



# UNITED STATES DISTRICT COURT

## District of Minnesota

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## PUBLIC NOTICE

**Date: March 19, 2013**

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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](http://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 reflect an ongoing effort to restyle the rules and make the rules consistent with current court practice. In addition, the proposed amendments include a new local rule regarding criminal discovery and pretrial motions.

#### *a. LR 12.1 Criminal Discovery and Pretrial Motions*

Proposed new LR 12.1 concerning criminal discovery and pretrial motions imposes several procedural changes to criminal pretrial practice. The proposed rule is intended to encourage early and comprehensive disclosures in order to allow the moving party to provide particularized factual and legal bases for any motion and to promote judicial efficiency in processing criminal pretrial motions.

- LR 12.1(a) Discovery.
  - Requires the government to disclose or make available for inspection all Fed. R. Crim. P. 16(a) materials and any evidence that may be subject to a motion to suppress evidence under Fed. R. Crim. P. 12 within 14 days after the arraignment order or scheduling order is entered.
  - Requires the defendant who accepted the evidence disclosed or made available by the government to provide reciprocal discovery within 14 days after accepting the government's materials or evidence.
- LR 12.1(b) Meet-and-Confer Requirement.

- Requires the moving party to meet and confer with the opposing party before filing a motion under Fed. Crim. P. 12 in a good-faith effort to resolve the issues raised by the motion.
- Requires that a motion filed under LR 12.1 include a meet-and-confer statement, certifying that the parties met and stating the outcome of the conference.
- LR 12.1(c) Pretrial Motions.
  - Requires that motions filed under Fed. R. Crim. P. 12 be filed and served within 14 days of the date on which the government is required to make disclosures under LR 12.1(a).
  - Mandates that a motion filed under LR 12.1 specify with particularity the motion's factual and legal basis and include a statement of relevant facts and citation to authority.
  - Requires the responding party to file a response to a motion under LR 12.1 within 7 days after the motion is served.
  - Instructs the government to include the following in its responses: legal argument, number of witnesses the government intends to call, and an estimate as to the duration of the testimony.
- LR 12.1(d) Motion Hearings. Limits the hearing to the factual and legal issues addressed in the motion and response and to any unanticipated issues that may arise in the course of the hearing, except for good cause.

***b. Other proposed substantive changes***

- *LR 7.3 Telephonic hearings.*
  - Provides that to request a telephonic hearing, the party must file and serve a letter making the request and contact the judge's courtroom deputy to coordinate the request.
  - Specifies that if the party intends to request that the telephonic hearing be transcribed, the party must notify the judge's courtroom deputy before the hearing.
- *LR 40.1 Individual Calendar System.*
  - Clarifies in LR 40.1(b) that each judge independently schedules all matters.
  - Deletes former LR 40.1(c) as an unnecessary cross-reference to LR 6.1.
- *LR 54.3 Costs and Attorney's Fees.*
  - Simplifies the rule's title.
  - Deletes in LR 54.3(b) the language that is inconsistent with Fed. R. Civ. P. 54(d)(2)(B) concerning the filing deadlines for motions for attorney's fees and nontaxable costs.
  - Requires in LR 54.3(b) that the court issue a briefing schedule when a timely motion for attorney's fees and nontaxable expenses is filed.
  - Deletes as unnecessary former LR 54.3(c)(5) that stated a bill of costs does not affect the appealability of a final judgment.
  - Reorganizes former LR 54.3(c)(6) to new subsection (d) and clarifies that a bill of costs related to appellate costs taxable in district court must be verified as with an ordinary bill of costs under LR 54.3(c).
- *LR 58.1 Fixed-Sum Payment for Petty Offenses and Other Misdemeanors.*

- Renumbers LR 58 to LR 58.1 to be consistent with court’s local rule numbering conventions.
  - Eliminates the list of agencies that may have a fixed-sum payment schedule and requires the schedules to be posted on the court’s website.
  - Clarifies that fixed-sum payments must be made through the federal courts’ Central Violation Bureau (CVB).
  - Combines former LR 58.1(e)-(f) to address the instances where a law-enforcement officer determines that the defendant must appear in court due to the aggravated nature of the offense, must be arrested, or must be arrested and taken before a magistrate judge promptly after the arrest.
- *LR 71.1 Condemnation Cases [Abrogated]*. Abrogates LR 71.1 as unnecessary.
- *LR 79.1 Custody and Disposition of Exhibits and Documents*.
    - Clarifies in subsection (b) that original exhibits or documents may be withdrawn from the custody of the clerk with leave of the court and after leaving a proper receipt.
    - Deletes former LR 79.1(d)-(e) concerning the removal and disposition of sealed documents.
- *LR 83.10 Criminal Sentencing*.
    - Simplifies the rule’s title.
    - Requires in LR 83.10(a) that parties include in the plea agreement all stipulations, not just ones of fact.
    - Provides in LR 83.10(c) that the deadline for filing objections to the preliminary presentence report is the deadline set by the probation officer in accordance with Fed. R. Crim. P. 32(f)(1).
    - Provides in LR 83.10(e) that the deadline for filing the position regarding sentencing is 14 days from the date of the final presentence report.
    - Specifies in LR 83.10(f) that any party that believes a hearing is necessary on a contested issue relevant to sentencing must move the court for a hearing.
    - Deletes as unnecessary former subsection (i) concerning the resolution of disputes.

***c. 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 other significant changes.

<b>Local Rule</b>	<b>Summary of Proposed Amendments</b>
9.1 Social Security Number in Social Security Cases	Adds language that the clerk must file the required paper containing the worker’s social security number under seal.
39.1 Preparation for Trial in Civil Cases	Clarifies in (b)(1)(A)(ii) that parties may submit an exhibit list either on a form available from the clerk or on a form substantially the same as the clerk’s form. Deletes as redundant of LR 1.3 former subsection (c) regarding sanctions.
39.2 Conduct of Trials and Hearings	Changes the title of the rule to include hearings in order to clarify that the rule applies to trials and hearings.
47.2 Contacts with Jurors	Language restyled; no significant changes.
67.1 Money Deposited into the Court Registry	Revises the language concerning proposed orders to be consistent with LR 7.1.

72.1 Magistrate Judge Duties	Revises LR 72.1 to align more closely with the language in 28 U.S.C. § 636 and 18 U.S.C. § 3401. Adds the amendment dates and committee notes that were formerly only provided in LR 72.2.
72.2 Review of Magistrate Judge Rulings	Revises LR 72.2 to more closely align with the language in Fed. R. Civ. P. 72. Deletes former subsection (c) and other language that was redundant of 28 U.S.C. § 636 and Fed. R. Civ. P. 73.
80.1 Court Reporters' Transcripts	Language restyled; no significant changes.
83.11 Court Administration	Revises the title to better reflect the substance of the rule. Reorganizes the rule subsections. Adds the Fergus Falls clerk's office location. Revises the holiday titles to conform to Fed. R. Civ. P. 6 and adds the Friday after Thanksgiving Day as a holiday. Clarifies that case records are maintained electronically and may be filed or obtained from any clerk's office.
83.12 Complaints Against a Judge	Language restyled; no significant changes.
83.13 Court Appointees	Language restyled; no significant changes.

These proposed amendments were recommended by the Court's Federal Practice Committee, chaired by Becky Thorson. The proposed amendments are posted by the Court for public review and comment through April 19, 2013. Comments should be provided in writing to the Clerk of Court at the address above, or by e-mail to [MnFedRules@mnd.uscourts.gov](mailto:MnFedRules@mnd.uscourts.gov). The Court will consider adoption of the proposed amendments after reviewing any comments or suggestions submitted on or before April 19, 2013.

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District of Minnesota