

PROPOSED CHANGES TO THE LOCAL RULES OF THE
SOUTHERN DISTRICT OF GEORGIA
TO BECOME EFFECTIVE DECEMBER 1, 2009

LR 4.1 Filing.

1. The Clerk shall file a civil action only upon the presentation of: (a) the original complaint and the appropriate filing fee, or the original complaint and an In Forma Pauperis (IFP) petition (unless plaintiff has already been granted leave to proceed IFP under 28 U.S.C. § 1915 or an IFP petition has already been filed and is still pending); (b) a completed summons where service is to be effected (no summons is required where waiver of service is to be utilized); (c) copies for each defendant and the assigned Judge; and (d) a completed civil action cover sheet (Form JS-44). If any of the requirements listed in (a)-(d) is lacking, but a complaint has been presented, the Clerk shall mark the complaint as to the date filed and promptly give notice of the omission to the filing party. Failure to comply within twenty-~~(20)~~calendar one (21) days of the date that notice is served by the Clerk may result in dismissal by the Court.

LR 4.2 Effect of In Forma Pauperis Petition.

2. If the assigned Judge denies the IFP petition, the plaintiff shall have twenty-~~(20)~~one (21) calendar days from the date of service of the order denying the IFP petition to pay the appropriate filing fee. Failure to make timely payment will result in dismissal of the complaint.

LR 6.1 Extension by Clerk.

In civil cases, the Clerk of the Court is authorized and directed to grant, sign, and enter orders on consent, where permitted by law, extending time within which to plead or otherwise defend or make any motions (except a motion for a new trial), for an aggregate time not to exceed ~~ten (10)~~fourteen (14) days, if the time originally prescribed or extended within which to plead, defend, or move has not expired. Any such extension may be granted only once with respect to a pleading, and any such order entered by the Clerk may be suspended, altered, or rescinded by the Court for good cause shown. Extensions of time may not be obtained by stipulation between counsel and must either be sought from the Clerk as set forth above, or be requested by motion to the Court.

LR 7.5 Response to Motion.

Unless these rules or the assigned Judge prescribes otherwise, each party opposing a motion shall serve and file a response within ~~fifteen (15)~~fourteen (14) days of service of the motion, except that in the case of motions for summary judgment the time shall be twenty ~~(20)~~one (21) days after service of the motion. Failure to respond within the applicable time period shall indicate that there is no opposition to a motion. Where ministerial motions (e.g., to extend time, exceed page limits, for a leave of absence) have been filed, every response shall be accompanied by a proposed order. No proposed order need accompany responses to motions requesting non-ministerial relief (e.g., motions for summary judgment, to dismiss, for judgment on the pleadings, to add or drop parties, to exclude evidence, to remand, for injunctive relief).

LR 7.6 Reply Briefs.

A party intending to file a reply brief shall immediately so notify the Clerk and shall serve and file the reply within ~~eleven (11)~~calendar~~fourteen (14)~~ days of service of the opposing party's last brief.

LR 9.1 Special Pleadings.

All pleadings which allege violations of the Truth-in-Lending Act, Regulation Z, RICO, and other similar statutes, whether federal or state, shall specifically state each alleged violation. If the pleading fails to comply with this Rule, upon motion duly made by any party to the proceeding, such pleading shall be dismissed without prejudice by the Court; provided, however, the party alleging such violation shall have ~~ten (10)~~fourteen (14) days from the date of the order in which to amend the pleading to conform with this Rule, or to inform the Court by written response to the motion why it should not be granted. For the purposes of this Rule, it shall not be necessary for the movant to file a brief supporting the motion, but it shall be sufficient if the moving party points out the non-compliance with this Rule. In all actions asserting a claim under RICO, the party filing the RICO claim must, upon filing, also file a RICO statement in compliance with this Court's Standing Order of October 2, 1989. The RICO STATEMENT is included in the Appendix of Forms to this section of these Local Rules.

16.7.2 Response:

The Notice [Litigants' Bill of Rights] shall be served with the complaint and summons or included in the materials giving notice of the suit and requesting waiver of service. Counsel for each represented party shall ensure that the notice is filled out, signed by the party, and returned to the Clerk's office for filing. The plaintiff shall return the form within ~~fifteen~~fourteen (14) days after filing the complaint. The defendant shall return the

form along with the answer or other responsive pleading. The Clerk shall have the authority to grant extensions of time of up to ~~10-business~~fourteen (14) days to return the completed form.

16.7.6 Procedures for Mediation

- (b) Submission of Position Papers to Mediator. No later than ~~five (5)-business~~seven (7) days before the scheduled date of the mediation conference, any party may submit a confidential position paper to the mediator. The position paper shall be limited in length to five (5) pages, double-spaced, and may be accompanied by up to five (5) pages of exhibits. Position papers are confidential, shall be held so by the mediator, and need not be served on other parties. The purpose of these submissions is to help the mediator become familiar with the assertions of the parties, and the parties may agree to the submission of additional information if they believe the information will facilitate the mediated settlement conference.

LR 26.1 Time Limitations.

Discovery shall proceed as follows:

- (a) The parties shall confer as provided in Fed. R. Civ. P. 26(f) by the earlier of (i) ~~20~~21 days after the filing of the last answer of the defendants named in the original complaint or (ii) 45 days after the first appearance by answer or motion under Fed. R. Civ. P. 12 of a defendant named in the original complaint.
- (b) Within ~~10~~14 days after the required conference pursuant to Fed. R. Civ. P. 26(f), the parties shall submit to the Court a written report outlining their proposed discovery plan. This report shall conform to the language and format of the standard form included in the Appendix of Forms to these rules (and furnished by the Clerk to the plaintiff upon the filing of the complaint).
- (e) In removed cases, the Fed. R. Civ. P. 26(f) conference shall be held within ~~20~~21 days of the date of filing of the notice of removal or within ~~20~~21 days of filing of the last answer of the defendants, whichever is later but in no event later than 45 days after the first appearance by answer or motion under Fed. R. Civ. P. 12 of a defendant named in the original complaint.
- (f) In cases transferred from another district, the Fed. R. Civ. P. 26(f) conference shall be held within ~~twenty~~21 days of the docketing of the case in this district.

LR 26.3 Discovery Motions.

Unless otherwise ordered by the assigned Judge, all discovery motions in civil cases shall be automatically referred to the appropriate United States Magistrate Judge. Upon referral, the Magistrate Judge shall promptly enter an order which shall be final unless a party seeks review of the order by the assigned Judge ~~by motion filed within ten (10) days of the Magistrate Judge's order~~ pursuant to Fed. R. Civ. P. 72.

LR 54.1 Time Limit.

A bill of costs ~~---other than attorney's fees---~~ must be filed by the prevailing party within thirty (30) days after the entry of the judgment or other final order or decree.

LR 56.1 Motions for Summary Judgment.

Upon any motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure, in addition to the brief, there shall be annexed to the motion a separate, short, and concise statement of the material facts as to which it is contended there exists no genuine issue to be tried as well as any conclusions of law thereof. Each statement of material fact shall be supported by a citation to the record. All material facts set forth in the statement required to be served by the moving party will be deemed to be admitted unless controverted by a statement served by the opposing party. Response to a motion for summary judgment shall be made within twenty ~~(20-one (21))~~ days of service of the motion. See LR 7.5.

LR 72.2 Nondispositive Pretrial Matters.

In accordance with 28 U.S.C. § 636(b)(1)(A), a Magistrate Judge may hear and determine any pretrial matter, other than those motions specified in Local Rule 72.3(a)(3). Any party may serve and file objections to a Magistrate Judge's determination made under this rule ~~within ten (10) days after being served with a copy of the Magistrate Judge's order.~~ as provided by Fed. R. Civ. P. 72(a). Any objection shall specifically designate the order or portion thereof to which objection is made and the basis for such objection. The District Judge to whom the case is assigned shall consider the objection and set aside any portion of the Magistrate Judge's order found to be clearly erroneous or contrary to law. Such Judge may also reconsider any matter sua sponte.

LR 72.3 Dispositive Pretrial Matters and Prisoner Cases.

(b) Any party may serve and file written objections to the Magistrate Judge's proposed

findings and recommendations issued under this Rule ~~within ten (10) days after being served with a copy of the Magistrate Judge's report, as provided by Fed. R. Civ. P. 72(b).~~ Any objections shall specifically identify the portions of the proposed findings and recommendations to which objection is made and the basis for such objection. ~~The assigned District Judge shall make a de novo determination upon the record, or after additional evidence, of those portions of the Magistrate Judge's disposition to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. The Judge may also receive further evidence, recall witnesses, or recommit the matter to the Magistrate Judge with instructions.~~

LR 83.5 Disbarment and Discipline.

(g) Where in a matter pending before an Article I Judge it appears that any attorney appearing in case or proceeding, or representing a party in interest in such case or proceeding, has violated any of the rules referred to in subparagraph (d), the Article I Judge may initiate a proceeding in conformity with subparagraphs (a) and (d) through (f) of this Rule, may terminate the proceeding at any stage when the question raised is unsupported or unsubstantiated, and, if the proceeding is not terminated, shall at the conclusion of the proceeding submit to the Chief Judge of this Court proposed findings of fact and, where appropriate, a recommendation for the discipline of the offending member.

The Article I Judge shall file his proposed findings and recommendations with the Court under seal and a copy thereof shall forthwith be mailed by the Clerk to the subject of the disciplinary action, who shall have ~~ten~~fourteen days after service to file written objections to the proposed findings and recommendations.

LR 83.7 Withdrawal as Attorney of Record.

Attorneys representing parties in any case, desiring to have their names stricken of record, shall so request one of the District Judges of this Court, in writing and in duplicate, through the Clerk of this Court, and shall disclose that such attorney has given due notice to his client of his intention to withdraw from the case, and shall specify the manner of such notice to the client, attaching copy of the notice. Such notice to the client shall be given at least ~~ten~~(10)fourteen (14) days prior to the request to the Court. Upon the filing of the request with the Clerk, a copy thereof shall forthwith be mailed to the client and within ~~ten~~(10)fourteen (14) days thereafter, such request shall be presented by the Clerk to the District Judge for his action thereon. Ordinarily, counsel will not be allowed to withdraw after pretrial if such withdrawal will delay the trial of the case, in which event the attorney shall continue as responsible for the handling of the case.

CRIMINAL RULES

LCrR 12.2 Notice of Entrapment Defense.

Upon written demand of the attorney for the government stating the time, date, and place at which the alleged offense was committed, the defendant shall serve within ~~ten (10)~~ fourteen (14) days, or at such different time as the Court may order in writing, upon the attorney for the government a written notice of his intention to offer a defense of entrapment. Such notice by the defendant shall state the specific acts upon which the prosecution is based that the defendant admits and shall further state the specific time, place, and circumstances under which the defendant claims to have been entrapped, together with the names and addresses of witnesses upon whom he intends to rely to establish such defense.

LCrR 12.3 Disclosure of Information and Witnesses.

As soon as practicable after the defendant's notice, and in no event less than ~~ten (10)~~ fourteen (14) days before trial (unless the Court directs otherwise), the attorney for the government shall serve upon the defendant, or his attorney, a written notice stating the names and addresses of the witnesses and the substance of any direct or circumstantial evidence of prior acts of the defendant, specific instances of conduct, or criminal convictions of the defendant upon which the government intends to rely to establish the defendant's predisposition to commit the crime alleged.

LCrR 16.1 Pretrial Discovery and Inspection in Criminal Cases.

Within ~~five (5)~~ seven (7) days after arraignment, the United States Attorney and the defendant's attorney shall confer and, upon request, the government shall:

LCrR 32.2 Disclosure of Presentence or Probation Records.

To comply with Federal Rule of Criminal Procedure 32 and 18 U.S.C. § 3552, the probation officer shall, as soon as practical, but no later than twenty-five (25) ~~calendar~~ days after the entry of a plea of guilty or verdict of guilty after trial, provide a copy of the preliminary draft of the presentence report to counsel for the defense and counsel for the government. Counsel for the defense shall disclose the presentence report to the defendant. Neither the preliminary draft nor the final presentence report provided to counsel for the defense and government shall be reproduced, except that, pursuant to 18 U.S.C. § 3552(d), the attorney for the government shall provide a copy of the presentence report to an attorney in the Financial Litigation Unit of the United States Attorney's Office for use in collecting any assessment, criminal fine, forfeiture and/or restitution imposed. The preliminary draft of the presentence report shall be returned to the probation officer immediately upon receipt of the revised presentence report. Counsel for the defense and counsel for the government shall have fourteen (14) ~~calendar~~ days from the date of the receipt of the preliminary draft of the presentence report to file objections

with the probation officer. Thereafter, the probation officer shall have fourteen (14) ~~calendar~~ days from the date of the receipt of counsel's objections to provide a copy of the final presentence report to the Court and counsel for the defense and the government. The final presentence report shall include an addendum advising the Court of any unresolved issues. The sentencing hearing shall be held as provided by law.

LCrR 32.6 Notice to Defendants.

(b) Within ~~ten (10)~~fourteen (14) days after such notice by the Clerk, the United States Marshal shall notify the defendant when and where to report to the institution designated by the Bureau of Prisons to abide the sentence. Upon failure of the defendant to surrender as directed, the Marshal shall report such fact to the United States Attorney, and the bond of such defendant shall be subject to forfeiture without further notice.

ADMIRALTY RULES

LAdR 2. Process: Return Thereof.

(b) Unless otherwise ordered by the Court, all process from this Court within the scope of Supplemental Rules C and D shall be returnable by Verified Claim within ~~ten (10)~~fourteen (14) days after execution of the process and by motion or answer within twenty ~~(20)~~one (21) days following the filing of the claim pursuant to Supplemental Rule C(6).

(c) Unless otherwise ordered by the Court, Federal Rule of Civil Procedure Rule 9(h) process from this Court in personam shall be by civil summons returnable twenty ~~(20)~~one (21) days after service of the process except process within the contemplation of Supplemental Rule B which shall be in conformity therewith.

LAdR 3. Publication.

(b) If the property arrested is not released within ~~ten (10)~~fourteen (14) days after execution of process, publication hereunder shall, unless otherwise ordered, be caused by the plaintiff or intervenor to be made within twenty ~~(20)~~one (21) days after execution of process.

LAdR 4. Notice of Sale, Publication of.

Notice of sale of property in suits in rem and quasi in rem, except in suits on behalf of the United States where other notice is prescribed by statute, shall be caused by the Marshal to be published in any one of the newspapers set forth in Rule 303(a) of these Local

Rules and published at least twice, the first publication to be at least one ~~calendar~~ week prior to the date of sale and the second publication to be at least three ~~calendar~~ days prior to the date of sale, unless otherwise ordered by the Court.

LAdR 13. Stay of Execution or of Release of Property after Judgment or Dismissal.

Except as provided in Rule LAdR 11, no execution of judgment shall issue nor shall seized property be released pursuant to judgment or order of dismissal, until ~~ten~~fourteen days after its entry. Upon filing of a motion for new trial or notice of appeal or motion to set aside default within said ~~ten~~fourteen-day period, a further stay shall exist for a period not to exceed thirty days from the entry of judgment or dismissal to permit the entry of an order fixing the amount of a supersedeas bond and the filing of same.

Except as provided in Rule LAdR 11, no execution of judgment shall issue nor shall seized property be released pursuant to judgment or order of dismissal, until ~~ten~~fourteen days after its entry. Upon filing of a motion for new trial or notice of appeal or motion to set aside default within said ten-day period, a further stay shall exist for a period not to exceed thirty days from the entry of judgment or dismissal to permit the entry of an order fixing the amount of a supersedeas bond and the filing of same.