

Hiring Local Counsel in the District of New Jersey: What You Need to Know

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Unlike some jurisdictions that treat local counsel as a formality, or do not require local counsel at all, judges in the District of New Jersey (DNJ) expect local counsel to play an active role throughout the litigation. Because the DNJ requires local counsel to be a critical participant in the case, here are key considerations when selecting local counsel in the DNJ.

Why You Need Local Counsel

Admission to the DNJ bar requires a license to practice by the Supreme Court of New Jersey. The DNJ allows members of other bars to be admitted pro hac vice, so long as they are in good standing of the bar of any United States court, pay certain fees, and agree to certain other requirements. But all attorneys admitted pro hac vice must be affiliated with counsel of record who is admitted to the DNJ.

The DNJ only allows members of its bar to “file papers, enter appearances for parties, sign stipulations, or sign and receive payments on judgments, decrees, or orders.” L. Civ. R. 101.1(c)(4). Practically, this means that local counsel must own everything they file and be present for all proceedings. Judges expect local counsel of record to be familiar with the case and ensure compliance with both the local rules and judge-specific practices.

Why Your Choice of Local Counsel Matters

The New Jersey federal bar has an unusually strong culture of collegiality, cooperation, and professionalism. It is a point of pride for judges and lawyers alike. In fact, members of the DNJ bar often refer to



Brendan Walsh, left, and Angela Juneau, right, with Pashman Stein Walder Hayden.

Courtesy photos

it as the “federal family.” Judges in the DNJ expect counsel to treat the court, court personnel, counsel, and parties with respect at all times. The court does not look favorably on sharp tactics or unnecessary personal attacks. To be sure, the court understands that litigation is, by definition, adversarial, but the expectation is that advocacy will remain civil, cooperative, and focused on the merits. Professionalism is not aspirational in the DNJ; it is essential. Members of the “federal family” understand this in ways that practitioners who usually practice only in New Jersey state court do not.

The differences are more than just cultural, though, so there are other compelling reasons to have a seasoned DNJ litigator on your team.

First, magistrate judges play an outsized role in pre-trial proceedings in federal cases in New Jersey. It is not uncommon for parties and their counsel to deal exclusively with the magistrate judge assigned to the

case until summary judgment. And magistrate judges often have their own individual rules and preferences, including for moving to have an out-of-state attorney admitted *pro hac vice*, so it is important that counsel be aware of the potential differences and know where to look to make certain that the proper procedures are being followed.

Our magistrate judges expect counsel to work out as many disputes between themselves as possible. When counsel cannot do so, they try to resolve pre-trial disputes, including discovery disputes, through informal conferences with the parties. Oftentimes, a party may not file a discovery motion without leave of the Court. Knowing when and how to bring a dispute before the magistrate judge, and how a particular magistrate judge may have resolved discovery issues in other cases, can be critical to successful resolution.

Second, the DNJ has local rules that less experienced federal practitioners sometimes overlook. For example, the local rules provide for automatic extensions of certain deadlines just by filing a letter with the clerk's office before the deadline passes. There is no discretion; it is granted so long as the letter is timely filed under the rules. There is also a relatively new rule that requires the disclosure of certain third-party litigation funding agreements. And the rules governing sealing and confidentiality orders are different in DNJ than they are in state court and other district courts.

Third, all district judges have their own individual rules and practices, some of which out-of-state attorneys may find surprising. For example, one of our district judges has a rule that strongly discourages footnotes in briefs and that judge will sometimes reject briefs that contain too many footnotes. Another of our district judges recently imposed a rule that requires disclosure of and a certification for any court filings that were created, in whole or in part, with a generative artificial intelligence tool.

Several judges in the DNJ also prohibit the filing of some or all motions without prior approval, instead requiring the moving party to first file a letter with the Court requesting a pre-motion conference. The letter

needs to explain the basis and legal support for the anticipated motion, and the pre-motion conference gives the Court a chance to resolve the motion expeditiously, without requiring the parties to spend time on extensive briefing.

Fourth, joint final pretrial orders in the DNJ tend to be very detailed documents that function as a roadmap for all aspects of the trial. The form varies slightly from judge to judge, but they typically establish which motions in limine may be filed, which witnesses will testify and the scope of their testimony, and which exhibits will be used at trial. Because it can only be modified after the final pretrial conference "to prevent manifest injustice," Fed. R. Civ. P. 16(e), making sure that the joint final pretrial order includes all required information is critical to the litigation.

Best Practices for Working With Local counsel in the DNJ

Missteps in the DNJ can lead to frustrated judges, unnecessary expense, delays, sanctions, and/or reputational harm. Attorneys who routinely practice in the DNJ will be in the best position to help advance your client's cause. In considering who to choose as your local counsel, you should place a heavy emphasis on attorneys who routinely appear before our district court. Those who clerked for judges in the DNJ or are alums of the DNJ's U.S. Attorney's Office will have particularly helpful insight.

Hiring local counsel for a case in the DNJ should not be an afterthought. Engage local counsel early and treat your local counsel as part of the team, especially when you are considering making a move that requires some sort of court intervention. The motion you are preparing to file might be procedurally improper, longer than it is allowed to be, or completely unnecessary. Good local counsel will be worth their weight in gold.

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