

Proposed Revisions to the District of North Dakota's Local Rules

The District of North Dakota has proposed revisions to two of the Court's Local Rules. The proposed rules are now available for public comment.

The proposed changes to General Rule 1.10 clarify the language regarding the Court Registry Investment System ("CRIS") fee and expand the documents required for the withdrawal of funds to include an AO 213.

The proposed change to Criminal Rule 32.1 modifies the deadline for filing a Sentencing Memorandum from 5 days to 7 days prior to the sentencing hearing. The deadline will now match the deadline set forth in the recently updated Policy: [Court Procedures Regarding Defendant Cooperation Agreements](#).

The public is encouraged to review and comment on the proposed rules. The proposed rules and a summary of the proposed revisions are attached to this notice. Comments may be made using the e-mail hyperlink at the bottom of each page of the rules (ndd_public@ndd.uscourts.gov) or sent to:

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United States District Court
P.O. Box 1193
Bismarck, ND 58502

Comments must be received by **Friday, July 28, 2017**. The revised Local Rules will be effective **September 1, 2017**.

Summary of Proposed Rule Changes	
General Rules	
1.10 Deposit and Withdrawal of Funds with the Court	<u>(A)(2)</u> <ul style="list-style-type: none"> • Clarified language regarding the CRIS fee. <u>(C)(2)(a)(ii)</u> <ul style="list-style-type: none"> • Expanded the acceptable documents to include an AO-213.
Criminal Rules	
32.1 Presentence Investigations and Sentencing Memorandum	<u>(B)</u> <ul style="list-style-type: none"> • Modified the deadline for filing Sentencing Memorandum from 5 days to 7 days prior to the sentencing hearing.
Appendix	
Deadlines Chart	Modified the deadline for filing Sentencing Memorandum from 5 days to 7 days prior to the sentencing hearing.

GENERAL RULE 1.10**DEPOSIT AND WITHDRAWAL OF FUNDS WITH THE COURT****(A) GENERAL****(1) NON-INTEREST BEARING FUNDS**

The clerk must deposit all non-interest bearing funds (*e.g.*, bonds in criminal cases, condemnation proceeds) in the local registry of the court.

(2) INTEREST BEARING FUNDS

The clerk must deposit interest-bearing funds (*e.g.*, deposits pursuant to Fed. R. Civ. P. 67) in the registry of this court in the Court Registry Investment System (CRIS), subject to withdrawal upon court order. The Director of the Administrative Office of the United States Courts is designated as custodian for CRIS. The custodian must deduct from the income earned on any deposit ~~a service fee for the management of investments in the CRIS and a registry fee~~, as set by the Director of the Administrative Office of the United States Courts.

(3) INTERPLEADER FUNDS

Interpleader fund deposited under 28 U.S.C. § 1335 are considered a “Disputed Ownership Fund” (DOF), a taxable entity that requires tax administration. Unless otherwise ordered by the court, interpleader funds shall be deposited in the DOF established within the CRIS and administered by the Administrative Office of the United States Courts, which shall be responsible for meeting all DOF tax administration requirements. The custodian is authorized and directed to deduct the DOF fee on assets on deposit in the DOF for management of investments and tax administration. The custodian is further authorized and directed to withhold and pay federal taxes due on behalf of the DOF.

(4) COMPLIANCE

A party is responsible for supplying the court with the information required by this rule.

(B) DEPOSIT OF FUNDS

(1) NON-INTEREST BEARING FUNDS

Prior to presenting to the clerk any deposit of funds, the party must obtain from the court an order directing that the funds be deposited in the local registry of the court.

(2) INTEREST BEARING FUNDS

(a) Prior to presenting to the clerk any deposit of funds, which are to be interest bearing, the party must obtain from the court an order including the following:

- (i) the amount to be invested; and
- (ii) language authorizing the custodian to deduct the applicable fees and taxes, without further order of the court.

(b) The instrument to be deposited in the registry must be made payable to the United States District Court. No third-party checks will be accepted. All funds must be forwarded to the Fargo clerk's office for deposit.

(c) The following guidelines will govern the deposit of interest-bearing registry funds.

- (i) All interest-bearing registry funds must be invested in CRIS.
- (ii) The clerk will deposit the funds as soon as the business of the clerk's office allows.

(C) WITHDRAWAL OF FUNDS

Funds deposited in the registry of the court may be withdrawn only upon order of the court. Unless otherwise ordered by the court, withdrawals of registry funds will be made by check only.

(1) WITHDRAWAL OF NON-INTEREST BEARING FUNDS

Cash bonds are distributed upon order of the court. Cash deposited as security on a bond will be refunded upon order of the court in accordance with the affidavit of ownership filed pursuant to D.N.D. Gen. L.R. 1.11, unless otherwise ordered by the court.

(2) WITHDRAWAL OF INTEREST BEARING FUNDS

- (a) Prior to the court issuing an order disbursing interest-bearing funds, a party must file, under seal, a document setting forth the following:
 - (i) the full mailing instructions for each disbursement check, including full street address and zip code; and
 - (ii) a completed IRS Form W-9 **or an AO-213**.
- (b) All orders disbursing interest-bearing funds must contain the following:
 - (i) the principal sum initially deposited;
 - (ii) direction for the custodian to distribute the interest; and
 - (iii) the amount of the principal sum to be disbursed to each payee.

(3) COMPLIANCE

Disbursements of funds will not be made until the information set forth above is provided to the clerk.

CRIMINAL RULE 32.1**PRESENTENCE INVESTIGATIONS AND SENTENCING MEMORANDA****(A) PRESENTENCE INVESTIGATIONS****(1) CONFIDENTIALITY**

Presentence Investigations (PSI) and other reports by Probation and Pretrial Services officers are confidential. The court authorizes the defendant, defendant's attorney and the United States to retain their copies of the PSI. The court also authorizes Probation and Pretrial Services officers to provide a copy of the PSI to the United States Federal Bureau of Prisons, the United States Sentencing Commission, other agencies providing placement, training or treatment services to persons sentenced by the court, and to others as ordered by the court. With the exception of use by the United States in collecting an assessment, criminal fine, forfeiture, or restitution imposed by the court, the confidentiality of the PSI must be maintained at all times. Any copy of a PSI or other report prepared by Probation and Pretrial Services officers must not be reproduced or redistributed without the express approval of the court.

(2) REQUEST FOR DISCLOSURE

All requests for disclosure of PSIs or probation records, except as provided in this rule, must be presented by motion to the court showing with particularity the need for and entitlement to such information. A Probation and Pretrial Services officer must never disclose confidential information when requested or demanded by subpoena, except under an order issued by the court directing disclosure.

(B) SENTENCING MEMORANDA

A party may, but is not required to, file a sentencing memorandum. If a party files a sentencing memorandum, it must be served and filed no later than **seven (7)** ~~five (5)~~ days prior to the sentencing hearing. A party may file a response to a sentencing memorandum. If a party files a response to a sentencing memorandum, it must be served and filed no later than two (2) days prior to the sentencing hearing.

DEADLINES				
Type of Filing	Deadlines	General Rule	Civil Rule	Criminal Rule
Objection to a Report and Recommendation	14 days after being served with a copy of the Report and Recommendation		72.1(D)	59.1(D)
Reply to Criminal Motion	7 days			47.1(A)
Reply to Dispositive Motion	14 days		7.1(A)(1)	
Reply to Non-dispositive Motion	7 days		7.1(B)(1)	
Response to Criminal Motion	14 days			47.1(A)
Response to Dispositive Motion	21 days		7.1(A)(1)	
Response by the USA to a Motion for Attorney's Fees	14 days from service		54.1(B)	
Response to Non-dispositive Motion	14 days		7.1(B)(1)	
Response to an Order to Show Cause re: Attorney Discipline	30 days after service	1.3(H)(3)		
Response to Sentencing Memorandum	2 days prior to the sentencing hearing			32.1(B)
Sentencing Memorandum	7 5 days prior to the sentencing hearing			32.1(B)
Settlement Papers	30 days after advising the court that an action has been settled		41.1	