



# UNITED STATES DISTRICT COURT District of Minnesota

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Richard D. Sletten, Clerk

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Gerald W. Heaney Federal Building  
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Fergus Falls, MN 56537  
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## PUBLIC NOTICE

**Date: September 12, 2014**  
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### LOCAL RULE AMENDMENTS AND PROPOSED AMENDMENTS

The United States District Court for the District of Minnesota has approved amendments to the Court's Local Rules and is issuing a new Local Rule for public comment.

On July 18, 2014, the Court notified the public of proposed amendments to LR 7.2 and new LR 12.1. After consideration of the public's comments and the recommendations of the Court's Federal Practice Committee, chaired by Becky Thorson, the Court approved the amendments. The amendments to LR 7.2, Procedures in Social Security Cases will take effect on September 12, 2014. New LR 12.1, Criminal Discovery and Pretrial Motions, will become effective on October 13, 2014.

In addition, the Court is issuing for public comment proposed new LR 49.1, Filing Documents Under Seal in Criminal Cases. Public comments are due for proposed new LR 49.1 on October 13, 2014.

Provided below is a brief summary of the amendments. To view the amendments, 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.

#### *A. Amendments to LR 7.2, Procedures in Social Security Cases, effective September 12, 2014*

The amendments add a new subsection (a), which requires that social security cases be initially assigned to only a magistrate judge. Under this process, the Court presumes that a party consents to disposition by a magistrate judge unless a party withdraws its

consent on or before the date that the answer must be filed. If a timely notice withdrawing consent to disposition by the magistrate judge is filed, the case will be randomly assigned to a district judge and will remain assigned to the magistrate judge to conduct the proceedings as directed by the district judge. The amendments are intended to reduce structural delays in arriving at a final disposition in social security cases. The amendments also delete subsection (d)(2) for providing unnecessary instructions for filing fee petitions.

The amendments to LR 7.2 are effective as of **September 12, 2014**.

***B. New LR 12.1, Criminal Discovery and Pretrial Motions, effective October 13, 2014***

New LR 12.1 imposes several changes to criminal pretrial practice. The rule is intended to encourage early and comprehensive disclosures in criminal cases and an ongoing exchange of information between the parties, particularly as to discovery and suppression issues to be addressed at a hearing. The deadlines in the rule are all based from the date of the defendant's arraignment.

- 12.1(a) Discovery.
  - Requires the government to fulfill its discovery obligations within 7 days after arraignment.
  - Requires the defendant to fulfill his or her discovery obligations within 14 days after arraignment.
- 12.1(b) Requirement to Confer.
  - Requires the moving party to confer with the responding party before filing a motion under Fed. R. Crim. P. 12(b).
  - Instructs the parties to attempt in good faith to clarify and narrow the issues in dispute at the conference.
- 12.1(c) Pretrial Motions.
  - Requires that Fed. R. Crim. P. 12(b) motions are filed within 21 days after arraignment.
  - Instructs that motions to suppress evidence must identify that evidence and the nature of the challenge.
  - Requires that responses to Rule 12(b) motions are filed within 35 days after arraignment.
  - Instructs that a party who intends to call witnesses at the hearing must file a notice of intent to call witnesses within 35 days after arraignment. The notice must identify the number of witnesses the party intends to call and the estimated duration of each witness's testimony.
  - Instructs that if, after reviewing a notice of intent to call witnesses, a party intends to call witnesses at the hearing, that party must file a responsive notice within 38 days after arraignment.

- States that a defendant is not required to declare in advance of the hearing whether he or she will testify at the hearing.
- 12.1(d) Motion Hearing.
  - States that the motion hearing will be scheduled no earlier than 42 days after arraignment.
- 12.1(e) Modification of Schedule.
  - States that the Court may modify the requirements of the rule for good cause.

New LR 12.1 becomes effective on **October 13, 2014**.

*C. Proposed Amendment: New LR 49.1, Filing Documents Under Seal in Criminal Cases*

Proposed new LR 49.1 was originally posted for public comment in March 2014. After taking the public's concerns into consideration, the Court now reissues a revised LR 49.1 for public comment.

Proposed new rule 49.1 significantly changes the procedures governing the sealing of documents in criminal cases. The rule requires that all documents filed in a criminal case, including sealed documents, be filed electronically on ECF.

In subsection (c), the rule specifies the types of documents that may be filed under seal without filing a motion to seal. Subsection (c) lists the types of documents that: (1) *must* be filed under seal and that will remain sealed; and (2) *may* be filed under seal and that will be unsealed when judgment is entered.

Any document not listed in subsection (c) requires a motion to seal. Subsection (d) outlines the requirements for filing a document under seal by making a motion to seal. The filing party must first file the document under temporary seal and, after a docket number is assigned, file a motion to seal. A motion to seal may apply to multiple documents filed under temporary seal. If the motion to seal is granted, the document may remain sealed until the date specified in the order. If the Court denies the motion to seal, the filing party may withdraw the temporarily sealed document by filing a notice with the clerk. A withdrawn document is not part of the record and will not be considered by the Court unless it is refiled as a public document. If the document is not withdrawn 7 days after the motion to seal is denied, the temporarily sealed document will be unsealed and become part of the record.

Subsection (d) specifies the duties of the United States Attorney and the Clerk when a multi-defendant indictment is filed under seal. And subsection (f) details how to extend the time a document is sealed.

The Court's Federal Practice Committee, chaired by Becky Thorson, recommended that these proposed amendments be posted for public comment. The proposed amendments are posted by the Court for public review and comment through **October 13, 2014**. 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 October 13, 2014.