



UNITED STATES DISTRICT COURT

District of Minnesota

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PUBLIC NOTICE

Date: July 23, 2012

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FEDERAL COURT LOCAL RULE AMENDMENTS Effective July 23, 2012

The United States District Court for the District of Minnesota has approved amendments to the Court's Local Rules of practice, effective July 23, 2012. The rule changes affect Local Rules 1.3, 3.1, 4.1, 4.2, 5.3, 5.5, 6.1, 7.1, 9.3, 15.1, 16.1-16.7, 17.1, 23.1, 26.1-26.4, 37.1-37.2, 38.1, 54.3, 72.2, and Forms 3-4. On June 4, 2012, the Court notified the public of the proposed amendments to these rules and provided an opportunity for public comment. After consideration of the public's comments and the recommendations of the Court's Federal Practice Committee, chaired by Attorney Jeannine Lee, the Court approved the amendments.

Provided below is a brief summary of the amendments. To see the amended rules, 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.

a. LR 7.1 Civil Motion Practice

Local Rule 7.1 has been 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 or a motion under Fed. R. Civ. P. 56, 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.
 - Provides 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 courtroom deputy before filing a dispositive motion, whereupon the courtroom deputy 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 courtroom deputy.
 - 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 formerly 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 before a motion for emergency injunctive relief is filed, the moving party must contact the judge's courtroom deputy to obtain a hearing date and briefing schedule.
 - 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.
 - 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 courtroom deputy to obtain a briefing schedule.

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

Several amendments affect the local rules governing pretrial practice. Many of the amendments 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 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, which has been relocated to 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 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 to 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), 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 jointly submit a protective order with the Rule 26(f) report 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 LR 37.1.
- *LR 26.3 Disclosure and Discovery of Expert Testimony.* Abrogates LR 26.3 as superfluous given the amendments 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 LR 7.1 and other local rule amendments.
 - Renumbers LR 37.2 to 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*

Local Rule Forms 3 and 4 are amended to be consistent with the local rule amendments and to be consistent with each other, where appropriate. The amendments include new requirements 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 were made to 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 provides 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 local rule amendments that are stylistic or technical in nature and a brief explanation of the amendment.

Local Rule	Summary of 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 the cross-references to LR 7.1 from LR 72.2(a)-(b). Adds new subsection (d) to provide the length limits and type size requirements 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.

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District of Minnesota