



UNITED STATES DISTRICT COURT

District of Minnesota

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PUBLIC NOTICE

Date: June 4, 2012

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PROPOSED AMENDMENTS TO LOCAL RULES

The United States District Court for the District of Minnesota is issuing for public comment proposed amendments to the Court's Local Rules. Provided below is a brief summary of the proposed amendments. To read the proposed amendments in full, visit the Court's website at www.mnd.uscourts.gov, or contact the Office of the Clerk of Court in St. Paul, Minneapolis, Duluth, or Fergus Falls.

The following proposed amendments to the Local Rules are the culmination of a multi-year process to improve pretrial and civil motion procedure and to restyle the rules.

a. LR 7.1 Civil Motion Practice

A number of changes, some of them significant, are proposed for LR 7.1. Local Rule 7.1 is reorganized to add subsections (a) Meet-and-Confer Requirement and (d) Motions for Emergency Injunctive Relief.

- LR 7.1(a) Meet-and-Confer Requirement.
 - Requires parties to meet and confer with the opposing party before filing any civil motion, except a motion for a temporary restraining order, and file a meet-and-confer statement with the motion.
 - Requires parties to file a joint stipulation if the parties agree on the resolution of all or part of the motion after the meet-and-confer statement is filed.
- LR 7.1(b) Nondispositive motions.
 - Requires the moving party to simultaneously file the motion with the notice of hearing, memorandum of law, affidavits and exhibits, and meet-and-confer statement.
 - Changes the method of calculating the deadlines for response briefs to be based on the filing date of the motion and supporting documents, not the hearing date.

- Adds a list of motions that are considered nondispositive under LR 7.1.
- LR 7.1(c) Dispositive Motions.
 - Instructs the moving party to contact the judge’s calendar clerk before filing a dispositive motion, whereupon the calendar clerk will either schedule a hearing or instruct the party when to file its motion and supporting documents.
 - Requires the moving party to file the motion simultaneously with the notice of hearing, memorandum of law, affidavits and exhibits, and meet-and-confer statement either 42 days before the hearing or if no hearing has been scheduled, as instructed by the calendar clerk.
 - Changes the method of calculating the deadlines for response and reply briefs to be based on the filing date of the motion and supporting documents or the filing date of the response, not the hearing date.
 - Provides parties 14 days to prepare a reply brief, rather than the 7 days currently provided.
 - Requires parties to either file a reply brief or a notice that no reply brief will be filed.
 - Informs the parties that the court may at any time after a party files a dispositive motion, schedule a hearing if no hearing was scheduled, reschedule the hearing, refer the motion to a magistrate judge, or cancel the hearing and notify the parties that the motion will be otherwise resolved.
- LR 7.1(d) Motions for Emergency Injunctive Relief.
 - Instructs that motions for a temporary restraining order and preliminary-injunction motions that require expedited handling must be filed in the same manner as dispositive motions, except that a meet-and-confer statement does not need to be filed with a motion for a temporary restraining order.
 - Instructs that after a motion for emergency injunctive relief is filed, the moving party must contact the judge’s calendar clerk to obtain a briefing schedule.
- LR 7.1(e) Post-trial and Post-judgment Motions.
 - Instructs that after filing a timely post-trial or post-judgment motion, the moving party must contact the judge’s calendar clerk to obtain a briefing schedule.

b. Pretrial Practice Rules, LR 16.1-16.7, 26.1-26.3, 37.1-37.2

Several changes are proposed for the local rules governing pretrial practice. Many of the proposed changes are intended to make the local rules consistent with, and not redundant of, the Federal Rules of Civil Procedure. In addition, to be consistent with current court practice, the proposed changes exempt the proceedings listed in Fed. R. Civ. P. 26(a)(1)(B) from the application of several local pretrial practice rules.

- *LR 16.1 Control of Pretrial Procedure by Individual Judges.* Deletes the sections in LR 16.1 concerning compliance with the Alternative Dispute Resolution Act. Relevant language from those subsections has been moved to proposed LR 16.5.
- *LR 16.2 Initial Pretrial Conference and Scheduling Order.*

- Deletes language in LR 16.2(a) that is redundant of Fed. R. Civ. P. 16 and deletes language regarding the Fed. R. Civ. P. 26(f) conference, which now appears in proposed LR 26.1(a)-(b).
 - Adds a new subsection, LR 16.2(c), to require the court to address any unresolved issues relating to proposed protective orders at the initial pretrial conference.
 - Provides in LR 16.2(d)(2) that the scheduling order may include procedures for handling discovery and filing confidential and protective documents.
 - Specifies in LR 16.2(d)(3) that for a discovery request to be timely, it must be served far enough in advance of the applicable discovery deadline that the responding party's response is due before the discovery deadline.
- *LR 16.3 Modification of a Scheduling Order.*
 - Clarifies in LR 16.3(a) that a motion to modify a scheduling order, even if it is stipulated or uncontested, must be filed in accordance with LR 7.1(b).
 - Clarifies that the memorandum supporting the motion must establish good cause for the proposed modification and explain the proposed modification's effect on any deadlines.
- *LR 16.4 Case Management Conference.* Deletes language in LR 16.4 that is redundant of Fed. R. Civ. P. 16.
- *LR 16.5 Alternative Dispute Resolution and Mediated Settlement Conference.* Deletes language in LR 16.4 that is redundant of the Alternative Dispute Resolution Act, and clarifies that arbitration is authorized only as provided in 28 U.S.C. § 654.
- *LR 16.6 Final Pretrial Conference.* Clarifies in LR 16.6(b) that the parties must be prepared to discuss with the court the items listed at the final pretrial conference.
- *LR 16.7 Other Pretrial Conferences.* Abrogates LR 16.7 as redundant of Fed. R. Civ. P. 16(a).
- *LR 26.1 Conference of the Parties under Fed. R. Civ. P. 26(f); Report; Protective Orders.*
 - Re-organizes the rule to eliminate deleted subsections.
 - Provides in LR 26.1(a)-(b), language from current LR 16.2 regarding the topics parties must discuss at the Rule 26(f) conference and the timing and form of the Rule 26(f) report.
 - Adds a new subsection, LR 26.1(c), to require parties to address whether a protective order is necessary and references LR Form 5 and Form 6, the Court's template protective orders.
- *LR 26.2 Form of Certain Discovery Documents.* Abrogates LR 26.2 as redundant of proposed LR 37.1.
- *LR 26.3 Disclosure and Discovery of Expert Testimony.* Abrogates LR 26.3 as superfluous given the proposed changes to LR 16.2 and 26.1 and Forms 3 and 4.
- *LR 37.1 Form of Discovery Documents and LR 37.2 [Renumbered as LR 37.1]*
 - Abrogates the language in former LR 37.1 Motions Presenting Discovery Disputes as redundant of the meet-and-confer requirement in proposed LR 7.1 and other proposed local rule amendments.

- Renumbers LR 37.2 to proposed LR 37.1 Form of Discovery Motions.

c. Form 3, Rule 26(f) Report and Proposed Scheduling Order and Form 4, Rule 26(f) Report (Patent Cases) and Proposed Scheduling Order

The proposed amendments revise Forms 3 and 4 to be consistent with the above proposed local rule amendments and to be consistent with each other, where appropriate. The amendments include adding a requirement for parties to discuss whether a protective order is necessary and the discovery of electronically stored information. In addition, based on the advice of a group of judges and experienced patent attorneys, the following substantive changes are proposed in Form 4:

- *Paragraph (e), Discovery Relating to Claim Construction Hearing.*
 - Clarifies that parties may amend their claim charts only by leave of court.
 - Requires parties to discuss whether to request a pre-claim construction conference at the meet-and-confer.
 - Requires parties to file a joint patent case status report after the meet-and-confer to state whether the parties request a pre-claim construction conference and whether the joint claim construction statement should be filed before or after the pre-claim construction conference is held.
 - Specifies when the joint claim construction statement must be filed.
- *Paragraph (f), Discovery Relating to Validity/Prior Art.* Clarifies the requirements for the submission of defendant’s and plaintiff’s respective prior art statements
- *Paragraph (g), Expert Discovery.* Reorganizes the expert discovery information and proposes alternative deadlines for identification of certain experts and the exchange of initial expert reports and rebuttal expert reports based on the issuance of the court’s claim construction order.

d. Stylistic and Technical Amendments

The following table identifies the proposed local rules that contain stylistic and technical amendments and, if applicable, a brief summary of any significant changes.

Local Rule	Summary of Proposed Amendments
1.3 Sanctions	Specifies that it applies to “an attorney, law firm, or party.”
3.1 Civil Cover Sheet	Language restyled; no significant changes.
4.1 Service	Language restyled; no significant changes.
4.2 Fees	Replaces text in LR 4.2(a) with title of the form used in the clerk’s office for applications to proceed without prepaying fees or costs. Deletes in LR 4.2(a) language stating that complaint would be stricken if the motion to proceed in forma pauperis is denied as inconsistent with court practice.
5.3 Deadline for Filing Answers	Deletes a cross-reference to LR 1.3 as superfluous.
5.5 Redaction of Transcripts	Replaces “personal data identifier” with “personal identifier” to be consistent with the Federal Rules. Moves the last sentence in subsection (b) to new subsection (f) to more directly state that the court will not review transcripts for redaction

	purposes.
6.1 Continuance	Language restyled; no significant changes.
9.3 Standard Forms for Habeas Corpus Petitions and Motions by Prisoners	Language restyled; no significant changes.
15.1 Amended Pleadings and Motions to Amend	Language restyled; no significant changes.
17.1 Settlement of Action or Claim Brought by Guardian or Trustee	Language restyled; no significant changes.
23.1 Designation of "Class Action" in the Caption	Language restyled; no significant changes.
26.4 Filing of Discovery Documents	Amends the title to be consistent with other abrogated rules.
38.1 Demand for Jury Trial	Instructs parties that they may demand a jury trial either by the method prescribed in LR 38.1 or by any other means that complies with Fed. R. Civ. P. 38(b).
54.3 Time Limit for Motion for Award of Attorney's Fees and for Costs other than Attorney's Fees	Deletes LR 54.3(d) as redundant of LR 7.1.
LR 72.2 Review of Magistrate Judge Rulings	Removes in LR 72.2(a)-(b), the cross-reference to LR 7.1. Adds new subsection (d) to incorporate the length limit and type size requirements from LR 7.1 in order to clarify that the format and filing requirements in LR 72.2 apply to objections and responses to objections filed under this rule in all cases, whether civil or criminal.

These proposed amendments were recommended by the Court's Federal Practice Committee, chaired by Jeannine Lee. The proposed amendments will be posted by the Court for public review and comment through July 6, 2012. Comments should be provided in writing to the Clerk of Court at the address above, or by e-mail to MnFedRules@mnd.uscourts.gov. The Court will consider adoption of the proposed amendments after reviewing any comments or suggestions submitted on or before July 6, 2012.

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