

Summary of the changes to the Local Rules for the Eastern District of Wisconsin

In 2010, the Eastern District of Wisconsin amended its local court rules. The local rules are divided as general, civil and criminal. Many of the changes are stylistic, to clarify language. In conformity with the December 2009 amendments to the Federal Rules of Civil and Criminal Procedure, there are numerous changes to the number of days one has to do a certain action. Many sections were renumbered, to provide a more consistent and coherent numbering system. Some provisions have been deleted or relocated in a different rule. A listing of the major changes to provisions or new provisions is provided below. As always, a person should check the specific local rule before taking any action.

Major Changes to the General Local Rules

Electronic filing must be used unless otherwise ordered by the court. (Gen. L.R. 5).

Formatting requirements for pleadings and other papers, including spacing, margin and font requirements are now provided. (Gen. L.R. 5).

The procedures for filing objections to magistrate judge's recommendations now include objections in criminal cases. (Gen. L.R. 72(c)).

Requirements for sealing records have been clarified. The procedures and documents necessary to request a sealing order are spelled out. A procedure is provided for the sealing of discovery materials such as interrogatories, and transcripts of depositions. There is a committee note stating that the fact that a small part of the document may be confidential will not support the sealing of the entire document so counsel in most circumstances should submit a redacted version of the document with a separate request to seal the portions containing the confidential information. (Gen. L.R. 79).

Attorney Admissions: It is now clear that attorneys seeking admission to practice must pay the admission fee and that pro hac vice motions are not permitted. (Gen. L.R. 83(c)).

The rule now states that only natural persons may appear pro se (Gen. L.R. 83 (e)).

A provision has been added explicitly stating that the Court has the ability to issue sanctions for failure to comply with a local rule, although it is expected this rule will be used rarely. (Gen. L.R. 83(f)).

Major Changes to the Civil Local Rules

All parties must now file a Civil Cover Sheet --exemptions for persons in custody and filing pro se have been removed. (Civil L.R. 3).

Parties serving all other parties through the Court's Electronic Case Filing system do not need to

file a separate certificate of service. (Civil L.R. 5).

There are several changes to the forms of motions and other papers. These include:

The rule now provides an expanded list of portions of memoranda that do not count towards page limits.

A procedure for seeking leave to file any papers not authorized by the Federal Rules of Civil Procedure, the local rules or court order has been added.

A new procedure allows citation of unreported or non precedential opinions unless prohibited by Seventh Circuit Rule 32.1. Parties must file and serve a copy of that opinion, orders, judgment or written disposition. (Civil L.R. 7).

Disclosure statements must now be filed, including the full name of every party or amicus, if the party is a corporation, identify any parent corporation and publicly traded corporation owning 10% or more of its stock. If a pseudonym is being used, this must be noted. A disclosure statement form is provided. (Civil L.R. 7.1)

When jurisdiction is based on diversity of citizenship, the pleading or notice of removal must identify the amount in controversy and the citizenship of each party to the litigation. For corporations, this includes both the state of incorporation and the state where the corporation has its principal place of business. Unincorporated associations, LLCs or LLPs must identify the citizenship of all members. (Civil L.R. 8)

Procedures for using pseudonyms are established including filing under seal a disclosure statement that contains the plaintiff's actual name, and filing and serving a motion seeking permission to continue to proceed using the pseudonym. (Civil L.R. 10).

The rule governing motions to amend pleadings has been revised to end confusion about the process. Such motions must include the amended pleading as an attachment to the motion. If granted, the Clerk of the Court will file the amended pleading. If a party has appeared and been served with the amended pleading, the time to serve an answer or other responsive pleading begins when the Court grants the motion to amend. If a party has not appeared, the time to respond begins when that party has been properly served with the amended pleading. (Civil L.R. 15).

There are several changes to the rules regarding pretrial conferences and ADR. In the pretrial conference, parties must be prepared to discuss their discovery plan, whether they anticipate the disclosure or discovery of electronically stored information (ESI), whether they have reached an agreement regarding the assertion of post-production claims of privilege or protection as trial-preparation material, whether settlement discussions have occurred and the basis for the Court's subject matter jurisdiction. The rule also spells out a new ADR procedure, Early Neutral Evaluation. (ENE). (Civil L.R. 16).

The handling of ESI is one of the new changes to the disclosure and discovery rules. Parties'

discovery plans must indicate whether any party will be required to disclose or produce ESI. If so, the parties must consider the reasonable accessibility of ESI, the format and media for the production of ESI, measures taken to prevent spoliation and procedures for the assertion of post-production claims of privilege or protection as trial-preparation material. (Civil L.R. 26)

The rules for disclosure of expert testimony have been amended to require disclosure of treating physicians or others not specifically retained or specially employed to provide expert testimony. A written report required under Fed. R. Civ. P. 26(a)(2)(B) is required for a witness who has been retained or specially employed to provide expert testimony or one whose duties as the party's employee regularly involve giving expert testimony. (Civil L.R. 26).

There is now a rule prohibiting forum shopping for judges. (Civil L.R. 41).

Summary judgment motion requirements have been significantly expanded.

Statement of material facts which have not been stipulated to shall consist of short numbered paragraphs with specific references to supporting material and a party may not file more than 150 separately numbered statements of fact. Opposing party's response to the statement of facts must include a reproduction of the statement of fact—disagreements must include specific references to supporting materials. A non-moving party may file not more than 100 separately numbered statements of additional facts. Stipulated facts do not count against the allotment of proposed facts. It is anticipated that parties will respond to each statement of material fact by either admitting the fact, denying the fact or stating an objection. Arguments in support of the objection should be included in the memorandum of law and not in the responses. Collateral motions are disfavored. (Civil L.R. 56)

Most of the changes to security, deposits into the court, withdrawal of monies and registry fee apply to the Clerk of Court's office procedure. The amended rule states that a party may raise objections to the form, amount or sufficiency of security for costs. (Civil L.R. 67).

For property that is seized by forfeiture and publication is required, publication includes posting on an official internet government forfeiture site. (Civil L.R. 101)

Major Changes to the Local Criminal Rules

There are several changes to the rule governing motions. Every motion must state the statute or rule relied upon, and must be accompanied by a memorandum and any necessary supporting documents or a certificate of counsel stating that no such papers will be filed. The rule also adds a requirement that if a party does not intend to file a response to a motion, that party must file a statement that so indicates. (Crim. L.R. 12(b)).

Disclosure statements are now required in criminal cases and track the disclosure statements in Civil Local Rule 7.1 (Crim. L.R. 12.4)

Reassignment of related criminal cases is a new rule where a criminal case may be reassigned to another judge if it is related to a lower numbered criminal case assigned to that judge and all the

defendants are the same or they are based on the same set of facts, the reassignment is likely to save judicial resources and neither case has reached a stage where reassignment would substantially delay the proceedings in either case. This does not constitute joinder. This rule parallels Civil Local Rule 42. (Crim. L.R. 13)

There is a new section for Sealed Hearings, which reflects the current practice in the District, and the docketing of sealed hearings. This rule was added since General Local Rule 79(d) only applies to sealing documents. (Crim. L.R. 49)

The rule relating to misdemeanor and petty offense cases has been modified to reflect the current practice in the District with respect to those actions. (Crim. L.R. 58)