

LOCAL RULES OF THE DISTRICT COURT

[Adapted from the Local Rules for the U.S. District Court for the Southern District of Indiana]

Local Rule 1.1 - Scope of the Rules

These Rules shall govern all proceedings in civil actions.

Local Rule 5.1. Filing of Papers

All papers must be filed with the Clerk in room 257 of the Law Building. If the clerk's office is closed, mark the date and time of the filing in the upper right corner and place the materials in the brown folder outside room 257, and send an e-mail message to the Clerk at tanford@indiana.edu alerting the clerk to your filing. No papers are to be filed with any Secretary.

Local Rule 5.2 - General Format of Papers Presented for Filing

(a) *Form, Style and Size of Papers.* In order that the files of the Clerk's office may be kept under the system commonly known as "flat filing," all papers presented to the Clerk for filing shall be flat and unfolded. All filings shall be on white paper of good quality, 8 ½" x 11" in size, and shall be plainly typewritten, printed, or prepared by a clearly legible duplication process, and double spaced, except for quoted material. Printed material must be in Times Roman or other standard font of at least 12 pt. size. All papers shall have margins of at least 1" on all sides. The filings shall be either stapled in the top left corner or bound in a manner which permits the document to lie reasonably flat when open (*e.g.*, spiral bound). The title of each filing must be set out on the first page with the party clearly designated. Each page shall be numbered consecutively. Any filing containing four or more exhibits shall include a separate index identifying and briefly describing each exhibit.

(b) *Signature.* Every pleading, motion, or other paper shall clearly identify the name, address, and telephone number of the *pro se* litigant or attorney. Any pleading, motion, or other paper not signed by at least one attorney appearing of record as required by Rule 11, *Federal Rules of Civil Procedure* shall, upon discovery of such omission, be stricken from the record unless such omission is promptly corrected upon notice to said attorney. A rubber stamp or facsimile signature on the original copy of such document shall not be used.

(c) *Number of Copies; Return of File-Stamped Copies.* One copy of all pleadings, motions, and other papers shall be submitted for filing unless ordered otherwise.

(d) *Form of Orders.* The filing of a motion or petition requiring the entry of a routine or uncontested order by the Judge shall be accompanied by a suitable tendered form of order together with sufficient copies thereof for service upon all parties or their counsel whose names and addresses shall be typed in the lower left-hand corner of the tendered order. Whenever the Clerk is required to give notice, as provided by Rules 53(d)(1), 53(e)(1), 65.1 and 77(d) of the *Federal Rules of Civil Procedure*, or Local Rule 24.1, the party or parties requesting such notice shall furnish the Clerk with sufficient copies of the proposed notice to be given and the names and addresses of the parties or their counsel to whom such notice is to be given.

Local Rule 6.1 - Extensions of Time

The clerk is authorized to grant extensions of time of up to 3 days upon the request of any attorney. Requests for extensions of time beyond three days shall not be granted except upon ex parte order of the presiding judge. Requests to the clerk may be made orally or in writing; requests to the judge must be made

in writing and be accompanied by a detailed explanation of the reason for the request.

Local Rule 7.1 - Motion Practice; Length, Form, and Schedule of Briefs; Attorneys' Conference; Notification of Settlement/Resolution of Pending Motions

(a) Dispositive motions. A motion to dismiss under FED. R. CIV. P. 12, for summary judgment, for judgment on the pleadings, or other dispositive motion shall be accompanied by a separate supporting brief. Unless the Court otherwise directs, an adverse party shall have fourteen (14) days after service of the initial brief in which to serve and file an answer brief,

(b) Other motions. All other motions shall be accompanied by a memorandum in support that may not exceed ten pages in length. Unless the Court otherwise directs, an adverse party shall have seven (7) days after service of the initial motion in which to serve and file an responsive memorandum.

(c) Time. The extra time provided in Rule 6, FED. R. CIV. P. does not apply.

(d) Factual basis. Motions shall be accompanied where appropriate by affidavits based on personal knowledge and other evidence.

(e) Proposed order. Routine motions shall be accompanied by a proposed order that complies with Local Rule 5.2(d).

(f) Length Except by permission of the Court, no brief shall exceed 20 pages in length (including table of contents, table of authorities, and appendices). Ordinarily, copies of cited authorities need not be appended to court filings. However, a party citing a decision, statute, or regulation that is not available on Westlaw or Lexis/Nexis shall furnish a copy to the Court and other parties. A party citing a decision, statute or regulation not published in the *United States Reports*, the *Supreme Court Reporter*, the *Federal Reporters*, the *Federal Supplements*, the *Federal Rules Decisions*, the *Bankruptcy Reporter*, the *United States Patents Quarterly*, the *North Eastern Reporters*, or a statute or regulation not found in the current publication of the *United States Code*, the *Code of Federal Regulations*, the *Indiana Code*, or the *Indiana Administrative Code*, must provide a copy of such materials to the Court and any other party upon request.

(g) Obligation to seek consent. Every non-dispositive motion except for Rule 11 sanctions or attorney disqualification, must contain a statement by the movant that she or he sought consent from the opposing party, and shall state whether consent was given or refused. This statement shall recite, in addition, the date, time, and place of such conference and the names of all parties participating therein. If counsel for any party advises the Court in writing that opposing counsel has refused or delayed meeting and discussing the matters covered in this Rule, the Court may take such action as is appropriate to avoid unreasonable delay.

(h) Settlement. The parties shall immediately notify the Court of any reasonably anticipated settlement of a case or the resolution of any pending motion.

Local Rule 7.5 - Requests for Oral Arguments and Hearings

(a) A request for oral argument on a motion shall be made by separate instrument served and filed with the brief. The request for oral argument shall set forth specifically the purpose of the request and an estimate of the time reasonably required for the Court to devote to the argument. An oral argument shall be confined to argument and shall not include the presentation of additional evidence. The granting of a motion for oral argument shall be wholly discretionary with the Court. The Court, upon its own initiative, may also direct that oral argument be held.

(b) A request for an evidentiary hearing on a motion or petition may be made by any party after a motion or petition has been filed. The request for hearing shall set forth specifically the purpose of the hearing and an estimate of the time reasonably required for the Court to devote to the hearing. Dates of hearing shall not be specified in a notice of a motion or petition unless prior authorization is obtained from the Court or Deputy Court Clerk. The Court upon its own initiative, may also direct that a hearing be held.

Local Rule 15.1 - Form of a Motion to Amend and Its Supporting Documentation

A party who moves to amend a pleading shall attach the original of the amendment, and one copy, to the motion. Any amendment to a pleading, whether filed as a matter of course or upon a motion to amend, must, except by leave of Court, reproduce the entire pleading as amended, and may not incorporate any prior pleading by reference.

Local Rule 16.1 - Pretrial Procedures

(a) Purpose. The fundamental purpose of pretrial procedure as provided in Rule 16 of the FED. R. CIV. P. is to eliminate issues not genuinely in contest and to facilitate the trial of issues that must be tried. The normal pretrial requirements are set forth in Rule 16 of the FED. R. CIV. P. It is anticipated that the requirements will be followed in all respects unless any Judge of this Court shall vary the requirements and shall so advise counsel.

(b) Notice. In any civil case, the assigned or presiding Judge may direct the Clerk to issue notice of a pretrial conference, directing the parties to prepare and to appear before the Court.

(c) Initial pretrial conference.

(1) In all cases the Court shall order the parties to appear for an initial pretrial conference no more than 45 days after the filing of the complaint. The order setting the conference shall issue promptly following the appearance of counsel for all defendants.

(2) The order setting the initial pretrial conference shall require counsel for all parties to confer at least 7 days before the initial pre-trial conference (as required by FED. R. CIV. P. 26(f)), prepare a case management plan.

(d) Contents of case management plan.

(1) The case management plan shall address the following matters:

(A) Trial date. The plan should be premised on a trial setting no more than 3 months after the filing of Answers by all defendants. The plan shall also state the estimated time required for trial.

(B) Discovery schedule. The plan shall provide for the timely and efficient completion of discovery, taking into account the desirability of staged discovery where discovery in stages might materially advance the resolution of the case. The plan should schedule the exchange of initial disclosures under FED. R. CIV. P. 26(a)(1) and L.R. 26.3. The plan shall provide for disclosure of expert witnesses as required by FED. R. CIV. P. 26(a)(2)(A).

(C) Limits on depositions, interrogatories, and admissions. The plan shall discuss whether the limits on the number or length of depositions imposed by FED. R. CIV. P. 30(a)(2)(A), 31(a)(2)(A), and 30(d), the number of interrogatories imposed by FED. R. CIV. P. 33(a), or the number of admissions under L.R. 26.1(b) should be varied by stipulation.

(D) Omnibus motion date. The parties shall agree upon a date by which all motions are due, which date shall be at least 20 days prior to the trial date.

(K) Settlement. The plan shall address the possibility of settlement both presently and at future stages of the case, and should contain a statement as to the reasonable possibility of settlement. Counsel should anticipate that the subject of settlement will be discussed at any pretrial conference. Accordingly, counsel should be prepared to state his or her client's present position on settlement. In particular, prior to any conference, counsel should have ascertained his or her settlement authority and be prepared to enter into negotiations in good faith. The Court may require the parties or their agents or insurers to appear in person or by telephone for settlement negotiations..

Local Rule 16.3 - Continuances in Civil Cases

Continuances shall be granted only upon showing of extraordinary cause.

Local Rule 26.1 - Form of Certain Discovery Documents

The party propounding written interrogatories pursuant to Rule 33 of the FED. R. CIV. P., requests for production of documents or things pursuant to Rule 34, or requests for admission pursuant to Rule 36, shall number each such interrogatory or request sequentially. The party answering, responding or objecting to such interrogatories or requests shall quote each such interrogatory or request in full immediately preceding the statement of any answer, response or objection thereto, and shall number each such response to correspond with the number assigned to the request.

Local Rule 26.2 - Filing of Discovery Materials

Because of the considerable cost to the parties of furnishing discovery materials, and the serious problems encountered with storage, this Court adopts the following procedure for filing of discovery materials with the Court:

(a) If relief is sought under Rules 26(c) or 37 concerning any disclosures, interrogatories, or requests for production or inspection, answers to interrogatories or responses to requests for production or inspection, copies of the portions of the disclosures, interrogatories, requests, answers or responses in dispute shall be filed with the Court contemporaneously with any motion filed under these Rules.

(b) If disclosures, interrogatories, requests, answers, responses or depositions are to be used at trial or are necessary to a pretrial motion which might result in a final order on any issue, the portions to be used shall be filed with the Clerk at the outset of the trial or at the filing of the motion insofar as their use can be reasonably anticipated. Such filing may be accomplished by attaching the discovery to such motion in the form of an appendix.

(c) When documentation of discovery not previously in the record is needed for appeal purposes, upon an application and order of the Court, or by stipulation of counsel, the necessary discovery papers shall be filed with the Clerk.

Local Rule 30.1 - Conduct of Depositions

(a) If a claim of privilege has been asserted as a basis for an instruction not to answer, the attorney seeking disclosure shall have reasonable latitude during the deposition to question the deponent to establish relevant information concerning the legal appropriateness of the assertion of the privilege, including (i) the applicability of the privilege being asserted, (ii) circumstances that may result in the privilege having been waived, and (iii) circumstances that may overcome a claim of qualified privilege.

(b) An attorney for a deponent shall not initiate a private conference with the deponent regarding a pending question except for the purpose of determining whether a claim of privilege should be asserted.

Local Rule 36.1 - Requests for Admissions

No party shall serve on any other party more than 25 requests for admission without leave of Court. Requests relating to the authenticity or genuineness of documents are not subject to this limitation. Any party desiring to serve additional requests for admission shall file a written motion setting forth the proposed additional requests for admission and the reason(s) for their use.

Local Rule 37.1 - Informal Conference to Settle Discovery Disputes

The Court may deny any discovery motion unless counsel for the moving party files with the Court, at the time of filing the motion, a separate statement showing that the attorney making the motion has made a reasonable effort to reach agreement with opposing attorney(s) on the matter(s) set forth in the motion.

This statement shall recite, in addition, the date, time, and place of such conference and the names of all parties participating therein. If counsel for any party advises the Court in writing that opposing counsel has refused or delayed meeting and discussing the problems covered in this Rule, the Court may take such action as is appropriate to avoid unreasonable delay.

Local Rule 37.3 - Mode of Raising Discovery Disputes with the Court

Where an objection is raised during the taking of a deposition which threatens to prevent the completion of the deposition and which is susceptible to resolution by the Court without the submission of written materials, any party may recess the deposition for the purpose of submitting the objection by telephone to a judicial officer for a ruling instanter.

Local Rule 56.1 - Summary Judgment Procedure

(a) **Requirements for Moving Party.** A party filing a motion for summary judgment pursuant to FED. R. CIV. P. 56 must also serve and file the following:

- (1) a Statement of Material Facts (either as a section of the brief or as a separate document), in compliance with L.R. 56.1(f), as to which the moving party contends there is no genuine issue and that entitles the moving party to a judgment as a matter of law;
- (2) to the extent not previously filed, any affidavits and other admissible evidence the moving party relies upon to support the facts material to the motion, including, but not limited to, portions of depositions and discovery responses; and
- (3) a supporting brief.

(b) **Requirements for Non-Movant.** A party opposing a motion filed pursuant to FED. R. CIV. P. 56 must serve and file the following:

- (1) a Response to Statement of Material Facts (either as a section of the brief or as a separate document) in compliance with L.R. 56.1(f) that contains a response to each material factual assertion in the moving party's Statement of Material Facts, and if applicable, a separate Statement of Additional Material Facts that warrant denial of summary judgment;
- (2) to the extent not previously filed, any additional affidavits and other admissible evidence to support material facts the opposing party relies upon under L.R. 56.1(b)(1), including, but not limited to, portions of depositions and discovery responses; and
- (3) an answer brief.

(c) **Requirements for Factual Statements and Responses Thereto.**

- (1) **Format and Numbering.** The Statement of Material Facts shall consist of numbered sentences. The Response to Statement of Material Facts must be numbered to correspond with the sentence numbers of the Statement of Material Facts, preferably with each respective factual statement repeated therein..
- (2) **Format of Factual Assertions.** Each material fact set forth in a Statement of Material Facts or Response to Statement of Material Facts must consist of concise, numbered sentences with the contents of each sentence limited as far as practicable to a single factual proposition.
- (3) **Format of Objections to Asserted Material Facts or Cited Evidence.** Objections to material facts and/or cited evidence shall (to the extent practicable) set forth the grounds for the objection in a concise, single sentence, with citation to appropriate authorities.

Local Rule 79.1 - Custody of Files and Exhibits

After being marked for identification, models, diagrams, exhibits and material offered or admitted in evidence in any cause pending or tried in this Court shall be placed in the custody of the Clerk, unless otherwise ordered by the Court, and shall not be withdrawn until after the time for appeal has run or the case is disposed of otherwise. Such items shall not be withdrawn until the final mandate of the reviewing

Court is filed in the office of the Clerk and until the case is disposed of as to all issues, unless otherwise ordered.

Local Rule 83.7 - Appearance and Withdrawal of Appearance

(a) Any attorney representing a party other than plaintiff or petitioner shall first file his/her formal written appearance for such party upon the form furnished therefor by the Clerk. If more than one attorney from the same firm shall appear on behalf of a client, the firm should file only a single notice of appearance, which shall designate one of the attorneys in the firm to receive service.

(b) Counsel desiring to withdraw his/her appearance in any action shall file a petition requesting leave to do so. Such petition shall fix a date for such withdrawal, and petitioning counsel shall file with the Court satisfactory evidence of written notice to his/her client at least five (5) days in advance of such withdrawal date.

(c) A withdrawal of appearance when accompanied by the appearance of other counsel shall constitute a waiver of the provisions of paragraph (b) of this Rule.