parties at a scheduling conference ~~by telephone, mail, or other means~~. **(2)** ***Time to Issue.*** The judge must issue the scheduling order as soon as practicable, but ~~in any event~~ **unless the judge finds good cause for delay, the judge must issue it** within the earlier of ~~120~~**90** days after any defendant has been served with the complaint or ~~90~~**60** days after any defendant has appeared. Federal Committee Note: The provision for consulting at a

			scheduling conference by "telephone, mail, or other means" is deleted. **A scheduling conference is more effective if the court and parties engage in direct simultaneous communication.** ***[Already accomplished by U.S.D.C. Colo. practices.]*** The conference may be held in person, by telephone, or by more sophisticated electronic means. **The time to issue the scheduling order is reduced to the earlier of 90 days (not 120 days) after any defendant has been served, or 60 days (not 90 days) after any defendant has appeared. This change, together with the shortened time for making service under Rule 4(m), will reduce delay at the beginning of litigation. At the same time, a new provision recognizes that the court may find good cause to extend the time to issue the scheduling order.** In some cases it may be that the parties cannot prepare adequately for a meaningful Rule 26(f) conference and then a scheduling conference in the time allowed. Litigation involving complex issues, multiple parties, and large organizations, public or private, may be more likely to need extra time to establish meaningful collaboration between counsel and the people who can supply the information needed to participate in a useful way. Because the time for the Rule 26(f) conference is geared to the time for the scheduling conference or order, an order extending the time for the scheduling conference will also extend the time for the Rule 26(f) conference. But in most cases it will

			be desirable to hold at least a first scheduling conference in the time set by the rule.
D.C.COLO.LCivR 16.2 Scheduling Order	-- Reference to Scheduling Order instructions on Forms page on website.	No change to the Local Rule.	**Fed. R. Civ. P. 16 Pretrial Conferences; Scheduling Management.** Revised. **(3) *Contents of the Order*.** ***** **(B)** *Permitted Contents*. The scheduling order may: ***** **(iii)** provide for disclosure~~,~~ ~~or~~discovery**, or preservation** of electronically stored information; **(iv)** include any agreements the parties reach for asserting claims of privilege or of protection as trial-preparation material after information is produced**, including agreements reached under Federal Rule of Evidence 502;** **(v) direct that before moving for an order relating to discovery, the movant must request a conference with the court;** (~~v~~**vi**) set dates for pretrial conferences and for trial; and (~~vi~~**vii**) include other appropriate matters. Federal Committee Note: Three items are added to the list of permitted contents in Rule 16(b)(3)(B). The order may provide for preservation of electronically stored information, a topic also added to the

			provisions of a discovery plan under Rule 26(f)(3)(C). Parallel amendments of Rule 37(e) recognize that a duty to preserve discoverable information may arise before an action is filed. The order also may include agreements incorporated in a court order under Evidence Rule 502 controlling the effects of disclosure of information covered by attorney-client privilege or work-product protection, a topic also added to the provisions of a discovery plan under Rule 26(f)(3)(D). Finally, the order may direct that before filing a motion for an order relating to discovery the movant must request a conference with the court. Many judges who hold such conferences find them an efficient way to resolve most discovery disputes without the delay and burdens attending a formal motion, but the decision whether to require such conferences is left to the discretion of the judge in each case. *See also* D.C.COLO.LAPR 16.1 AP Case Management
D.C.COLO.LCivR 26.1 Compliance With Fed. R. Civ. P. 26 Requirements	-- Scheduling and Final Pretrial Orders comply with specific document submission requirements of Rule 26.	No change to the Local Rule. Federal Committee Note to Fed. R. Civ. P. 26: (This column is being used rather than the adjacent column to the right, to provide more space). Rule 26(b)(1) is changed in several ways. **Information is discoverable under revised Rule 26(b)(1) if it is relevant to any party's claim or defense and is proportional to the needs of the case.** The considerations that bear on proportionality are moved from present Rule	**Fed. R. Civ. P. 26, Duty to Disclose; General Provisions Governing Discovery.** Revised. *(b) Discovery Scope and Limits. (1) Scope in General.* Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or

		26(b)(2)(C)(iii), slightly rearranged and with one addition. Most of what now appears in Rule 26(b)(2)(C)(iii) was first adopted in 1983. The 1983 provision was explicitly adopted as part of the scope of discovery defined by Rule 26(b)(1). Rule 26(b)(1) directed the court to limit the frequency or extent of use of discovery if it determined that "the discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the litigation." At the same time, Rule 26(g) was added. Rule 26(g) provided that signing a discovery request, response, or objection certified that the request, response, or objection was "not unreasonable or unduly burdensome or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation." The parties thus shared the responsibility to honor these limits on the scope of discovery. The 1983 Committee Note stated that the new provisions were added "to deal with the problem of overdiscovery. The objective is to guard against redundant or disproportionate discovery by giving the court authority to reduce the amount of discovery that may be directed to matters that are otherwise proper subjects of inquiry. The new sentence is intended to encourage judges to be more aggressive in identifying and discouraging discovery overuse. The grounds mentioned in the amended rule for limiting discovery reflect the existing practice of many courts in issuing protective orders under Rule 26(c). . . . On the whole, however, district judges have been reluctant to limit the use of the discovery devices." The clear focus of the 1983 provisions may have been softened, although inadvertently, by the amendments made in 1993. The 1993 Committee Note explained: "[F]ormer paragraph (b)(1) [was] subdivided into two paragraphs for ease of reference and to avoid renumbering of paragraphs (3) and (4)." Subdividing the paragraphs, however, was done in a way that could be read to separate the proportionality provisions as "limitations," no longer an integral part of the (b)(1) scope provisions. That appearance was immediately offset by the next statement in the Note: "Textual changes are then made in new paragraph (2) to enable the court to keep tighter rein on the extent of discovery." The 1993 amendments added two factors to the considerations that bear on limiting discovery: whether "the burden or expense of the proposed discovery outweighs its likely benefit," and "the importance of the proposed discovery in resolving the issues." Addressing these and other limitations added by the 1993 discovery amendments, the Committee Note stated that "[t]he revisions in Rule 26(b)(2) are intended to provide the court with broader discretion to impose additional restrictions on the scope and extent of discovery . . . ." The relationship between Rule 26(b)(1) and (2) was further	defense **and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.** ~~-- including the existence, description, nature, custody, condition and location of any documents or other tangible things and the identity and location of persons who know of any discoverable matter. For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action. Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence. All discovery is subject to the limitations imposed by Rule 26(b)(2)(C).~~ ***** *(2) Limitations on Frequency and Extent.* *(C) When Required.* On motion or on its own, the court must limit the frequency or extent of discover otherwise allowed by these rules or by local rule if it determines that: ***** (iii) the ~~burden or expense of the~~ proposed discovery **is outside the scope permitted by Rule 26(b)(1)** ~~outweighs its likely benefit, considering the needs of the case, the~~

		addressed by an amendment made in 2000 that added a new sentence at the end of (b)(1): "All discovery is subject to the limitations imposed by Rule 26(b)(2)(i), (ii), and (iii)[now Rule 26(b)(2)(C)]." The Committee Note recognized that "[t]hese limitations apply to discovery that is otherwise within the scope of subdivision (b)(1)." It explained that the Committee had been told repeatedly that courts were not using these limitations as originally intended. "This otherwise redundant cross-reference has been added to emphasize the need for active judicial use of subdivision (b)(2) to control excessive discovery." The present amendment restores the proportionality factors to their original place in defining the scope of discovery. This change reinforces the Rule 26(g) obligation of the parties to consider these factors in making discovery requests, responses, or objections. **Restoring the proportionality calculation to Rule 26(b)(1) does not change the existing responsibilities of the court and the parties to consider proportionality, and the change does not place on the party seeking discovery the burden of addressing all proportionality considerations**. **Nor is the change intended to permit the opposing party to refuse discovery simply by making a boilerplate objection that it is not proportional. The parties and the court have a collective responsibility to consider the proportionality of all discovery and consider it in resolving discovery disputes.** The parties may begin discovery without a full appreciation of the factors that bear on proportionality. A party requesting discovery, for example, may have little information about the burden or expense of responding. A party requested to provide discovery may have little information about the importance of the discovery in resolving the issues as understood by the requesting party. Many of these uncertainties should be addressed and reduced in the parties' Rule 26(f) conference and in scheduling and pretrial conferences with the court. **But if the parties continue to disagree, the discovery dispute could be brought before the court and the parties' responsibilities would remain as they have been since 1983**. A party claiming undue burden or expense ordinarily has far better information — perhaps the only information — with respect to that part of the determination. A party claiming that a request is important to resolve the issues should be able to explain the ways in which the underlying information bears on the issues as that party understands them. **The court's responsibility, using all the information provided by the parties, is to consider these and all the other factors in reaching a case-specific determination of the appropriate scope of discovery**. The direction to consider the parties' relative access to relevant information adds new text to provide explicit focus on considerations already implicit in present Rule 26(b)(2)(C)(iii). Some cases involve what often is called "information asymmetry."	~~amount in controversy, the parties' resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.~~ ***** *(c) Protective Orders.* *(1) In General.* ***** (B) specifying terms, including time and place **or the allocation of expenses**, for the disclosure or discovery; *(d) Timing and Sequence of Discovery.* ***** ***(2) Early Rule 34 Requests.*** ***(A) Time to Deliver.* More than 21 days after the summons and complaint are served on a party, a request under Rule 34 may be delivered:** **(i) to that party by any other party, and** **(ii) by that party to any plaintiff or to any other party that has been served.** **(B) When Considered Served. The request is considered to have been served at the first Rule 26(f) conference.** (~~2~~3) *Sequence*. Unless~~, on motion,~~ **the parties stipulate or** the court orders otherwise for the parties' and witnesses' convenience and in the interests of justice: (A) methods of discovery may be used in any sequence; and (B) discovery by one party does not require any other party to delay its discovery.

		One party — often an individual plaintiff — may have very little discoverable information. The other party may have vast amounts of information, including information that can be readily retrieved and information that is more difficult to retrieve. In practice these circumstances often mean that the burden of responding to discovery lies heavier on the party who has more information, and properly so. Restoring proportionality as an express component of the scope of discovery warrants repetition of parts of the 1983 and 1993 Committee Notes that must not be lost from sight. The 1983 Committee Note explained that "[t]he rule contemplates greater judicial involvement in the discovery process and thus acknowledges the reality that it cannot always operate on a self-regulating basis." The 1993 Committee Note further observed that "[t]he information explosion of recent decades has greatly increased both the potential cost of wide-ranging discovery and the potential for discovery to be used as an instrument for delay or oppression." What seemed an explosion in 1993 has been exacerbated by the advent of e-discovery. **The present amendment again reflects the need for continuing and close judicial involvement in the cases that do not yield readily to the ideal of effective party management**. It is expected that discovery will be effectively managed by the parties in many cases. **But there will be important occasions for judicial management, both when the parties are legitimately unable to resolve important differences and when the parties fall short of effective, cooperative management on their own**. It also is important to repeat the caution that the monetary stakes are only one factor, to be balanced against other factors. The 1983 Committee Note recognized "the significance of the substantive issues, as measured in philosophic, social, or institutional terms. Thus the rule recognizes that many cases in public policy spheres, such as employment practices, free speech, and other matters, may have importance far beyond the monetary amount involved." **Many other substantive areas also may involve litigation that seeks relatively small amounts of money, or no money at all, but that seeks to vindicate vitally important personal or public values**. So too, consideration of the parties' resources does not foreclose discovery requests addressed to an impecunious party, nor justify unlimited discovery requests addressed to a wealthy party. The 1983 Committee Note cautioned that "[t]he court must apply the standards in an even-handed manner that will prevent use of discovery to wage a war of attrition or as a device to coerce a party, whether financially weak or affluent." **The burden or expense of proposed discovery should be determined in a realistic way. This includes the burden or expense of producing electronically stored information. Computer-based methods of searching such information continue to develop, particularly for cases involving large volumes of electronically stored information. Courts and**	***** *(f) Conference of the Parties; Planning for Discovery.* ***** *(3) Discovery Plan.* A discovery plan must state the parties' views and proposals on: ***** (C) any issues about disclosure**,** or discovery**, or preservation** of electronically stored information, including the form or forms in which it should be produced; (D) any issues about claims of privilege or of protection as trial-preparation materials, including – if the parties agree on a procedure to assert these claims after production – whether to ask the court to include their agreement in an order **under Federal Rule of Evidence 502** *[Attorney-Client Privilege and Work Product; Limitations on Waiver]*; Federal Committee Note: (See the adjacent column to the left, used to provide more space).

		parties should be willing to consider the opportunities for reducing the burden or expense of discovery as reliable means of searching electronically stored information become available. A portion of present Rule 26(b)(1) is omitted from the proposed revision**. After allowing discovery of any matter relevant to any party's claim or defense, the present rule adds: "including the existence, description, nature, custody, condition, and location of any documents or other tangible things and the identity and location of persons who know of any discoverable matter." Discovery of such matters is so deeply entrenched in practice that it is no longer necessary to clutter the long text of Rule 26 with these examples**. The discovery identified in these examples should still be permitted under the revised rule when relevant and proportional to the needs of the case. Framing intelligent requests for electronically stored information, for example, may require detailed information about another party's information systems and other information resources. **The amendment deletes the former provision authorizing the court, for good cause, to order discovery of any matter relevant to the subject matter involved in the action**. The Committee has been informed that this language is rarely invoked. Proportional discovery relevant to any party's claim or defense suffices, given a proper understanding of what is relevant to a claim or defense. The distinction between matter relevant to a claim or defense and matter relevant to the subject matter was introduced in 2000. The 2000 Note offered three examples of information that, suitably focused, would be relevant to the parties' claims or defenses. The examples were "other incidents of the same type, or involving the same product"; "information about organizational arrangements or filing systems"; and "information that could be used to impeach a likely witness." Such discovery is not foreclosed by the amendments. Discovery that is relevant to the parties' claims or defenses may also support amendment of the pleadings to add a new claim or defense that affects the scope of discovery. **The former provision for discovery of relevant but inadmissible information that appears "reasonably calculated to lead to the discovery of admissible evidence" is also deleted.** The phrase has been used by some, incorrectly, to define the scope of discovery. As the Committee Note to the 2000 amendments observed, use of the "reasonably calculated" phrase to define the scope of discovery "might swallow any other limitation on the scope of discovery." The 2000 amendments sought to prevent such misuse by adding the word "Relevant" at the beginning of the sentence, making clear that "'relevant' means within the scope of discovery as defined in this subdivision . . . ." The "reasonably calculated" phrase has continued to create problems, however, and is removed by these amendments. It is replaced by the direct statement that "Information within this scope of discovery need not be	

		admissible in evidence to be discoverable." Discovery of nonprivileged information not admissible in evidence remains available so long as it is otherwise within the scope of discovery. Rule 26(b)(2)(C)(iii) is amended to reflect the transfer of the considerations that bear on proportionality to Rule 26(b)(1). **The court still must limit the frequency or extent of proposed discovery, on motion or on its own, if it is outside the scope permitted by Rule 26(b)(1).** **Rule 26(c)(1)(B) is amended to include an express recognition of protective orders that allocate expenses for disclosure or discovery**. Authority to enter such orders is included in the present rule, and courts already exercise this authority. Explicit recognition will forestall the temptation some parties may feel to contest this authority. Recognizing the authority does not imply that cost-shifting should become a common practice. **Courts and parties should continue to assume that a responding party ordinarily bears the costs of responding**. **Rule 26(d)(2) is added to allow a party to deliver Rule 34 requests to another party more than 21 days after that party has been served even though the parties have not yet had a required Rule 26(f) conference**. Delivery may be made by any party to the party that has been served, and by that party to any plaintiff and any other party that has been served. Delivery does not count as service; the requests are considered to be served at the first Rule 26(f) conference. Under Rule 34(b)(2)(A) the time to respond runs from service. **This relaxation of the discovery moratorium is designed to facilitate focused discussion during the Rule 26(f) conference.** Discussion at the conference may produce changes in the requests. The opportunity for advance scrutiny of requests delivered before the Rule 26(f) conference should not affect a decision whether to allow additional time to respond. Rule 26(d)(3) is renumbered and amended to recognize that the parties may stipulate to case-specific sequences of discovery. **Rule 26(f)(3) is amended in parallel with Rule 16(b)(3) to add two items to the discovery plan — issues about preserving electronically stored information and court orders under Evidence Rule 502** ***[Advisory Committee Legal Officer Note: ESI issues are addressed in the U.S.D.C. Colorado's model Scheduling Order, Paragraph. 6.g. See http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/Forms.aspx]***	
D.C.COLO.LCivR 30.1 Deposition	-- Parties are required to give 14 day notice, and the rule focuses on limiting time and expense of depositions.	No change to the Local Rule.	**Fed. R. Civ. P. 30 Depositions by Oral Examinations.** Revised.

			(a) When a Deposition May Be Taken. *(2) With Leave.* A party must obtain leave of court, and the court must grant leave to the extent consistent with Rule 26(b)**(1) and** (2): *(d) Duration.* Unless otherwise stipulated or ordered by the court, a deposition is limited to one day of 7 hours. The court must allow additional time consistent with Rule 26(b)**(1) and** (2) if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination. Federal Committee Note: Rule 30 is amended in parallel with Rules 31 and 33 to reflect the recognition of proportionality in Rule 26(b)(1). *See also* Fed. R. Civ. P. 29, Stipulations About Discovery Procedure,
D.C.COLO.LCivR 30.2 Filing Motion For Protective Order, Motion To Limit Examination, Or Objection To Discovery Order	-- Automatic stay of the particular discovery proceeding until the court resolves the dispute Motions for protective orders, and motions to terminate or limit depositions. An objection to a discovery order of a magistrate judge does not automatically stay the discovery issue; a motion must be filed to obtain a stay.	No change to the Local Rule.	Fed. R. Civ. P. 26 Duty to Disclose; General Provisions Governing Discovery. **Fed. R. Civ. P. 30 Depositions by Oral Examinations.** Revised. *(a) When a Deposition May Be Taken.* *(2) With Leave.* A party must obtain leave of court, and the court must grant leave to the extent consistent with Rule 26(b) **(1) and** (2): ***** *(d) Duration.* Unless otherwise

			stipulated or ordered by the court, a deposition is limited to one day of 7 hours. The court must allow additional time consistent with Rule 26(b) **(1) and** (2) if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination. Federal Committee Note: Rule 30 is amended in parallel with Rules 31 and 33 to reflect the recognition of proportionality in Rule 26(b)(1). *See also* Fed. R. Civ. P. 37 Failure to Make Disclosures or to Cooperate in Discovery; Sanctions
Fed. R. Civ. P. 34. Producing Documents, Electronically Stored Information, and Tangible Things, or Entering onto Land, for Inspection and Other Purposes **[No corresponding local rule.]**	*See* U.S. District Court Scheduling Order, Para. 8.c., Discovery Limitations, at: http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/Forms.aspx.	Federal Committee Note: (This column is being used rather than the adjacent column to the right, to provide more space). Several amendments are made in Rule 34, aimed at reducing the potential to impose unreasonable burdens by objections to requests to produce. Rule 34(b)(2)(A) is amended to fit with new Rule 26(d)(2). **The time to respond to a Rule 34 request delivered before the parties' Rule 26(f) conference is 30 days after the first Rule 26(f) conference.** **Rule 34(b)(2)(B) is amended to require that objections to Rule 34 requests be stated with specificity**. This provision adopts the language of Rule 33(b)(4), eliminating any doubt that less specific objections might be suitable under Rule 34. The specificity of the objection ties to the new provision in Rule 34(b)(2)(C) directing that an objection must state whether any responsive materials are being withheld on the basis of that objection. An objection may state that a request is overbroad, but if the objection recognizes that some part of the request is appropriate the objection should state the scope that is not overbroad. Examples would be a statement that the responding party will limit the search to documents or electronically stored information created within a given period of time prior to the events in suit, or to specified sources. When there is such an objection, the statement of what has been withheld can properly	**Fed. R. Civ. P. 34. Producing Documents, Electronically Stored Information, and Tangible Things, or Entering onto Land, for Inspection and Other Purposes.** Revised. *(b) Procedure.* *(2) Responses and Objections.* *(A) Time to Respond.* The party to whom the request is directed must respond in writing within 30 days after being served **or – if the request was delivered under Rule 26(d)(2) – within 30 days after the parties' first Rule 26(f) conference**. A shorter or longer time may be stipulated to under Rule 29 or be ordered by the court. *(B) Responding to Each Item.* For each item or category, the response must either state that inspection and related activities will be permitted as

		identify as matters "withheld" anything beyond the scope of the search specified in the objection. **Rule 34(b)(2)(B) is further amended to reflect the common practice of producing copies of documents or electronically stored information rather than simply permitting inspection.** The response to the request must state that copies will be produced. The production must be completed either by the time for inspection specified in the request or by another reasonable time specifically identified in the response. When it is necessary to make the production in stages the response should specify the beginning and end dates of the production. **Rule 34(b)(2)(C) is amended to provide that an objection to a Rule 34 request must state whether anything is being withheld on the basis of the objection.** This amendment should end the confusion that frequently arises when a producing party states several objections and still produces information, leaving the requesting party uncertain whether any relevant and responsive information has been withheld on the basis of the objections. The producing party does not need to provide a detailed description or log of all documents withheld, but does need to alert other parties to the fact that documents have been withheld and thereby facilitate an informed discussion of the objection. An objection that states the limits that have controlled the search for responsive and relevant materials qualifies as a statement that the materials have been "withheld."	requested or state an objection **with specificity the grounds for objecting** to the request, including the reasons. **The responding party may state that it will produce copies of documents or of electronically stored information instead of permitting inspection. The production must then be completed no later than the time for inspection specified in the request or another reasonable time specified in the response.** *(C) Objections.* **An objection must state whether any responsive materials are being withheld on the basis of that objection.** An objection to part of a request must specify the party and permit inspection of the rest.
D.C.COLO.LCivR 37.1 **Discovery Motion**	-- Direction to counsel to identify the problematic discovery request.	No change to the Local Rule. Federal Committee Note: (This column is being used rather than the adjacent column to the right, to provide more space). Subdivision (a). Rule 37(a)(3)(B)(iv) is amended to reflect the common practice of producing copies of documents or electronically stored information rather than simply permitting inspection. This change brings item (iv) into line with paragraph (B), which provides a motion for an order compelling "production, or inspection." Subdivision (e). Present Rule 37(e), adopted in 2006, provides: "Absent exceptional circumstances, a court may not impose sanctions under these rules on a party for failing to provide electronically stored information lost as a result of the routine, good-faith operation of an electronic information system." This limited rule has not adequately addressed the serious problems resulting from the continued exponential growth in the volume of such information. Federal circuits have established significantly different standards for imposing sanctions or curative measures on parties who fail to preserve electronically stored information. These developments have caused litigants to expend excessive	**Fed. R. Civ. P. 37** **Failure to Cooperate in Discovery; Sanctions.** Revised. *(a) Motion for an Order Compelling Disclosure or Discovery.* ***** *(3) Specific Motions.* ***** *(B) To Compel a Discovery Response.* A party seeking discovery may move for an order compelling an answer, designation, production, or inspection. This motion may be made if: ***** (iv) a party **fails to produce documents or** fails to respond that inspection will be permitted – or fails to permit inspection – as requested

		effort and money on preservation in order to avoid the risk of severe sanctions if a court finds they did not do enough. **New Rule 37(e) replaces the 2006 rule. It authorizes and specifies measures a court may employ if information that should have been preserved is lost, and specifies the findings necessary to justify these measures.** It therefore forecloses reliance on inherent authority or state law to determine when certain measures should be used. The rule does not affect the validity of an independent tort claim for spoliation if state law applies in a case and authorizes the claim. The new rule applies only to electronically stored information, also the focus of the 2006 rule. It applies only when such information is lost. Because electronically stored information often exists in multiple locations, loss from one source may often be harmless when substitute information can be found elsewhere. The new rule applies only if the lost information should have been preserved in the anticipation or conduct of litigation and the party failed to take reasonable steps to preserve it. Many court decisions hold that potential litigants have a duty to preserve relevant information when litigation is reasonably foreseeable. Rule 37(e) is based on this common-law duty; it does not attempt to create a new duty to preserve. The rule does not apply when information is lost before a duty to preserve arises. In applying the rule, a court may need to decide whether and when a duty to preserve arose. Courts should consider the extent to which a party was on notice that litigation was likely and that the information would be relevant. A variety of events may alert a party to the prospect of litigation. Often these events provide only limited information about that prospective litigation, however, so that the scope of information that should be preserved may remain uncertain. It is important not to be blinded to this reality by hindsight arising from familiarity with an action as it is actually filed. Although the rule focuses on the common-law obligation to preserve in the anticipation or conduct of litigation, courts may sometimes consider whether there was an independent requirement that the lost information be preserved. Such requirements arise from many sources — statutes, administrative regulations, an order in another case, or a party's own information-retention protocols. The court should be sensitive, however, to the fact that such independent preservation requirements may be addressed to a wide variety of concerns unrelated to the current litigation. The fact that a party had an independent obligation to preserve information does not necessarily mean that it had such a duty with respect to the litigation, and the fact that the party failed to observe some other preservation obligation does not itself prove that its efforts to preserve were not reasonable with respect to a particular case. **The duty to preserve may in some instances be triggered or**	under Rule 34. ***** *(e) Failure to ~~Provide~~**Preserve** Electronically Stored Information.* ~~Absent exceptional circumstances, a court may not impose sanctions under these rules on a party for failing to provide electronically stored information lost as a result of the routine, good faith operation of an electronic information system.~~ **If electronically stored information that should have been preserved in the anticipation or conduct of litigation is lost because a party failed to take reasonable steps to preserve it, and it cannot be restored or replaced through additional discovery, the court:** **(1) upon finding prejudice to another party from loss of information, may order measures no greater than necessary to cure the prejudice; or** **(2) only upon finding that the party acted with the intent to deprive another party of the information's use in the litigation may:** **(A) presume that the lost information was unfavorable to the party;** **(B) instruct the jury that it may or must presume the information was unfavorable to the party; or** **(C) dismiss the action or enter a default judgment.**

		clarified by a court order in the case. Preservation orders may become more common, in part because Rules 16(b)(3)(B)(iii) and 26(f)(3)(C) are amended to encourage discovery plans and orders that address preservation. Once litigation has commenced, if the parties cannot reach agreement about preservation issues, promptly seeking judicial guidance about the extent of reasonable preservation may be important. The rule applies only if the information was lost because the party failed to take reasonable steps to preserve the information. Due to the ever-increasing volume of electronically stored information and the multitude of devices that generate such information, perfection in preserving all relevant electronically stored information is often impossible. As under the current rule, the routine, good-faith operation of an electronic information system would be a relevant factor for the court to consider in evaluating whether a party failed to take reasonable steps to preserve lost information, although the prospect of litigation may call for reasonable steps to preserve information by intervening in that routine operation. This rule recognizes that "reasonable steps" to preserve suffice; it does not call for perfection. The court should be sensitive to the party's sophistication with regard to litigation in evaluating preservation efforts; some litigants, particularly individual litigants, may be less familiar with preservation obligations than others who have considerable experience in litigation. Because the rule calls only for reasonable steps to preserve, it is inapplicable when the loss of information occurs despite the party's reasonable steps to preserve. For example, the information may not be in the party's control. Or information the party has preserved may be destroyed by events outside the party's control — the computer room may be flooded, a "cloud" service may fail, a malign software attack may disrupt a storage system, and so on. Courts may, however, need to assess the extent to which a party knew of and protected against such risks. **Another factor in evaluating the reasonableness of preservation efforts is proportionality.** The court should be sensitive to party resources; aggressive preservation efforts can be extremely costly, and parties (including governmental parties) may have limited staff and resources to devote to those efforts. A party may act reasonably by choosing a less costly form of information preservation, if it is substantially as effective as more costly forms. It is important that counsel become familiar with their clients' information systems and digital data — including social media — to address these issues. A party urging that preservation requests are disproportionate may need to provide specifics about these matters in order to enable meaningful discussion of the appropriate preservation regime. When a party fails to take reasonable steps to preserve electronically stored information that should have been preserved in the anticipation or conduct of litigation, and the information is lost as a result, Rule 37(e) directs that the initial focus should be	

		on whether the lost information can be restored or replaced through additional discovery. **Nothing in the rule limits the court's powers under Rules 16 and 26 to authorize additional discovery.** Orders under Rule 26(b)(2)(B) regarding discovery from sources that would ordinarily be considered inaccessible or under Rule 26(c)(1)(B) on allocation of expenses may be pertinent to solving such problems. If the information is restored or replaced, no further measures should be taken. At the same time, it is important to emphasize that efforts to restore or replace lost information through discovery should be proportional to the apparent importance of the lost information to claims or defenses in the litigation. For example, substantial measures should not be employed to restore or replace information that is marginally relevant or duplicative. **Subdivision (e)(1). This subdivision applies only if information should have been preserved in the anticipation or conduct of litigation, a party failed to take reasonable steps to preserve the information, information was lost as a result, and the information could not be restored or replaced by additional discovery.** In addition, a court may resort to (e)(1) measures only "upon finding prejudice to another party from loss of the information." An evaluation of prejudice from the loss of information necessarily includes an evaluation of the information's importance in the litigation. The rule does not place a burden of proving or disproving prejudice on one party or the other. Determining the content of lost information may be a difficult task in some cases, and placing the burden of proving prejudice on the party that did not lose the information may be unfair. In other situations, however, the content of the lost information may be fairly evident, the information may appear to be unimportant, or the abundance of preserved information may appear sufficient to meet the needs of all parties. Requiring the party seeking curative measures to prove prejudice may be reasonable in such situations. **The rule leaves judges with discretion to determine how best to assess prejudice in particular cases.** **Once a finding of prejudice is made, the court is authorized to employ measures "no greater than necessary to cure the prejudice."** The range of such measures is quite broad if they are necessary for this purpose. There is no all-purpose hierarchy of the severity of various measures; the severity of given measures must be calibrated in terms of their effect on the particular case. But authority to order measures no greater than necessary to cure prejudice does not require the court to adopt measures to cure every possible prejudicial effect. Much is entrusted to the court's discretion. In an appropriate case**, it may be that serious measures are necessary to cure prejudice found by the court, such as forbidding the party that failed to preserve information from putting on certain evidence, permitting the parties to present evidence and argument to the jury regarding the loss of**	

		information, or giving the jury instructions to assist in its evaluation of such evidence or argument, other than instructions to which subdivision (e)(2) applies. Care must be taken, however, to ensure that curative measures under subdivision (e)(1) do not have the effect of measures that are permitted under subdivision (e)(2) only on a finding of intent to deprive another party of the lost information's use in the litigation. An example of an inappropriate (e)(1) measure might be an order striking pleadings related to, or precluding a party from offering any evidence in support of, the central or only claim or defense in the case. On the other hand, it may be appropriate to exclude a specific item of evidence to offset prejudice caused by failure to preserve other evidence that might contradict the excluded item of evidence. **Subdivision (e)(2). This subdivision authorizes courts to use specified and very severe measures to address or deter failures to preserve electronically stored information, but only on finding that the party that lost the information acted with the intent to deprive another party of the information's use in the litigation.** It is designed to provide a uniform standard in federal court for use of these serious measures when addressing failure to preserve electronically stored information. It rejects cases such as Residential Funding Corp. v. DeGeorge Financial Corp., 306 F.3d 99 (2d Cir. 2002), that authorize the giving of adverse-inference instructions on a finding of negligence or gross negligence. Adverse-inference instructions were developed on the premise that a party's intentional loss or destruction of evidence to prevent its use in litigation gives rise to a reasonable inference that the evidence was unfavorable to the party responsible for loss or destruction of the evidence. Negligent or even grossly negligent behavior does not logically support that inference. Information lost through negligence may have been favorable to either party, including the party that lost it, and inferring that it was unfavorable to that party may tip the balance at trial in ways the lost information never would have. The better rule for the negligent or grossly negligent loss of electronically stored information is to preserve a broad range of measures to cure prejudice caused by its loss, but to limit the most severe measures to instances of intentional loss or destruction. Similar reasons apply to limiting the court's authority to presume or infer that the lost information was unfavorable to the party who lost it when ruling on a pretrial motion or presiding at a bench trial. Subdivision (e)(2) limits the ability of courts to draw adverse inferences based on the loss of information in these circumstances, permitting them only when a court finds that the information was lost with the intent to prevent its use in litigation. Subdivision (e)(2) applies to jury instructions that permit or require the jury to presume or infer that lost information was unfavorable to the party that lost it. Thus, it covers any instruction that directs or permits the jury to infer from the loss of information	

		that it was in fact unfavorable to the party that lost it. The subdivision does not apply to jury instructions that do not involve such an inference. For example, subdivision (e)(2) would not prohibit a court from allowing the parties to present evidence to the jury concerning the loss and likely relevance of information and instructing the jury that it may consider that evidence, along with all the other evidence in the case, in making its decision. These measures, which would not involve instructing a jury it may draw an adverse inference from loss of information, would be available under subdivision (e)(1) if no greater than necessary to cure prejudice. In addition, subdivision (e)(2) does not limit the discretion of courts to give traditional missing evidence instructions based on a party's failure to present evidence it has in its possession at the time of trial. **Subdivision (e)(2) requires a finding that the party acted with the intent to deprive another party of the information's use in the litigation.** This finding may be made by the court when ruling on a pretrial motion, when presiding at a bench trial, or when deciding whether to give an adverse inference instruction at trial. If a court were to conclude that the intent finding should be made by a jury, the court's instruction should make clear that the jury may infer from the loss of the information that it was unfavorable to the party that lost it only if the jury first finds that the party acted with the intent to deprive another party of the information's use in the litigation. If the jury does not make this finding, it may not infer from the loss that the information was unfavorable to the party that lost it. Subdivision (e)(2) does not include a requirement that the court find prejudice to the party deprived of the information. This is because the finding of intent required by the subdivision can support not only an inference that the lost information was unfavorable to the party that intentionally destroyed it, but also an inference that the opposing party was prejudiced by the loss of information that would have favored its position. Subdivision (e)(2) does not require any further finding of prejudice. Courts should exercise caution, however, in using the measures specified in (e)(2). Finding an intent to deprive another party of the lost information's use in the litigation does not require a court to adopt any of the measures listed in subdivision (e)(2). The remedy should fit the wrong, and the severe measures authorized by this subdivision should not be used when the information lost was relatively unimportant or lesser measures such as those specified in subdivision (e)(1) would be sufficient to redress the loss.	
D.C.COLO.LCivR 40.1 Assignment Of Cases	-- Standard case assignment procedures, the random draw process, senior judge declinations, special exceptions including AP cases, recusal	-- **New Subdivision (c),** revises and incorporates the District Court's Pilot Program of Direct Assignment of Civil Case to Full Time Magistrate Judges. The Pilot Program, and corresponding	Fed. R. Civ. P. 73 - Magistrate Judges: Trial by Consent; Appeal. And:

	and adjustments.	New Subdivision (c) of LCivR 40.1, seeks to maximize the use of available judicial resources within the District by expanding the use of magistrate judge jurisdiction under 28 U.S.C. § 636 in civil cases to "secure the just, speedy, and inexpensive determination of every action and proceeding" consistent with Rule 1 of the Federal Rules of Civil Procedure. • The clerk is required to maintain a computerized program to assure random assignment of new cases on an equal basis among all active district judges and full time magistrate judges. • The rule requires the parties in cases assigned directly to a magistrate judge to indicate, through the filing of a Consent Form by a date certain, whether they accept or decline consent. • Unanimous consent of the parties is required, including additional parties who are added after joinder or amendment. • The parties are required to complete and file the Consent/Non-Consent Form no later than (a) seven days before the scheduling conference, if any; or (b) 45 days after the filing of the first response, other than an answer, to the operative complaint, whichever is earlier. • If consent is declined by any party, no order of reference is entered, or the order of reference is vacated, the case shall be assigned under D.C.COLO.LCivR 40.1(a), and the magistrate judge shall continue on the case to hear matters referred by the district judge. **New D.C.COLO.LCivR 40.1(c) reads as follows:** **(c) Direct Assignment to Magistrate Judges.** (1) All full time magistrate judges shall be included in the assignment of civil actions under Subdivision (a), subject to the other provisions of this rule. (2) The following civil actions shall not be assigned directly	28 U.S.C. § 636(c) - Jurisdiction, powers, and temporary assignment. (1) *Upon the consent of the parties*, a full-time United States magistrate judge or a part-time United States magistrate judge who serves as a full-time judicial officer may conduct any or all proceedings in a jury or nonjury civil matter and order the entry of judgment in the case, *when specially designated to exercise such jurisdiction by the district court or courts he serves*. **[See D.C.COLO.LCivR 72.2 – Consent Jurisdiction of a Magistrate Judge, (a) Designation.]** See also: 28 U.S.C. § 137 - Division of business among district judges. "The business of a court having more than one judge shall be divided among the judges as provided by the rules and orders of the court."

		to a magistrate judge: (a) A civil action in which a motion for injunctive relief is filed; (b) A civil action brought under 28 U.S.C. § 2255 if the sentencing judge is still in regular active service or is rendering substantial assistance as a senior judge; (c) A civil action or proceeding brought under or related to Title 11, United States Code; and (d) any other civil action excluded from direct assignment by a majority of the district judges. (3) The following civil actions, by way of example only, although initially assigned directly to a magistrate judge, shall be reassigned to a district judge: (a) an action in which a motion for default judgment is filed; (b) an action which on initial review should be dismissed or administratively closed, unless there is consent; or (c) an action identified by a majority of the district judges or subject to reassignment under Subdivision (a). (4) On the filing of a civil action eligible for direct assignment to a magistrate judge, the clerk shall deliver to the plaintiff(s) the Consent/Non-Consent Form HERE, which the plaintiff(s) shall attach to the summons and serve on the defendant(s). Failure to serve the Consent/Non-Consent Form shall not affect the validity of service of process or personal jurisdiction over a defendant. Unless otherwise ordered, each party shall complete and file the Consent/Non-Consent Form no later than (a) seven days before the scheduling conference, if any; or (b) 45 days after the filing of the first response, other than an answer, to the operative complaint, whichever is earlier. Filing of the Consent/Non-Consent Form is mandatory. (5) Consent to magistrate judge jurisdiction is voluntary, and no adverse consequence shall result if consent is declined. (6) In a civil action assigned directly to a magistrate judge, if all parties consent to magistrate judge jurisdiction, the magistrate judge shall notify the Chief Judge or his/her designee, who shall determine whether to enter an order of reference under 28 U.S.C. § 636(c). (7) Any party added to the civil action after reference to a magistrate judge shall be notified by the clerk of the	

obligation to complete and file the mandatory Consent/Non-Consent Form. If any added party does not consent to magistrate judge jurisdiction within 21 days from the date of the notice, the civil action shall be assigned to a district judge under D.C.COLO.LCivR 40.1(a), and the magistrate judge shall continue on the case as if consent had been declined initially.

(8) If consent to magistrate judge jurisdiction is declined by any party, no order of reference is entered or the order of reference is vacated, the civil action shall be assigned to a district judge under D.C.COLO.LCivR 40.1(a), and the magistrate judge shall continue on the case as if consent had been declined initially.

(9) The Chief Judge or his/her designee may sua sponte for good cause or on motion of a party for extraordinary circumstances vacate the order of reference.

(10) A case assigned directly to a magistrate judge in which there is consent may be assigned randomly to another magistrate judge to conduct an early neutral evaluation or other alternative dispute resolution proceeding under D.C.COLO.LCivR 16.6.

~~(1)~~(11) If after direct assignment, a magistrate judge recuses and the action is assigned to another magistrate judge, each party shall complete a Consent/Non-Consent Form no later than (a) 21 days after assignment to the successor magistrate judge; or (b) the deadline imposed in Paragraph 4, whichever is later.

Note that D.C.COLO.LCivR 72.2 – Consent Jurisdiction of a Magistrate Judge remains in effect; thereby allowing parties – independently of a direct assignment to a magistrate judge under D.C.COLO.LCivR 40.1(c) – to voluntarily choose jurisdiction of a magistrate judge after initial direct assignment to a district judge.

Also note that because of the 2 scenarios under which consent jurisdiction to a magistrate judge may occur, there are 2 sets of applicable forms:

- Consent/Non-Consent Form Pursuant to D.C.COLO.LCivR 40.1(c) – Direct Assignment of Magistrate Judges;
- Consent to the Exercise of Jurisdiction by a United States Magistrate Judge Form.

		See **Local Rules of Practice Forms**, http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/Forms.aspx. **Additional note: New Subdivision (e) of D.C.COLO.LCivR 40.1 provides that in "AP" cases, such cases will be assigned by the clerk, not by random selection, to any district judge (revised from just "a" as previously written). This is to allow designation of more than one "AP" district judge.**	
D.C.COLO.LCivR 55.1 Default Judgment For A Sum Certain	-- Instructions for entry of default judgment by clerk under Fed. R. Civ. P. 55(b)(1).	No revisions to the local rule. ***[Note to court staff: Under the revision to Fed. R. Civ. P. 55(c), Default judgments entered by the clerk or by a judicial officer are not final and may be revised or set aside if they do not dispose of all claims and all parties.]***	**Fed. R. Civ. P. 55 Default; Default Judgment.** Revised. ***** *(c) Setting Aside a Default or a Default Judgment.* The court may set aside an entry of default for good cause, and it may set aside a **final** default judgment under Rule 60(b). Federal Committee Note: Rule 55(c) is amended to make plain the interplay between Rules 54(b), 55(c), and 60(b). A default judgment that does not dispose of all of the claims among all parties is not a final judgment unless the court directs entry of final judgment under Rule 54(b). **Until final judgment is entered, Rule 54(b) allows revision of the default judgment at any time.** The demanding standards set by Rule 60(b) apply only in seeking relief from a final judgment.

D.C.COLO.LCivR 72.2 Consent Jurisdiction Of A Magistrate Judge	-- Consent to a Magistrate Judge procedures (not Direct Assignment under D.C.COLO.LCivR 40.1(c)).	**-- Subdivision (d) revised:** Deadlines for the unanimous consent form to be submitted have been revised to conform with the Direct Assignment rule deadlines created under D.C.COLO.LCivR 40.1(c). **(d)Unanimous Consent; Determination.** To consent to the jurisdiction of a magistrate judge under 28 U.S.C. § 636(c), all parties shall complete and file a Consent to the Exercise of Jurisdiction by a United States Magistrate Judge form HERE. Unless otherwise ordered by the assigned district judge, written consent to proceed before a magistrate judge must be filed no later than ~~14 days after the discovery cut-off date~~(1) seven days before the scheduling conference, if any; or (2) 45 days after the filing of the first response, other than an answer, to the operative complaint, whichever is earlier. ~~In cases not involving discovery, the parties shall have 40 days from the filing of the last responsive pleading to file their unanimous consent.~~ When there is such consent, the magistrate judge shall forthwith notify the assigned district judge, who will then determine whether to enter an order of reference under 28 U.S.C. § 636(c).	Fed. R. Civ. P. 73. Magistrate Judges: Trial by Consent; Appeal 28 U.S.C. § 636 Jurisdiction, Powers, and Temporary Assignment [of Magistrate Judges]

Local Rule Number and Title	Practice Under Previous Local Rule	New Practice Under Revised Local Rule (new provisions important for staff consideration are listed in blue).	Related Federal Rule or Statute (if revised, listed in red). Note: there are no revisions in 2015 to the federal rules of criminal procedure.
CRIMINAL RULES			
D.C.COLO.LCrR 32.1 **Sentencing Documents**	-- Sentencing Statements, Objections to PSR, Motions for Variance, restricted access policy.	**New subdivision (e): Sentencing-Related Documents.** In an attempt to gain some clarity regarding the filing of letters, certificates, etc. for defendants prior to sentencing, LCrR 32.1 has been revised to expand upon LCrR 47.1(f)(1)(A)'s direction that "Presentence Report letters and addenda" be filed under restriction, without the need for filing a motion by counsel. The rule revision encourages counsel to submit correspondence or other documents related to sentencing to the U.S. Probation Office, who will then file the material – and thereby eliminate the need to submit a motion to restrict the materials. However, there is a deadline for submitting these documents, and anything tendered to counsel later than the deadline, for subsequent submission to the probation office, will be unavailable for filing and consideration by the court. **New subdivision (e) provides:** **(e) Sentencing-Related Documents. Unless otherwise ordered correspondence or other documents related to sentencing, including letters, reports, certificates, awards, photographs, or other documents pertaining to the defendant, shall be provided to the probation office no later than 10 days before sentencing and shall be filed no**	Fed. R. Crim. P. 32 Sentencing and Judgment *See also* 18 U.S.C. § 3553 - Imposition of a Sentence Regarding procedures for requesting access to probation records, *see* Guide to Judiciary Policy, Vol. 20, Ch. 8, § 850(a)(11) Procedure When Request Is Made [pp. 8-9].

		later than seven days before sentencing by a probation officer and are entitled to Level 2 restriction under D.C.COLO.LCrR 47.1(f)(1)(A).	
D.C.COLO.LCrR 47.1 Public Access To Cases, Documents, And Proceedings	-- Instructions for the filing of restricted motions and documents.	**-- Subdivision (f)(1) Documents Subject to Presumptive Restriction, Level 2 restriction:** -- Presentence reports, addenda and related documents (related documents now described with specificity); -- Statements of Reasons in Judgment and Convictions (this is a restricted portion of the Judgment in a criminal case, that informs the Federal Bureau of Prisons, the U.S. Sentencing Commission, and others about the rationale for adjustments to a defendant's sentence. The rule is revised in order to place under restriction information that potentially may endanger a criminal defendant. **Documents Subject to Presumptive Restriction, Level 4 restriction:** -- Petitions for summonses or arrest warrants based upon petitions for revocation of probation or supervised release. These documents must be handled under restriction, with access limited to the court only, because of the jeopardy of arrest subjects facing arrest becoming fugitives upon learning of summons or arrest warrants being issued. **(f) Documents Subject to Presumptive Restriction.** The following documents shall be filed subject to the specified presumptive restriction levels without the order of a judicial officer: **(1) Documents that shall be filed with Level 2 ~~access~~restriction (access limited to the filing party, the affected defendant(s), the government, and the court):** (A) presentence reports and addenda and related documents ~~and~~, ~~e.g.,~~ including correspondence or other documents related to sentencing, including letters, reports, certificates, awards, photographs, or other documents pertaining to the defendant; (B) probation or supervised release violation reports~~.~~; and	Fed. R. Crim. P. 12, Pleadings and Pretrial Motions Fed. R. Crim. P. 49.1, Privacy Protection for Filings Made with the Court

		(C) statements of reasons in judgments in criminal cases. **** **(3)Documents that shall be filed with Level 4 ~~access~~restriction (access limited to the court):** (A) Pretrial services reports (bail reports). (B) Petitions for summonses or arrest warrants based upon petitions for revocation of probation or supervised release. Unless otherwise ordered, this restriction shall expire on the service of the summons or execution of the warrant.	
D.C.COLO.LCrR 49.1 Formatting, Signatures, Filing, And Serving Pleadings And Documents	-- Electronic Filing through CM/ECF mandated, with certain exceptions -- paper filings for unrepresented parties, unconventional materials, certain documents that must be e-mailed. -- Facsimile filing eliminated. -- The Notice of Electronic Filing (NEF) serves as the Certificate of Service [therefore, mailing the NEF to non e-filers suffices]. -- Response/reply time calculated from date of electronic filing. -- Forms and procedures for unrepresented parties are posted on the court website. -- Response/reply time calculated from date of electronic filing)	-- **Subdivision (b) has been revised** to clarify that unrepresented criminal defendants are not authorized to register with and file documents in the Case Management/ Electronic Case Filing (CM/ECF) system, and documents of unrepresented parties in criminal cases must file documents in paper, unless otherwise ordered. **(3) Pleadings and Documents by Other Unrepresented Parties.** Unless otherwise ordered, ~~T~~these shall be filed in paper ~~unless the filing party obtains authorization to use electronic filing under the Electronic Case Filing Procedures HERE~~. -- **Subdivision (c) has been revised** to mirror the revision made to Subdivision (c) of LCivR 5.1: **"(c) Formatting and Filing of Pleadings and Documents and Maintenance of Contact Information by an Unrepresented Prisoner~~s~~ or Party~~ies~~.** If not filed electronically, an unrepresented prisoner or party shall use the procedures, forms, and instructions posted on the court's website HERE. If the unrepresented party is a prisoner and is unable to access the website, on request the clerk shall provide copies of the necessary procedures, forms, and instructions. **Notice of change of name, mailing address, or telephone number of an unrepresented prisoner or party shall be filed not later than five days after the change. A**	Fed. R. Crim. P. 49, Serving and Filing Papers; E-Government Act of 2002, Pub. L. No. 107-347, Sec. 205; Fed. R. Crim. P. 6, Computing and Extending Time

		user of CM/ECF shall keep his/her primary and alternative e-mail address current. Instructions for a user to update and maintain his/her CM/ECF account are HERE." Advisory Committee Legal Officer Note: The responsibility of Unrepresented Parties (Pro Se litigants, including Prisoner Pro Se litigants) for maintaining contact information continues. The new provision in 49.1(c) for unrepresented parties to update all name, mailing address and telephone number changes within 5 days of such changes is located in this rule to make it more visible and accessible. This provision is already located in LAttyR 5(c)[and formerly, in LCrR 49.3.M.], which includes a reference to unrepresented parties; adding a reference to LCivR 49.1 is more logical.	

Local Rule Number and Title	Practice Under Previous Local Rule	New Practice Under Revised Local Rule (new provisions important for staff consideration are listed in blue).	Related Federal Rule or Statute (if revised, listed in red).
AP RULES			
D.C.COLO.LAPR 3.1 Civil Cover Sheet	-- The Civil Cover Sheet provides proper assignment data for the clerk's office, and statistical data for the court.	-- **New addition to the rule** regarding disputes over "AP" designation. Any disputes are to be treated by motion (not through dialogue with chambers or the clerk's office) before the filing of the answer. **D.C.COLO.LAPR 3.1 Civil Cover Sheet.** A properly completed Civil Cover Sheet HERE shall be filed at the commencement of every AP Case. The filing party shall check the box titled "AP docket" in Section VI of the Civil Cover Sheet regarding Cause of Action. Disputes as to the AP docket designation shall be addressed by motion filed before an answer or other response is due.	Fed. R. Civ. P. 3, Commencing an Action; 28 U.S.C. § 604(a)(2)-(4) Duties of Director [of the A.O.] Generally
D.C.COLO.LAPR 10.2 Commencement Of Action And Form Of Pleading	-- This rule lists the different types of civil actions that fall under the "AP" appellate rule.	-- **Subdivision (a) Social Security Appeals, Paragraph (2)** is revised, based on the determination that the filing of an actual "answer" by the Commissioner for Social Security is time-consuming, an inefficient use of resources, and does not advance the decision of the action. It is clear from the statute and case law that the administrative record of the case suffices as the answer. **D.C.COLO.LAPR 10.2 Commencement Of Action And Form Of Pleading** (a) Social Security Appeals. ***** (2) As an answer to the complaint, the Commissioner shall file a certified copy of the transcript of the relevant	42 USC § 405 Evidence, Procedure, And Certification For Payments, subpara. (g) Judicial review, of Federal Old-Age, Survivors, And Disability Insurance Benefits 28 USC § 158 [Bankruptcy] Appeals 5 U.S.C. § 706 Scope of Review of the Administrative

		administrative record and any affirmative defense, which if not then filed, shall be waived.	Procedure Act
D.C.COLO.LAPR 16.1 AP Case Management	-- The Joint Case Management Plan is a variation of the standard Scheduling Order.	-- The case management provisions of the AP rules are revised to permit flexibility by a designated AP district judge to terminate AP designation in the regular course of business, or to allow that district judge to terminate AP designation may before briefing is complete, as when motions practice raises an issue or seeks relief "so intertwined with the merits of an appeal that it is appropriately handled by the merits judge rather than as a case management matter on the AP docket." **D.C.COLO.LAPR 16.1** **AP CASE MANAGEMENT** ***** **(c) Termination of AP Case Designation.** On completion of pre-merits management, designation as an AP case shall terminate, and the case shall be assigned under D.C.COLO.LCivR 40.1. For good cause, designation as an AP case may be terminated before the completion of pre-merits management on motion of a party or sua sponte by the district judge designated for pre-merits management under D.C.COLO.LCivR 40.1(e).	
D.C.COLO.LAPR 72.2 Consent Jurisdiction of a Magistrate Judge	**New rule.** -- Designates all full-time magistrate judges to conduct social security appeal proceedings. -- Contains prohibition against attempts to influence decisions about consent. -- Clerk serves notice on the parties about right to consent in Social Security Appeal cases. -- Unanimous consent required. -- Order of reference required, which may be vacated.	**IV. CONSENT JURISDICTION OF A MAGISTRATE JUDGE** **D.C.COLO.LAPR 72.2** **CONSENT JURISDICTION OF A MAGISTRATE JUDGE** **(a) Designation.** Under 28 U.S.C. § 636(c)(1) and subject to this rule, all full-time magistrate judges are designated specially to conduct any or all proceedings in social security appeals following completion of pre-merits management. **(b) Prohibition.** No judicial officer, court official, or court employee may attempt to influence the granting or withholding of consent to the reference of any social security appeal to a magistrate judge. The form of notice of right to consent to disposition by a magistrate judge shall make reference to the prohibition and shall identify the rights being waived. **(c) Notice.** On the filing of any social security appeal, the clerk shall serve on the plaintiff and defendant notice of the right of the parties to consent to disposition of the appeal by a magistrate judge under	Fed. R. Civ. P. 73. Magistrate Judges: Trial by Consent; Appeal 28 U.S.C. § 636 Jurisdiction, Powers, and Temporary Assignment [of Magistrate Judges]

		28 U.S.C. § 636(c) and the provisions of this rule. **(d)** **Unanimous Consent; Determination.** To consent to the jurisdiction of a magistrate judge under 28 U.S.C. § 636(c), all parties shall complete and file a Consent to the Exercise of Jurisdiction by a United States Magistrate Judge form HERE. Unless otherwise ordered by the pre-merits district judge, written consent to proceed before a magistrate judge shall be filed no later than the date on which the Joint Case Management Plan is filed. If the parties consent, the pre-merits district judge shall then determine whether to enter an order of reference under 28 U.S.C. § 636(c). **(e)** **Assignment.** On entry of an order of reference under 28 U.S.C. § 636(c), the appeal shall be assigned under D.C.COLO.LCivR 40.1(a) to a magistrate judge effective on completion of pre-merits management. **(f)** **Vacating Reference.** A reference of a social security appeal to a magistrate judge may be vacated under 28 U.S.C. § 636(c)(4).	

Local Rule Number and Title	Practice Under Previous Local Rule	New Practice Under Revised Local Rule (new provisions important for staff consideration are listed in blue).	Related Federal Rule or Statute (if revised, listed in red).
ATTORNEY RULES			
D.C.COLO.LAttyR 3 Requirements For Bar Of The Court	-- An applicant for admission to the bar of this court must be a person licensed by the highest court of a state, federal territory, or the District of Columbia, be on active status in a state, federal territory, or the District of Columbia, and be a member of the bar in good standing in all courts and jurisdictions where the applicant has been admitted. -- An attorney admitted to the bar of this court must remain in good standing in all courts where admitted. In good standing means not suspended or disbarred by any court for any reason.	**Revision to Subdivision (a):** -- Rule 3(a) provides the general requirement for an attorney submitting an application for admission to the bar of this Court. The last sentence is amended with the purpose of making it clear that an attorney who applies to be a member of this Court's bar must pay **all** applicable fees, even if there is more than one fee (i.e., the initial bar application fee, fees for certificates of good standing, bar reinstatement/readmission after the imposition of discipline, potential future bar renewal fees, etc.). **D.C.COLO.LAttyR 3 Requirements For Bar Of The Court** **(a) Application.** An applicant for admission to the bar of this court shall be a person licensed by the highest court of a state, federal territory, or the District of Columbia, on active status in a state, federal territory, or the District of Columbia, and a member of the bar in good standing in all courts and jurisdictions where the applicant has been admitted. Each applicant shall complete an approved form provided by the clerk and shall pay ~~the~~all fees established by the court.	For admission to the bar and ECF registration, counsel must apply through the Attorney Services Portal, located on the website at: https://www.cod.uscourts.gov/CMECF/Register/Login.aspx
D.C.COLO.LAttyR 4 Attorney Self-Reporting Requirements	-- When an attorney must report mis-conduct.	**Revision to Subdivision (a), Paragraph (5):** When an attorney self-reports a criminal conviction, it is helpful for the court's disciplinary body – the Committee on Conduct – for that attorney to provide the terms of the sentence (if known at the time of reporting) and the maximum term of imprisonment that can be imposed for the offense. Such	For the equivalent under the Colo. Supreme Court's rules of conduct, *see* MISCONDUCT, Rule 8.4, Rules of Prof. Cond. Available here: http://www.coloradosupremecourt.com/Regulatio

		information aids the Committee when it evaluates whether the offense is a crime that qualifies for potential discipline under D.C.COLO.LAttyR 8(a), and in particular, whether it is an offense punishable by a term of imprisonment of more than one year [which is the type of crime for which discipline may be imposed]. **D.C.COLO.LAttyR 4 Attorney Self-Reporting Requirements** ***** **(5) Conviction.** If the attorney is convicted of a crime as defined in D.C.COLO.LAttyR 8(a), the attorney shall provide the clerk of this court, no later than 14 days ~~of~~after the conviction, written notice of the conviction, including the terms of the conviction, the terms of the sentence if known, the maximum term of imprisonment that may be imposed for the offense, the court entering the conviction, and the date of conviction. In addition, the attorney shall notify the clerk of this court, no later than 14 days ~~of~~after the conviction becoming final with no further right of direct appeal, that the conviction has become final. The definition of conviction in D.C.COLO.LAttyR 8(b) applies to this paragraph.	n/Rules.htm *See also* MISCONDUCT, Rule 8.4, Model Rules of Professional Conduct, American Bar Association. Available here: http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_8_4_misconduct.html
D.C.COLO.LAttyR 5 Entry And Withdrawal Of Appearance and Maintenance Of Contact Information	-- States procedures for counsel or an unrepresented party entering an appearance in a case; rule regarding non-delegation of signature authority; Government counsel appearances; withdrawal of appearance permitted only by motion; requirement of corporations to be represented by counsel; and obligation of counsel and unrepresented parties to inform the court of change of contact information. **--** Entry of appearance by one attorney does not constitute entry by his firm.	-- **Reminder of** Subdivision (a)'s Entry of Appearance form: An attorney shall not appear in a matter before the court unless the attorney has filed an Entry of Appearance or signed and filed a pleading or document. The Entry of Appearance or initial signed document must state the identity of the client, the attorney's contact information, and a certification statement by the attorney that he is a member in good standing of the court's bar. An Entry of Appearance form is on the website. (See Civil Action Entry of Appearance form, available at: http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/Forms.aspx.) **-- Subdivision (c): Change of contact obligation and procedures also obligate counsel and unrepresented parties to update their primary and secondary e-mail addresses in the CM/ECF system:**	Corporations must have counsel: *See* Osborn v. Bank of U.S., 22 U.S. 738, 830, 1824 WL 2682, 34 (U.S. Ohio) (U.S.1824)]; Flora Const. Co. v. Fireman's Fund Ins. Co., 307 F.2d 413, 413-14 (10th Cir. 1962); Regarding Government Counsel, *See* 28 U.S.C. § 515 Authority for Legal Proceedings. Also, 28 U.S.C. § 1914 and the

	-- Withdrawal of appearance must be attempted through the filing of a **motion** (not just a notice) and showing good cause. **Note : LAttyR 5, just as Civil Rule 83.3D before, is the rule one can cite when informing a corporate party that he/she MUST be represented by counsel.**	**D.C.COLO.LAttyR 5 Entry And Withdrawal Of Appearance and Maintenance Of Contact Information** ***** **(c) Change of Contact Information.** Notice of change of name, mailing address, or telephone number of an attorney or unrepresented party shall be filed no later than five days after the change. All registered users of CM/ECF shall keep his/hertheir primary and alternative e-mail addresses current in CM/ECF. Instructions for a registered users to update and maintain his/hertheir CM/ECF accounts are HERE.	policy of the Administrative Office of the U.S. Courts, a federal government attorney is not required or obligated to pay an admission fee as government counsel.
D.C.COLO.LAttyR 6 Disciplinary Panel And Committee On Conduct	-- Bodies responsible for attorney discipline.	**-- Subdivision (c). Revised.** This subdivision includes a sentence listing the duties of the Committee on Conduct. Sub. (c) is amended to include one of the duties the Committee on Conduct currently performs routinely -- evaluating applications from attorneys who have been placed "not in good standing" and who seek, under Rule 3(d), relief from the rule of good standing. **D.C.COLO.LAttyR 6 Disciplinary Panel And Committee On Conduct** **(c) Duties of the Committee.** The Committee shall receive, investigate, consider, and act on complaints against members of the bar of this court, applications for reinstatement or readmission, applications for relief from the rule of good standing, and allegations that a member of the bar of this court is incapable of practicing law due to a disability, including, but not limited to, physical or mental disability or substance abuse. The chairperson shall appoint one or more members to present and prosecute charges and to prepare orders and judgments as directed by the Panel. The Committee is authorized to report any information consistent with the objectives of this rule to the authorized disciplinary body of any bar or court where the applicant or respondent attorney is admitted. The Committee may perform any additional duties implied by these rules or assigned by order of the Panel.	For Attorney Discipline Information, see http://www.cod.uscourts.gov/AttorneyInformation/AttorneyDiscipline.aspx
D.C.COLO.LAttyR 8	-- Procedures regarding an attorney's conviction of a crime.	-- **Subdivision (a) revised.**	For Attorney Discipline

Conviction Of Crime		Rule 8(a) defines the types of convictions that attorneys must report to the Court. There is a lack of clarity regarding the rule's reference to "felony" as well as the definition of a "serious" crime, i.e. a crimp punishable by a term of imprisonment of more than one year. The rule is remedied by simply deleting the reference to "a felony." This deletion makes clear that the focus should be solely on the maximum term of imprisonment. **D.C.COLO.LAttyR 8 Conviction Of Crime** **(a)** **Crime.** As used in these rules, a crime for which discipline may be imposed is any ~~felony, i.e., a~~ crime punishable by a term of imprisonment of more than one year; any lesser crime that reflects adversely on the honesty, trustworthiness or fitness of the attorney in other respects; or any crime a necessary element of which, as determined by the statutory or common law definition of the crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, or an attempt, conspiracy or solicitation to commit a crime. -- **Subdivision (e) revised.** This provision of the rule addresses when a conviction is final and thus grounds for discipline; and it addresses the role of the Committee on Conduct in assessing the conduct and seeking to impose discipline. Rule 8(e) is revised to address these issues and to more accurately describe the Committee's duty in this disciplinary process. **(e)** **Formal Charges.** ~~When the conviction for a crime as defined in Subdivision (a) is the result of a guilty verdict and, on conclusion of direct appeal, the Committee shall submit formal charges to the Panel pursuant to D.C.COLO.LAttyR 7(e)(3). The sole issue for the Committee to determine shall be the nature and extent of the discipline to be imposed.~~ The conviction for a crime as defined in Subdivision (a) is final when there has been a plea of guilty or a plea of nolo contendere, or, in the event of a guilty verdict, on the conclusion of any direct appeals. When the conviction for a crime as	Information, see http://www.cod.uscourts.gov/AttorneyInformation/AttorneyDiscipline.aspx

		defined in Subdivision (a) is final, the Committee shall consider the facts and shall determine whether to submit formal charges to the Panel pursuant to D.C.COLO.LAttyR 7(e)(3). If the Committee submits formal charges to the Panel, the Committee shall recommend the nature and extent of the discipline to be imposed.	
D.C.COLO.LAttyR 10 Incapacity Due To Disability Or Substance Abuse	-- Investigation, voluntary disability status, disability inactive status.	-- **Subdivision (b) revised.** This rule is amended to specify that when this Court is notified that an attorney has been placed on disability inactive status in another jurisdiction, the attorney will also be placed on disability inactive status by a notation by the Clerk of this Court in the court record. **(b) Placement by Another Court on Disability Inactive Status.** If a member of the bar of this court is placed on disability inactive status or suspended due to disability by any state or federal court, that attorney shall be ~~suspended from practicing before~~placed on disability inactive status and shall not practice in this court until the attorney submits an application for reinstatement under D.C.COLO.LAttyR 11 and the application is approved by the Panel.	
D.C.COLO.LAttyR 11 Reinstatement And Readmission	-- Procedures for Reinstatement and Readmission.	-- **Subdivision (a)(1) revised.** Rule 11(a)(1) sets forth the general procedure to be followed by an attorney who has been suspended or disbarred and is seeking reinstatement. The rule is amended to specify that attorneys seeking reinstatement are required to pay any fees established by the Court, just as new applicants must. **(a) Reinstatement After Suspension; Readmission after Disbarment.** **(1) General Procedure.** An applicant for reinstatement or readmission shall complete an approved form provided by the clerk and pay any fees established by the court. An application for reinstatement or readmission shall	Reinstatement application available at: http://www.cod.uscourts.gov/AttorneyInformation/GeneralAttorneyInformation.aspx

		be investigated by one or more members of the Committee appointed by the chairperson. Following investigation, the Committee shall prepare a recommendation. If the Committee recommends denial of the application, the Committee shall first notify the applicant of the recommendation and the corresponding reasons, and provide the applicant with an opportunity to provide a written response. The recommendation, the response, and all supporting documents shall be submitted to the Panel for decision.	