

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

**Notice for Comment on Proposed Amendments to the
Local Civil and Criminal Rules for the Middle District of Louisiana**

Pursuant to Rule 83 of the Federal Rules of Civil Procedure, public notice is hereby given of the proposed amendments to the Local Civil Rules 4, 5, 7, 16, 41, 56, 62, and Local Criminal Rule 49 of the United States District Court for the Middle District of Louisiana. The new language is underlined and the old language is lined-through.

Comments regarding the proposed amendments may be submitted in writing and transmitted by email to localrules@lamd.uscourts.gov. The deadline for comments is May 10, 2019.

April 12, 2019



Michael L. McConnell, Clerk of Court

LOCAL CIVIL RULE 4 – Summons

Deposit for Service. Except as provided by law in cases involving indigent persons, or unless ordered by the court, the United States Marshal shall not be required to perform any service until the deposit of a sum sufficient to cover the immediate costs has been made, and, may demand security in a reasonable amount for further costs.

LOCAL CIVIL RULE 5 - SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

(a) ~~Place of Filing~~ by Electronic Means.

(1) All documents must be filed with the Clerk of Court in the manner provided in the Court's Administrative Procedures for Filing Electronic Documents, available at www.lamd.uscourts.gov.

~~(b) Filing By Electronic Means.~~

~~(1) The Court will accept for filing only those documents submitted and signed or verified by electronic means and only those electronic documents that comply with procedures established by the Court, as authorized by Rule 5(d)(3) of the Federal Rules of Civil Procedure. The electronic record shall be the official record of the Court.~~

(2) ~~Notwithstanding the foregoing, a~~n attorney may, for good cause shown, request by written motion a temporary exemption from mandatory electronic case filing.

~~(eb)~~ Filing of Extraordinary Pleadings

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~~(dc)~~ Advance Payment Required.

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~~(ed)~~ Filing by Unrepresented Prisoners, Subject to Electronic Filing, Regarding Civil Rights and Habeas Corpus Cases

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~~(fe)~~ Certificate of Service.

~~(1) Every pleading and every brief or memorandum filed in any proceeding in this Court shall bear a certificate by the attorney or party who files it that, prior to filing or contemporaneously if filing by electronic means, copies have been served on counsel for the parties or unrepresented parties, either, electronically, in person or by mailing it postage prepaid, properly addressed. This certificate may be by rubber stamp or typing, or it may be contained in the text of the pleading. When a document filed after the initial complaint is served by filing it with the Court's electronic filing system, no certificate of service is required when all parties are electronic filers.~~

- (2) When a document that is required to be served is served by means other than the Court's electronic filing system, the document must include a certificate of service indicating the document has been served on all parties contemporaneously with its filing with the court. The certificate of service must list each party on which the document has been served and Parties who have not consented to electronic service must be served with a copy of any pleading or other document filed electronically in accordance with the Federal Rules of Civil Procedure, the Local Rules, and the administrative procedures.
- (3) ~~The certificate of service~~ must identify the method of service upon each party.

(gf) Service ~~of Documents~~ by Electronic Means.

(1) As provided by Fed. R. Civ. P. 5(b)(2)(E), if a recipient is a registered filer in The "Notice of Electronic Filing" automatically generated by the Court's Electronic Filing System, except as provided below, constitutes service is complete when the of the filed documents is electronically filed or uploaded to the Court's system. If the recipient is not a registered filer in the Court's system, the filer must effect service on all parties who have consented to electronic service in accordance with the Federal Rules of Civil Procedure.

(2) Most sealed filings do not produce a Notice of Electronic Filing, and therefore service by the filer of any sealed document must be in accordance with the Federal Rules of Civil Procedure and the Local Rules.

~~(h) — Deposit for Service. Except as provided by law in cases involving indigent persons, the United States Marshal shall not be compelled to perform any service until the deposit of a sum sufficient to cover the immediate costs has been made, and may demand security in a reasonable amount for further costs.~~

LOCAL CIVIL RULE 7 - PLEADINGS ALLOWED; FORM OF MOTIONS

(f) Response and Memorandum. Each respondent opposing a motion shall file a response, including opposing affidavits, ~~memorandum,~~ and such supporting documents as are then available, within twenty-one days after service of the motion. Memoranda shall contain a concise statement of reasons in opposition to the motion, and a citation of authorities upon which the respondent relies. For good cause appearing therefor, a respondent may be required to file a response and supporting documents, including memoranda, within such shorter or longer period of time as the Court may order. Reply memoranda ~~and surreply memoranda~~ may only be filed by without leave of Court in Rule 12 and Rule 56 motions only; however, leave of court must be obtained to file surreplies in Rule 12 and Rule 56 motions. Leave of court must be obtained to file reply and surreply memoranda in all other motions not listed.

(g) Memoranda. All ~~initial~~ memoranda filed by a party (including briefs, memoranda in support of or in opposition to a motion, and appeals to District Judges) shall be limited to twenty-~~five~~ pages excluding table of contents and attachments. ~~Subsequent memoranda (including memoranda in response or in opposition), if any, shall not exceed ten pages excluding attachments.~~ The form of the memorandum shall comply with LR10(a). Reply and surreply memoranda, if permitted, shall be limited to ~~five~~ ten pages. Leave of Court must be obtained to file memoranda in excess of the limit above.

LOCAL CIVIL RULE 16 - PRETRIAL CONFERENCES; SCHEDULING; MANAGEMENT

(a) Scheduling Orders.

(1) The scope and timing of the scheduling order under Fed. R. Civ. P. 16(b) shall be as prescribed by the Civil Justice Expense and Delay Reduction Plan of this Court (see General Orders s of the Court-2002-08).

LOCAL CIVIL RULE 41 – DISMISSAL OF ACTIONS

(b) Dismissal for Failure to Prosecute.

(1) A civil action may be dismissed by the Court for lack of prosecution as follows:

(A) Where no service of process has been made within ~~120~~ 90 days after filing of the complaint;

LOCAL CIVIL RULE 56 - SUMMARY JUDGMENT

(a) **Motions for Summary Judgment.** In addition to the material required to be filed by Local Civil Rule 7(d), (f), & (g), a ~~Every~~ motion for summary judgment and opposition thereto shall ~~be accompanied by a separate, short, and~~

~~concise statement of the material facts as to which the moving party contends there is no genuine issue to be tried comply with the requirements of this rule.~~

(b) Supporting Statement of Material Facts. ~~Opposition to Summary~~

~~Judgment.~~ ~~Each copy of the papers opposing a motion for summary judgment shall include a separate, short and concise statement of the material facts as to which the opponent contends there exists a genuine issue to be tried. All material facts set forth in the statement required to be served by the moving party will be deemed admitted, for purposes of the motion, unless controverted as required by this Rule.~~

(1) A motion for summary judgment shall be supported by a separate, short, and concise statement of material facts, each set forth in separately numbered paragraphs, as to which the moving party contends there is no genuine issue of material fact to be tried. Each fact asserted in the statement shall be simply and directly stated in narrative without footnotes or tables and shall be supported by a record citation as required by subsection (f) of this rule.

(2) Nothing in this Local Civil Rule 56 precludes the parties from filing a stipulated statement of material facts as to all, or some, of the facts underlying a motion for summary judgment, or any opposition thereto. In the event the parties file a stipulated statement of material facts, such stipulated facts shall control and take precedence over any conflicting statement of fact filed by any party to the stipulation.

(c) Opposing Statement of Material Facts. A party opposing a motion for summary judgment shall submit with its opposition a separate, short, and concise statement of material facts. The opposing statement shall admit, deny or qualify the facts by reference to each numbered paragraph of the moving party's statement of material facts and unless a fact is admitted, shall support each denial or qualification by a record citation as required by this rule. Each such statement shall begin with the designation "Admitted," "Denied," or "Qualified" and, in the case of an admission, shall end with such designation. The opposing statement may contain in a separately titled section additional facts, each set forth in a separately numbered paragraph and supported by a record citation as required by subsection (f) of this rule.

(d) Reply Statement of Material Facts. A party replying to the opposition to a motion for summary judgment shall submit with its reply a separate, short, and concise statement of material facts which shall be limited to any additional facts submitted by the opposing party. The reply statement shall admit, deny or qualify such additional facts by reference to the numbered paragraphs of the opposing party's statement of material facts and unless a fact is admitted, shall support each denial or qualification by a record citation as required by subsection (f) of this rule. Each such reply statement shall begin with the designation "Admitted," "Denied," or "Qualified" and, in the case of an admission, shall end with such designation.

(e) Motions to Strike Not Allowed. Motions to strike statements of fact are not allowed. If a party contends that an individual statement of fact should not be considered by the court, the party may include as part of the response that the statement of fact “should be stricken” with a brief statement of the reason(s) and the authority or record citation in support. Without prejudice to the determination of the request to strike, the party shall admit, deny or qualify the statement as provided in this rule. A party may respond to a request to strike either in the reply statement of material facts as provided in this rule or, if the request was made in a reply statement of material facts, by filing a response within 14 days. A response to a request to strike shall be strictly limited to a brief statement of the reason(s) why the statement of fact should be considered and the authority or record citation in support.

(f) Statement of Facts Deemed Admitted Unless Properly Controverted; Specific Record of Citations Required. Facts contained in a supporting or opposing statement of material facts, if supported by record citations as required by this rule, shall be deemed admitted unless properly controverted. An assertion of fact set forth in a statement of material facts shall be followed by a citation to the specific page or paragraph of identified record material supporting the assertion. The court may disregard any statement of fact not supported by a specific citation to record material properly considered on summary judgment. The court shall have no independent duty to search or consider any part of the record not specifically referenced in the parties’ separate statement of facts.

(g) Facts Admitted for Purpose of Summary Judgment. Facts deemed admitted solely for purposes of summary judgment shall not be deemed admitted for purposes other than determining whether summary judgment is appropriate.

(h) Number of Motions for Summary Judgment. As a general rule, a party may file only one motion for summary judgment that addresses all issues for which that party seeks summary judgment. A party may submit multiple motions for summary judgment only after seeking leave of Court and demonstrating good cause.

LOCAL CIVIL RULE 62 - STAY OF PROCEEDINGS TO ENFORCE A JUDGMENT

(b) ~~Supersedeas~~ Bond or Other Security. A ~~supersedeas~~ bond or other security staying execution of a money judgment shall be in the amount of the judgment plus 20% of the amount to cover interest, costs, and any award of damages for delay, unless the Court directs otherwise.

LOCAL CRIMINAL RULE 49 - SERVICE AND FILING OF PAPERS

(a) Filing by Electronic Means.

~~(1) The Court will accept for filing only those documents submitted and signed or verified by electronic means and only those electronic documents that comply with procedures established by the Court, as authorized by Rule 49(d) of the Federal Rules of Criminal Procedure. The electronic record shall be the official record of the Court.~~

~~(21) Notwithstanding the foregoing, a~~An attorney may, for good cause shown, request by written motion a temporary exemption from mandatory electronic case filing. ~~If the exemption pertains to a specific case, the motion should be filed in that case. If the exemption pertains to all cases before the Court, current and future, said motion should be filed and will be submitted to the Chief Judge.~~

~~(32)~~ The filing of charging documents, including the complaint, information, indictment and superseding information or indictment, shall be accomplished as set forth in the administrative procedures guide for the U. S. District Court, Middle District of Louisiana, which is authorized by General Order 2005-06. A copy of the administrative procedures may be obtained from the Clerk's Office or downloaded from the Court's website at www.lamd.uscourts.gov.

(b) Service of Documents By Electronic Means.

(1) ~~As provided by Fed. R. Cr. P. 49(a)(3), if a recipient is a registered filer in The "Notice of Electronic Filing" that is automatically generated by the Court's Electronic Filing System, except as provided below, constitutes service is complete when the of the filed document is electronically filed or uploaded to the Court's system. If the recipient is not a registered filer in the Court's system, the filer must effect on all parties who have consented to electronic service. Parties who have not consented to electronic service on all parties must be served with a copy of any pleading or other document filed electronically~~ in accordance with the Federal Rules of Criminal Procedure and the Local Rules.

(2) Most sealed filings do not produce a Notice of Electronic Filing, and therefore, service by the party of any sealed document must be in accordance with the Federal Rules and the Local Rules.

(3) A certificate of service ~~is not required when service is made through filing with the Court's electronic filing system~~ must be included with all electronic filings. ~~When a document is served by means other than the Court's electronic filing system, the document must include a~~ certificate of service ~~and~~ must identify the method of service upon each party.