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UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

MARIA R. HAMILTON
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JOHN JOSEPH MOAKLEY
UNITED STATES COURTHOUSE
1 COURTHOUSE WAY, SUITE 2500
BOSTON, MA 02210
(617) 748-9057

**NOTICE OF PROPOSED AMENDMENTS TO
LOCAL RULE 12.0, LOCAL RULE 39.0(b) AND
INTERNAL OPERATING PROCEDURES III(B), VI, AND VIII(A)**

The United States Court of Appeals for the First Circuit provides notice that it proposes the attached amendments to Local Rule 12.0, Local Rule 39.0(b) and Internal Operating Procedures III(B), VI, and VIII(A). The amendments update citations to local rules to achieve uniformity throughout the Rulebook.

Additions are noted in *italic* print; deletions are noted in ~~strikeout~~ print.

The court hereby invites public comment on the amendments. Comments should be submitted by December 9, 2019 and addressed to:

Office of the Clerk
U.S. Court of Appeals for the First Circuit
United States Courthouse
1 Courthouse Way, Suite 2500
Boston, MA 02210

November 7, 2019

Maria R. Hamilton, Clerk

Local Rule 12.0. Appearance, Withdrawal of Appearance

- (a) **Representation Statement, Appearance.** A representation statement must take the form of an appearance, in a form prescribed by this court. Attorneys for both appellant and appellee must file appearance forms within 14 days after the case is docketed in the court of appeals. See also ~~Local Rule~~ *Ist Cir. R. 46.0(a)*. Additional or new attorneys for the parties may enter an appearance outside the 14 day period. However, in no event may any attorney file a notice of appearance without leave of court after the appellee brief has been filed.
- (b) **Withdrawal of Appearance.** No attorney who has entered an appearance in this court may withdraw without the consent of the court. An attorney who has represented a defendant in a criminal case in the district court will be responsible for representing the defendant on appeal, whether or not the attorney has entered an appearance in the Court of Appeals, until the attorney is relieved of such duty by the court. Procedures for withdrawal in criminal cases are found in Local Rule 46.6. For requirements applying to court-appointed counsel, reference is made to ~~Loc.~~ *Ist Cir. R. 46.5, para. (c)*, the Criminal Justice Plan of this Circuit.

Local Rule 39.0. Taxation of Reproduction Costs

- (b) Costs may be recovered for reproducing the following number of copies, unless the court directs filing of a different number:
- (1) **Briefs.** Nine copies of each brief plus two for the filer and two for each party required to be served with paper copies of the brief. See ~~Local~~ *Ist Cir. R. ~~ule~~ 31.0(b)*.
 - (2) **Appendices.** Five copies of each appendix plus one for the filer and one for each unrepresented party and each separately represented party. See ~~Local~~ *Ist Cir. R. ~~ule~~ 30.0(a)*.

Internal Operating Procedure III. Initial Procedures

B. Ordering Transcripts. The transcripts must be ordered from the court reporter(s) on Transcript Order/Report Form which is available from the district court clerks and from the Clerk of the Court of Appeals. The order for the transcript must be given within 14 days after the filing of the notice of appeal and satisfactory financial arrangements must be made with the court reporter. See Fed. R. App. P. 10, 11; ~~Local~~ *1st Cir. R. 10.0*. Counsel are required to complete these arrangements before the copy of the Transcript Order/Report is filed with the Court of Appeals. If counsel are being paid under the Criminal Justice Act (“CJA”), the CJA form must first be approved and then attached to the Transcript Order/Report Form.

Internal Operating Procedure VI. Briefs and Appendices

- A. General.** The court's website, www.ca1.uscourts.gov, contains guidelines and a checklist to assist counsel in preparing briefs. Counsel are advised that any brief that does not conform to the requirements of the rules may be rejected. For information regarding electronic document filing pursuant to the court's electronic filing system, see ~~Local~~ *1st Cir. R. 25.0*, a copy of which is available on the court's website. Electronic filing is permitted after October 13, 2009 and is required for all attorney filings after January 1, 2010.
- B. Modifications.** The following modifications of the Fed. R. App. P. apply in the First Circuit:
- 1) One copy of the brief or petition must be filed electronically or on a computer generated disk. See ~~Local Rule~~ *1st Cir. R. 32.0*.
 - 2) Only 10 copies, including the disk or electronic filing, need be filed.
- C. Deferred Appendix.** Note the Local Rules of this Court do not provide for the proceeding on a deferred appendix pursuant to Fed. R. App. P. 30(c). If special leave to proceed under this method is sought, and the Court grants such leave, the leave will be conditioned upon a shorter time schedule than the Fed. R. App. P. generally allow so that the processing of the appeal will

not take any longer time than it would under the regular procedure.

- D. Defaults.** If the appellant fails to file the brief and appendix on time, the Clerk is authorized to enter an order dismissing the appeal, and when an appellee is in default as to filing a brief, the appellee will not be heard at oral argument. The party in default may remove the default by showing special circumstance justifying the failure to comply. Any motion to set aside a dismissal should be filed within fourteen days. See Local Rule 1st Cir. R. 45.0.

Internal Operating Procedure VIII. Oral Argument

- A. General.** The Court establishes the times allotted for oral argument and the Clerk so notifies the parties at least one week before argument starts. Though the calendar is not called at the beginning of the court day, counsel should be present at the opening or make arrangements to ascertain whether there is any change in the order of the cases at the opening of Court. It is counsel's responsibility to be present and be prepared should earlier cases take less time for oral argument than was anticipated. See Local Rule 1st Cir. R. 34.1.