REPORT OF THE LOCAL CIVIL RULES COMMITTEE FOR THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

TO: The Judges of the United States District Court for the District of Nevada
FROM: The Local Civil Rules Committee
DATE: January 2, 2020

The Local Civil Rules Committee met in Las Vegas, Nevada, with videoconference to Reno, Nevada, on February 25, 2019, April 1, 2019, and November 22, 2019. Representing the Local Civil Rules Committee were Judge Jennifer A. Dorsey (chairperson), Magistrate Judge C.W. Hoffman, Jr. (Ret.) (former chairperson), Chief Judge Miranda M. Du, Judge Andrew P. Gordon, Judge Gloria M. Navarro, Magistrate Judge Daniel J. Albregts, Magistrate Judge William G. Cobb, Lindsay Ager, Jamie Burke, Amber Freeman, Troy Flake, Lia Griffin, Cindy Jensen, J.P. Kemp, Dionna Negrete, Holly Parker, and Blaine Welsh.

The Local Civil Rules Committee recommends that the Judges of the United States District Court for the District of Nevada approve the proposed amendments to the following Local Rules of Practice:

- LR IA 1-5 Effective date
- LR IA 2-1 Inspection
- LR IA 7-2 Ex parte communications and filings
- LR IA 11-1 Admission to the bar of this court; eligibility and procedure
- LR IA 11-2 Admission to practice in a particular case
- LR IA 11-6 Appearances, substitutions, and withdrawals
- LR IA 11-8 Sanctions
- LR IC 2-2 Filer responsibilities when electronically filing document
- LR IC 4-1 Service
- LR 1-1 Scope and purpose
- LR 5-1 Proof of service
- LR 7-3 Page limits
- LR 8-1 Pleading jurisdiction
- LR 16-4 Form of pretrial order
- LR 16-6 Early neutral evaluation
- LR 26-1 Discovery plans and mandatory disclosures
- LR 26-3 Interim status reports
- LR 26-8 Discovery papers
- LR 30-1 Depositions
- LR 42-1 Noticing the court on related cases; consolidation of cases
- LR 54-1 Costs other than attorney's fees
- LR 54-14 Motions for attorney's fees

- LR 59-1 Motions for reconsideration of interlocutory orders
- LR 67-2 Investment of funds on deposit
- LSR 2-1 Pro se civil-rights complaints; form of complaint
- LSR 3-1 Petitions for writ of habeas corpus; form of petition
- LSR 4-1 Motions under 28 U.S.C. § 2255; form of motion

The Committee's proposed rules amendments in redlined format are included in this report. A committee note explaining the proposed amendments follows each of the redlined rules.

LR IA 1-5. EFFECTIVE DATE

These rules, as amended, take effect on ~~May 1, 2016~~[to be determined], and govern all proceedings in actions pending on or after that date.

Committee Note

This date will be determined after the rules are posted for public notice and comment and have been adopted by a majority of the district judges under Fed. R. Civ. P. 83.

LR IA 2-1. INSPECTION~~, CONDUCT IN COURTROOM AND ENVIRONS, AND CONFISCATION~~

~~(a)~~ All persons entering any United States federal building and courthouse in this district and all items carried by these persons are subject to appropriate screening and checking by any United States Marshal or security officer of the General Services Administration. Entrance to the United States federal building and courthouse will be denied to any person who refuses to cooperate in this screening or checking.

~~(b) All wireless communication devices must be turned off while in any United States courtroom or hearing room in this district, unless the presiding judge authorizes otherwise.~~

~~Wireless communication devices are electronic devices that are capable of either sending or receiving data such as sounds, text messages, or images, including, but not limited to, mobile phones, laptop computers, and tablets.~~

~~(c) Cameras and recording, reproducing, or transmitting equipment that are not part of a wireless communication device as defined in (b) above, are prohibited in all United States courthouses in this district unless otherwise authorized and may not be used in any courtroom or hearing room without the express approval of the presiding judge or officer. Failure to abide by this rule may result in the confiscation of these devices.~~

~~(d) Unless provided by special court order, no person may carry or possess firearms or deadly weapons in any United States courthouse in this district without the express approval of the presiding judge. The United States Marshal, any deputy marshal, and officers of the Federal Protective Service are exempt from this provision.~~

~~(e) The court may permit recording, transmitting, and broadcasting of federal court proceedings conducted in open court if it is authorized by the presiding judge and complies with applicable statutes, procedural rules, and Judicial Conference and Ninth Circuit Rules and guidelines.~~

Committee Note

Subsections (b) and (c) were superseded by General Order 2018-02. Subsection (d) was superseded by General Order 2017-01 and General Order 2017-03. Subsection (e) was superseded by General Order 2017-02. The topics addressed in this rule are more properly governed by general orders, which may be amended more easily, based on the court's changing circumstances. The rule's title is amended in parallel with these revisions.

LR IA 7-2. EX PARTE COMMUNICATIONS AND FILINGS

(a) Ex Parte Defined. An ex parte motion or application is a motion or application that is filed with the court but is not served on the opposing or other parties. An ex parte communication is a communication between a pro se party or attorney and a judge or chambers when the opposing party or attorney is not present or copied, including telephone calls, letters, or emails.

(b) Neither party nor an attorney for any party may make an ex parte communication ~~with the court~~ except as specifically permitted by court order or ~~these rules or~~ the Federal Rules of Civil or Criminal Procedure. An ex parte motion or application must articulate the rule that permits ex parte filing and explain why it is filed on an ex parte basis.

(c) This rule does not prohibit communications with courtroom deputies or the clerk's office regarding scheduling or other non-substantive issues.

Committee Note

Subsection (a) is amended to clarify that telephone calls, letters, and emails to the court constitute ex parte communications under certain circumstances. Subsection (b) is amended to require a party to explain why it is filing a motion or application on an ex parte basis. This amendment expands on subsection (b), which was added when the rules were amended on May 1, 2016. There was extensive deliberation on the topic of defining a legal standard for filing ex parte during the comment period for 2016 revisions. The former local rule on ex parte filings including a "compelling reasons" standard. The committee received multiple comments expressing concern that the "compelling reasons" standard was inconsistent with the Federal Rules and case law, including Fed. R. Civ. P. 65, which has its own certification requirement for filing ex parte, and Fed. R. Crim. P. 17. Subsection (b) does not articulate a legal standard and is therefore consistent with the federal rules, but it requires a party to articulate the basis for filing ex parte. The reference to the court's local rules is deleted from subsection (b) because the local rules do not provide any permitted instances for filing on an ex parte basis.

Changes Made After Publication and Comment

In response to public comment, the committee added subsection (c) to clarify that an attorney or pro se party may contact courtroom deputies or the clerk's office regarding scheduling and non-substantive matters without violating subsection (b). The committee further amended its proposed language in subsection (a) in light of new subsection (c). Specifically, before public comment, the committee's proposed amendment to subsection (a) read as follows: "An ex parte communication is a communication between a pro se party or attorney and the court when the opposing party or attorney is not present or copied, including telephone calls, letters, or emails." The committee changed "the court" to "the judge or the judge's chambers" to distinguish between ex parte communications with judges or chambers from permissible communications with courtroom deputies or the clerk's office under subsection (c). Finally, the

committee added “court order” to subsection (b) to allow individual judges to allow ex parte communications under specified circumstances, such as in the ADR context.

LR IA 11-1. ADMISSION TO THE BAR OF THIS COURT; ELIGIBILITY AND PROCEDURE

(a) Practice of Attorneys Admitted in Nevada and Maintaining Nevada Offices.

(1) An attorney who is admitted to practice before the Supreme Court of Nevada and of good moral and professional character may apply for admission to the bar of this court. Admission to practice before the Supreme Court of Nevada, in good standing, is a continuing condition of admission to the bar of this court.

(2) To apply, an applicant must:

(A) Submit a motion by a member of the bar of this court on the form provided by the clerk certifying that the applicant is a member of the State Bar of Nevada and of good moral and professional character;

(B) Subscribe to the roll of attorneys and pay the clerk the admission fee fixed by the Judicial Conference of the United States, plus any additional amounts as the court may fix from time to time; and

(C) Take the following oath or affirmation after which the clerk must issue a certificate of admission to the applicant:

"I, _____, do solemnly swear (or affirm) that as an attorney and as a counselor of this court I will conduct myself uprightly and according to law, and that I will support the Constitution of the United States."

(b) Practice of Attorneys Admitted in Nevada, but not Maintaining Nevada Offices.

(1) Application of Rule. This rule applies to an attorney who is admitted to practice in Nevada but who does not maintain an office in Nevada. ~~A post office box or mail drop location does not constitute an office under this rule. An attorney maintains an office in Nevada by having a bona fide office at which the attorney is practicing law on a regular basis.~~

(2) Association or Designation for Service. Upon filing any pleadings or other papers in this court, an attorney who is subject to this rule must either (i) associate a licensed Nevada attorney maintaining an office in Nevada or (ii) designate a licensed Nevada attorney maintaining an office in Nevada for service of papers, process, or pleadings required to be served on the attorney, including service by hand delivery or facsimile transmission. An attorney who is admitted in Nevada but does not maintain a Nevada office as identified in subsection (b)(1) must, upon

initial appearance, file a notice that (i) informs the court the attorney is appearing under subsection (b)(1) and (ii) identifies the name and contact information of the associated or designated Nevada attorney. The name and office address of the associated or designated attorney must be endorsed on the pleadings or papers filed in this court, and service on the associated or designated Nevada attorney will be deemed to be service on the out-of-state attorney.

Committee Note

Subsection (b)(1) is amended to define the circumstances under which an attorney maintains an office in Nevada. The committee was informed of several cases in this district where there was confusion as to what constitutes "maintain[ing] an office" in Nevada. For instance, some out-of-state attorneys indicated they did not need to comply with subsection (b)(2) because they had "virtual" office space in Nevada, had agreed to have a local attorney allow them to list his/her local address as the out-of-state attorney's own, had rented local office space that was not actually used by the out-of-state attorney, or otherwise had some arrangement whereby the out-of-state attorney provided the address of an "office" that is not actually used by that attorney to practice law. These attorneys seem to construe the current language to mean anything other than a post office box or mail-drop will suffice. It is the committee's understanding that it is important that there be some local legal presence for purposes that include accepting service, facilitating deposition scheduling, facilitating meet-and-confers, and allowing for personal attendance at court hearings (potentially on short notice) as deemed necessary by the judges.

There is case law from within the Ninth Circuit in the analogous pro hac vice context describing what kind of presence suffices to constitute "maintain[ing] an office" within the forum jurisdiction. These cases make clear that "the mere designation of a local office" is insufficient to constitute "maintain[ing] an office." *O'Dea v. Conagra Foods, Inc.*, 2014 U.S. Dist. Lexis 186702, at *5 (S.D. Cal. Jan. 30, 2014). "A bona fide office is more than a mere address – it is a functioning office." *Moreno v. AutoZone, Inc.*, 2007 U.S. Dist. Lexis 98250, at *37 (N.D. Cal. Dec. 5, 2007) (quoting *Tolchin v. Supreme Court of N.J.*, 111 F.3d 1099, 1107 (3d Cir. 1997)). "Mere rented office space lacks any of the indicia of office location, including where clients are met, where files are kept, where telephones are answered, where mail is received, and where counsel can be reached during business hours." *Id.*; *see also KRBL Ltd. v. Overseas Food Dist. LLC*, 2016 U.S. Dist. Lexis 93374, at *14-17 (C.D. Cal. May 26, 2016) (listing information to be provided by attorney in relation to order to show cause for misrepresenting his maintenance of an office within the district). Succinctly stated, a bona fide office is where "regular work is . . . conducted." *Moreno*, 2007 U.S. Dist. Lexis 98250 at *37-38; *see also KRBL Ltd. v. Overseas Food Dist. LLC*, 715 Fed. Appx. 696 (9th Cir. 2018) (affirming sanctions given that attorney merely rented office space with no meaningful connection to it). The proposed amendment brings the rule in line with these cases by requiring a bona fide office for an out-of-state attorney to qualify as maintaining an office in Nevada**.**

Changes Made After Publication and Comment

In light of the public comments received, the committee has concerns considering the ongoing viability of LR IA 11-1 and is putting the public comments and the rule before the judges for their direction on whether future study is required. The committee withdraws its previous proposed amendment to subsection (b)(1) that stated "[a]n attorney maintains an office in Nevada by having a bona fide office at which the attorney is practicing law on a regular basis."

LR IA 11-2. ADMISSION TO PRACTICE IN A PARTICULAR CASE

(a) An attorney who has been retained or appointed to appear in a particular case but is not a member of the bar of this court may appear only with the court's permission. Applications must be by verified petition on the form furnished by the clerk. The attorney may submit the verified petition only if the following conditions are met:

(1) The attorney is not a member of the State Bar of Nevada;

(2) The attorney is not a resident of the State of Nevada;

(3) The attorney is not regularly employed in the State of Nevada;

(4) The attorney is a member in good standing and eligible to practice before the bar of another jurisdiction of the United States; and

(5) The attorney associates an active member in good standing of the State Bar of Nevada as attorney of record in the action or proceeding.

(b) The verified petition must be accompanied by the admission fee set by the court. The petition must state:

(1) The attorney's office address;

(2) The court or courts to which the attorney has been admitted to practice and the date of admission;

(3) That the attorney is a member in good standing of the court or courts, along with an attached certification issued within six months before the date of filing of the verified petition that the applicant's membership is in good standing from the state bar or from the clerk of the supreme court or highest admitting court of every state, territory, or insular possession of the United States in which the applicant has been admitted to practice law;

(4) That the attorney is not currently suspended or disbarred in any court;

(5) Whether the attorney is currently subject to any disciplinary proceedings by any organization with authority to discipline attorneys at law;

(6) Whether the attorney has ever received public discipline including, but not limited to, suspension or disbarment, by any organization with authority to discipline attorneys at law;

(7) The title and case number of any matter, including arbitrations, mediations, or matters before an administrative agency or governmental body, in which the attorney has filed an application to appear as counsel under this rule in the last 3 years, the date of each application, and whether it was granted;

(8) That the attorney certifies that he or she will be subject to the jurisdiction of the courts and disciplinary boards of this State with respect to the law of this State governing the conduct of attorneys to the same extent as a member of the State Bar of Nevada; and

(9) That the attorney understands and will comply with the standards of professional conduct of the State of Nevada and all other standards of professional conduct required of members of the bar of this court.

(c) An attorney whose verified petition is pending must not take action in this case beyond filing the first pleading or motion. The first pleading or motion must state the attorney "has complied with LR IA 11-2" or "will comply with LR IA 11-2 within ___ days." Until permission is granted, the clerk must not issue summons or other writ.

(d) Unless the court orders otherwise, an attorney who is granted permission to practice under this rule must associate a resident member of the bar of this court as co-counsel. The attorneys must confirm the association by filing a completed designation of resident counsel on the form provided by the clerk. The resident attorney must have authority to sign binding stipulations. The time for performing any act under these rules or the Federal Rules of Civil, Criminal, and Bankruptcy Procedure runs from the date of service on the resident attorney. Unless the court orders otherwise, the resident attorney need not personally attend all proceedings in court.

(e) ~~In civil cases, a~~An attorney must comply with all provisions of this rule within 14~~45~~ days of his or her first appearance. ~~(f)~~ In criminal cases, ~~an attorney must comply with all provisions of this rule within 14 days of his or her first appearance. In addition,~~ the defendant(s) must execute designation(s) of retained counsel bearing the signature of both the attorney appearing pro hac vice and the associated resident attorney. The designation(s) must be filed and served within the same 14-day period.

~~(g) In bankruptcy cases, an attorney must comply with all provisions of this rule within 14 days of his or her first appearance.~~

(f~~h~~) The court may grant or deny a petition to practice under this rule. The court may revoke the authority of the attorney permitted to appear under this rule. Absent special circumstances and a showing of good cause, repeated appearances by any attorney under this rule will be cause for denial of the attorney's verified petition.

(1) It is presumed in civil and criminal cases that more than 5 appearances by any attorney granted under this rule in a 3-year period is excessive use of this rule. It is presumed in bankruptcy cases that more than 2 documents filed or more than 10 proof of claims filed on behalf of creditor(s) by any attorney under this rule in a 1-year period is excessive use of this rule.

(2) The attorney has the burden to establish special circumstances and good cause for an appearance in excess of limitations set forth in subsection (h)(1) of this rule. The attorney must set forth the special circumstances and good cause in an affidavit attached to the original verified petition.

(g~~i~~) When all the provisions of this rule are satisfied, the court may enter an order approving the verified petition for permission to practice in the particular case. This permission is limited to the particular case. The clerk must not issue a certificate to practice.

(h~~j~~) Failure to comply timely with this rule may result in the striking of any and all documents previously filed by the attorney, the imposition of other sanctions, or both.

Committee Note

Subsection (b)(3) is amended to require that a pro hac vice applicant's certificate of good standing must not be more than six months old.

Subsection (e) is amended to shorten the deadline for complying with the pro hac vice rules from 45 to 14 days in civil cases, which is the current deadline in criminal and bankruptcy cases. The purpose of the amendment is to make it easier for the Clerk of Court to track applicants' compliance with the rule. Given that the deadline is now the same for all cases, subsections (e), (f), and (g) are combined for brevity and clarity. The rule's subsequent subsections are re-lettered accordingly.

Committee Note Following Publication and Comment

In light of the public comments received, the committee has concerns considering the ongoing viability of LR IA 11-2 and is putting the public comments and the rule before the judges for their direction on whether future study is required.

LR IA 11-6. APPEARANCES, SUBSTITUTIONS, AND WITHDRAWALS

(a) Unless the court orders otherwise, a~~A~~ party who has appeared by attorney cannot while so represented appear or act in the case. This means that once an attorney makes an appearance on behalf of a party, that party may not personally file a document with the court; all filings must thereafter be made by the attorney. An attorney who has appeared for a party must be recognized by the court and all the parties as having control of the client's case, however, the court may hear a party in open court even though the party is represented by an attorney.

(b) ~~No~~ If an attorney ~~may~~ seeks to withdraw after appearing in a case, the attorney must file a motion or stipulation and serve it ~~except by leave of the court after notice has been served~~ on the affected client and opposing counsel. The affected client may, but is not required to, file a response to the attorney's motion within 14 days of the filing of the motion, unless the court orders otherwise.

(c) A stipulation to substitute attorneys must be signed by the newly-appearing attorneys, the withdrawing attorneys, and the represented client and be approved by the court. Except where accompanied by a request for relief under subsection (e) of this rule, the attorney's signature on a stipulation to substitute the attorney into a case constitutes an express acceptance of all dates then set for pretrial proceedings, trial, or hearings, by the discovery plan or any court order.

(d) Discharge, withdrawal, or substitution of an attorney will not alone be reason for delay of pretrial proceedings, discovery, the trial, or any hearing in the case.

(e) Except for good cause shown, no withdrawal or substitution will be approved if it will result in delay of discovery, the trial, or any hearing in the case. Where delay would result, the papers seeking leave of the court for the withdrawal or substitution must request specific relief from the scheduled discovery, trial, or hearing. If a trial setting has been made, an additional copy of the moving papers must be provided to the clerk for immediate delivery to the assigned district judge, bankruptcy judge, or magistrate judge.

Committee Note

Subsection (a) is amended to allow a represented party to file documents on a pro se basis at the court's discretion, such as when a party with a court-appointed attorney seeks a new attorney. Subsection (b) is amended to clarify that an attorney must move to withdraw from a case as opposed to filing a notice of withdrawal. It is further amended to permit the affected client to respond to the attorney's motion to withdraw, which is not allowed under the current wording of the rule. Subsection (c) is amended to clarify that the new attorneys and the withdrawing attorneys must sign the stipulation to substitute attorneys.

Changes Made After Publication and Comment

The committee added the language "of the filing of the motion" to subsection (b) to clarify the triggering event for the affected client's response deadline.

LR IA 11-8. SANCTIONS

The court may, after notice and an opportunity to be heard, impose any and all appropriate sanctions on an attorney or party who:

(a) Fails to appear when required for pretrial conference, argument on motion, or trial;

(b) Fails to prepare for a presentation to the court;

(c) Fails to comply with these Local ~~r~~Rules; ~~or~~

(d) Fails to comply with the Nevada Rules of Professional Conduct; or

(e) Fails to comply with any order of this court.

Committee Note

The purpose of the amendment is to emphasize the court's expectation of a high degree of professionalism and civility from attorneys and to provide an additional mechanism for enforcing the rules of professional conduct.

LR IC 2-2. FILER RESPONSIBILITIES WHEN ELECTRONICALLY FILING DOCUMENT

(a) Form of Documents.

(1) PDF Format. To be filed in the electronic filing system, all documents must be in a searchable Portable Document Format (PDF), except that exhibits and attachments to a filed document that cannot be imaged in a searchable format may be scanned.

(2) Size of Documents. Documents must not be larger than the limit set forth in the electronic filing system. Documents that exceed the limit must be divided into separate documents.

(3) Exhibits and Attachments. All filed documents with exhibits or attachments must comply with the following requirements:

(A) Exhibits and attachments must not be filed as part of the base document in the electronic filing system. They must be attached as separate files; and

(B) Exhibits and attachments that must be separated due to size must be individually identified when they are filed in the court's electronic filing system. (Example: "Affidavit of Joe Smith," pages 1–30; Affidavit of Joe Smith," pages 31–45, etc.")

(4) Legibility. Before filing a PDF document, a filer must verify its legibility. Illegible documents may be stricken.

(b) Document Events. The electronic filing system categorizes documents by the type of "event." The filer must select a type of "event" for each filed document based on the relief requested or the purpose of a document. For each type of relief requested or purpose of the document, a separate document must be filed and a separate event must be selected for that document. Examples: (i) separate documents must be filed for a response to a motion and a countermotion, with the appropriate event selected for each document, rather than filing a response and a countermotion in one document; (ii) separate documents must be filed for a motion to dismiss and a motion to sever, rather than filing a motion to dismiss and to sever in one document.

(c) Title of Docket Entry. The filer is responsible for designating the accurate title of a document filed in the electronic filing system. The filer must correct or complete the title of the document filed in the electronic filing system.

(d) Linking Documents. Electronically filed documents—such as responses, replies, and declarations—that pertain to a motion or other document must be linked properly to the document to which they pertain in the electronic filing system.

This enables the establishment of a docket-entry relationship or proper setting or termination of scheduled deadlines.

(e) Hearing-Related Documents. Unless the court orders otherwise, a filer must electronically file documents required for court hearings. When these documents are filed in close proximity to the hearing, the filer must advise the courtroom administrator for the assigned district judge or magistrate judge that the documents were filed.

(f) Submission of Proposed Orders. A filer who submits a proposed order, judgment, findings of fact, or other document requiring a judge's signature may submit the proposed order electronically in a searchable PDF format. A judge may direct proposed documents be submitted by other means and in other formats.

(g) Paper Copies for Chambers. Unless the presiding judge orders otherwise, a filer must provide to chambers a paper copy of all electronically filed documents that exceed 50 pages in length, including exhibits or attachments. Paper copies must be appropriately tabbed and indexed. *See* LR IA 10-3(d), (i). Paper copies must be file-stamped copies, bearing the document number assigned by the court's electronic filing system.

(h) Errata. A notice of errata must explain the changes made to the corrected document.

Committee Note

The amendment to subsection (g) clarifies that paper courtesy copies must be file-stamped copies and must be indexed per LR IA 10-3(d).

Subsection (h) is a new rule. The purpose of the amendment is to promote efficiency by requiring the party filing a notice of errata to identify for the court and opposing parties the changes that were made, thereby eliminating the need to compare the documents.

LR IC 4-1. SERVICE

(a) Participation in the court's electronic filing system by registration and receipt of a login and password constitutes consent to the electronic service of pleadings and other papers under applicable rules, statutes, or court orders.

(b) Except as otherwise set forth in this rule, electronic transmission of the Notice of Electronic Filing constitutes service of a document on filers. Parties and attorneys who are not filers must be served conventionally under applicable Federal Rules, statutes, or court orders.

(c) Paper Service. Service of documents in paper form is required in the following circumstances, even if the document is electronically filed:

(1) When the document is a summons, complaint, petition, or other document initiating a civil case, it must be served under applicable Federal Rules of Civil Procedure or court orders.

(2) When a document is a summons or warrant arising from an indictment, it must be served under applicable Federal Rules of Criminal Procedure.

(3) When a document is a subpoena, it must be served under applicable Federal Rules of Procedure.

(4) When a document is filed under seal. *See* LR IA 10-5.

(5) When a document is filed exclusively in paper form.

(6) When a document is served on non-filers.

(7) When the court orders otherwise.

~~(d) Proof of Service. Unless the face of the document demonstrates that all parties to the case have signed the document (e.g., a stipulation), a certificate of service, indicating how service was accomplished, must accompany all electronically filed documents.~~

Committee Note

Fed. R. Civ. P. 5(b) was amended in 2018 to eliminate the need for certificates of service on papers filed in the court's electronic filing system and specify the limited circumstances a proof of service is required. LR IC 4-1(d) is deleted as obsolete given the 2018 amendments to Rule 5(b).

LR 1-1. SCOPE AND PURPOSE

(a) These are the Local Rules of Civil Practice for the United States District Court for the District of Nevada. These rules are promulgated under 28 U.S.C. § 2071 and Fed. R. Civ. P. 83 and apply to all civil proceedings unless the court orders otherwise. These rules will be administered in a manner to secure the just, speedy, and inexpensive determination of every action and proceeding.

(b) The court is committed to assisting attorneys and parties in reducing costs in civil cases. It is the obligation of attorneys, as officers of the court, to work toward the prompt completion of each case and to minimize ~~the costs of discovery~~ litigation expense. These rules provide the basic tools for management of civil cases, including discovery. Effective advocacy depends on cooperative use of these rules to manage cases in a cost-effective manner.

Attorneys and litigants should consider the following non-exhaustive means for reducing costs: (1) limiting and phasing discovery; (2) using the assigned magistrate judge to resolve discovery disputes by telephone or informal conference; (3) using pre-discovery alternative dispute resolution, including, if appropriate, a pre-discovery early settlement conference with a magistrate judge; (4) consent to trial by a magistrate judge under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73; and (5) use of the Short Trial Program, General Order 2013-1. The court will support the utilization of these tools and, if necessary, impose them when appropriate and helpful to reduce costs or more effectively manage and resolve civil cases.

(c) The court expects a high degree of professionalism and civility from attorneys. There should be no difference between an attorney's professional conduct when appearing before the court and when engaged outside it, whether in discovery or any other phase of a case.

Committee Note

Subsection (b) is amended to emphasize that consistent with Fed. R. Civ. P. 1 and LR 1-1(a), attorneys must work to minimize expenses during all phases of a case, including discovery.

LR 5-1. PROOF OF SERVICE

(a) ~~All papers required or permitted to be served must have attached, when presented for filing, a written proof of service.~~ When a proof of service is required, ~~T~~the proof must show the day and manner of service and ~~the~~ name of ~~the~~ each person served. Proof of service may be by written acknowledgment of service or certificate of the person who made service.

(b) ~~The court may refuse to take action on any paper until a proof of service is filed.~~ Either on its own initiative or on a motion by a party, the court may strike an~~the~~ unserved paper or vacate any decision made on an~~the~~ unserved paper.

~~(c) Failure to make the proof of service required by this rule does not affect the validity of the service. Unless material prejudice would result, the court may at any time allow the proof of service to be amended or supplied.~~

Committee Note

Fed. R. Civ. P. 5(b) was amended in 2018 to eliminate the need for certificates of service on papers filed in the court's electronic filing system and specify the limited circumstances a proof of service is required. The proposed amendments to LR 5-1 are intended to make it consistent with the 2018 amendments to Rule 5(b).

LR 7-3. PAGE LIMITS

(a) Motions for summary judgment and responses to motions for summary judgment are limited to 30 pages, excluding exhibits. Replies in support of a motion for summary judgment are limited to 20 pages. Parties must not circumvent this rule by filing multiple motions.

(b) All other motions, responses to motions, and pretrial and post-trial briefs are limited to 24 pages, excluding exhibits. All other replies are limited to 12 pages, excluding exhibits.

(c) The court looks with disfavor on motions to exceed page limits, so permission to do so will not be routinely granted. A motion to file a brief that exceeds these page limits will be granted only upon a showing of good cause. A motion to exceed these page limits must be filed before the motion or brief is due and must be accompanied by a declaration stating in detail the reasons for, and number of, additional pages requested. The motion must not be styled as an ex parte or emergency motion and is limited to three pages in length. Failure to comply with this subsection will result in denial of the request. The filing of a motion to exceed the page limit does not ~~stay the deadline~~ alter the briefing schedule for the underlying motion or brief. In the absence of a court order ~~by the deadline for the underlying motion or brief, the motion to exceed page limits is deemed denied~~ on the motion to exceed page limits, the responding party should respond to the over-length brief. If the court permits a longer document, the oversized document must include a table of contents and a table of authorities.

Committee Note

Subsection (a) is amended to clarify that parties must not file multiple motions for partial summary judgment to circumvent the page limit. Subsection (c) is amended to instruct the parties on how to proceed if the court has not ruled on the motion to exceed page limits before the response deadline.

LR 8-1. PLEADING JURISDICTION

~~The first allegation of any~~Every complaint, counterclaim, cross-claim, third-party complaint, or petition for affirmative relief must state the statutory or other basis of claimed federal jurisdiction and the facts to support it.

Committee Note

The purpose of this amendment is to clarify that facts supporting the court's jurisdiction must be alleged, but they do not need to be the first allegations in the document.

LR 16-4. FORM OF PRETRIAL ORDER

Unless the court orders otherwise, the pretrial order must be in the following format:

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

_____, Plaintiff	)	CASE NO.
Vs.	)	
_____, Defendant	)	PRETRIAL ORDER

After pretrial proceedings in this case,

IT IS ORDERED:

I.

This is an action for: [State nature of action, relief sought, identification and contentions of parties.]

II.

Statement of jurisdiction: [State the facts and cite the statutes that give this court jurisdiction of the case.]

III.

The following facts are admitted by the parties and require no proof:

_____
_____
_____

IV.

The following facts, though not admitted, will not be contested at trial by evidence to the contrary:

_____
_____
_____

V.

The following are the issues of fact to be tried and determined at trial.[1] [Each issue of fact must be stated separately and in specific terms.]

_____
_____
_____

VI.

The following are the issues of law to be to be tried and determined at trial.[2] [Each issue of law must be stated separately and in specific terms.]

_____
_____
_____

VII.

(a) The following exhibits are stipulated into evidence in this case and may be so marked by the clerk:

~~(1) Plaintiff's exhibits.~~

~~(2) Defendant's exhibits.~~

~~(b) As to the following additional exhibits, the parties have reached the stipulations stated:~~

~~(1) Set forth stipulations on plaintiff's exhibits.~~

~~(2) Set forth stipulations on defendant's exhibits.~~

[1] Should the attorneys or parties be unable to agree on the statement of issues of fact, the joint pretrial order should include separate statements of issues of fact to be tried and determined upon trial.

[2] Should the attorneys or parties be unable to agree on the statement of issues of law, the joint pretrial order should include separate statements of issues of law to be tried and determined upon trial.

(b~~c~~) As to the following exhibits, the party against whom the same will be offered objects to their admission on the grounds stated:

(1) Set forth the plaintiff's exhibits and objections to them.

(2) Set forth the defendant's exhibits and objections to them.

(c~~d~~) Electronic evidence: [State whether the parties intent to present electronic evidence for purposes of jury deliberations.]

(d~~e~~) Depositions:

(1) Plaintiff will offer the following depositions: [Indicate name of deponent and identify portions to be offered by pages and lines and the party or parties against whom offered.]

(2) Defendant will offer the following depositions: [Indicate name of deponent and identify portions to be offered by pages and lines and the party or parties against who offered.]

(e~~f~~) Objections to ~~D~~depositions:

(1) Defendant objects to plaintiff's depositions as follows:

_____

_____

_____

(2) Plaintiff objects to defendant's depositions as follows:

_____

_____

_____

VII.

The following witnesses may be called by the parties at trial:

(a) Provide names and addresses of plaintiff's witnesses.

(b) Provide names and addresses of defendant's witnesses.

~~VIII~~IX.

The attorneys or parties have met and jointly offer these three trial dates:

_____ _____ _____

It is expressly understood by the undersigned that the court will set the trial of this matter on one of the agreed-upon dates if possible; if not, the trial will be set at the convenience of the court's calendar.

~~I~~X.

It is estimated that the trial will take a total of _____ days.

APPROVED AS TO FORM AND CONTENT:

_____
Signature of Attorney for Plaintiff or Pro Se Plaintiff

_____
Signature of Attorney for Defendant or Pro Se Defendant

XI.

ACTION BY THE COURT

This case is set for court/jury trial on the fixed/stacked calendar on _____. Calendar call will be held on _____.

~~This pretrial order has been approved by the parties to this action as evidenced by their signatures or the signatures of their attorneys hereon, and the order is hereby entered and will govern the trial of this case. This order may not be amended except by court order and based upon the parties' agreement or to prevent manifest injustice.~~

DATED: _____.

_____
UNITED STATES DISTRICT JUDGE or
UNITED STATES MAGISTRATE JUDGE

Committee Note

Former section VI addressed issues of law to be tried and evidence. For organizational consistency, section VI now addresses only issues of law, and the rule is amended to add a new section VII, of which the former subsections (a-f) regarding evidence are a part. As for subsection (a), given that they are stipulated exhibits, the rule is amended to delete the distinction between plaintiff's and defendant's exhibits. As for former subsection (b), the parties do not routinely fill out this section, so it is deleted as unnecessary. The final two sentences of section XI are deleted as surplusage.

LR 16-6. EARLY NEUTRAL EVALUATION

(a) All employment-discrimination actions filed in this court must undergo early neutral evaluation as defined by this rule. The purpose of the early neutral evaluation session is for the evaluating magistrate judge to give the parties a candid evaluation of the merits of their claims and defenses. For purposes of this rule, "employment-discrimination action" includes actions filed under the following statutes: Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.*; Title I of the Americans With Disabilities Act, as amended, 42 U.S.C. § 12101, *et seq.*; prohibition of employment discrimination under 42 U.S.C. § 1981; Age Discrimination in Employment Act, 29 U.S.C. § 626, *et seq.*; Equal Pay Act, 29 U.S.C. § 206; Genetic Information Non-Discrimination Act of 2008, 42 U.S.C. § 2000ff, *et seq.*; Vocational Rehabilitation Act of 1973, 29 U.S.C. § 794; and under 42 U.S.C. § 1983, if the complaint alleges discrimination in employment on the basis of race, color, gender, national origin, or religion.

(b) If an action is not initially assigned to the Early Neutral Evaluation Program, an action must be assigned to the program upon the filing by any party of a notice stating that action falls under one or more of the statutes listed in LR 16-6(a).

(c) A motion for exemption from the Early Neutral Evaluation Program must be filed no later than seven days after entry of an order scheduling the early neutral evaluation session. A response to the motion for exemption must be filed within 14 days after service of the original motion. A reply will not be allowed. The evaluating magistrate judge has final authority to grant or deny any motion requesting exemption from the program and may exempt any case from early neutral evaluation on the judge's own motion. These orders are not appealable.

(d) Unless good cause is shown, the early neutral evaluation session must be held by the court not later than 90 days after the first responding party appears in the case.

(e) Unless excused by the evaluating magistrate judge, the parties with authority to settle the case and their attorneys must attend the early neutral session in person.

(f) Parties must submit their written evaluation statements to the chambers of the evaluating magistrate judge by 4:00 p.m. seven days before the session. The written evaluation statement must not be filed with the clerk or served on the opposing parties.

(1) Evaluation statements must be concise and must:

(A) Identify by name or status the person(s) with decision-making authority who, in addition to the attorney, will attend the early neutral evaluation session as representative(s) of the party, and persons connected with a party opponent (including an insurer

representative) whose presence might substantially improve the utility of the early neutral evaluation session or the prospects of settlement;

(B) Describe briefly the substance of the suit, addressing the party's views on the key liability and damages issues;

(C) Address whether there are legal or factual issues whose early resolution would reduce significantly the scope of the dispute or contribute to settlement negotiations;

~~(D) Describe the history and status of settlement negotiations;~~

(D~~E~~) Include copies of documents, pictures, recordings, etc. out of which the suit arose, or whose availability would materially advance the purposes of the evaluation session (e.g., medical reports, documents by which special damages might be determined);

(E~~F~~) Discuss the strongest and weakest points of your case, both factual and legal, including a candid evaluation of the merits of your case;

(F~~G~~) Estimate the costs (including attorney's fees and costs) of taking this case through trial;

(G~~H~~) Describe the history of any settlement discussions and detail the demands and offers that have been made and the reason settlement discussions have been unsuccessful; and

(H) Certify that the party has made initial disclosures under Fed. R. Civ. P. 26(a)(1) and that the plaintiff has provided a computation of damages to the defendant under Fed. R. Civ. P. 26(a)(1)(A)(iii).

(2) Each evaluation statement must remain confidential unless a party gives the court permission to reveal some or all of the information in the statement during the session. The parties should consider whether it would be beneficial to exchange non-confidential portions of the evaluation statement.

(g) Each evaluating magistrate judge must:

(1) Permit each party (through an attorney or otherwise), orally and through documents or other media, to present its claims or defenses and to describe the principal evidence on which they are based;

(2) Assist the parties to identify areas of agreement and, where feasible, enter stipulations;

(3) Assess the relative strengths and weaknesses of the parties' contentions and evidence, and carefully explain the reasoning that supports them;

(4) When appropriate, assist the parties through private caucusing or otherwise to explore the possibility of settling the case;

(5) Estimate, where feasible, the likelihood of liability and the range of damages;

(6) Assist the parties to devise a plan for expediting discovery, both formal and informal, to enter into meaningful settlement discussions or to position the case for disposition by other means;

(7) Assist the parties to realistically assess litigation costs; and

(8) Determine whether some form of follow-up to the session would contribute to the case-development process or promote settlement.

(h) The early neutral evaluation process is subject to the confidentiality provision of LR 16-5.

Committee Note

The purpose of this amendment is to streamline the rule, as subsection 16-6(f)(1)(D) is subsumed by, and duplicative of, 16-6(f)(1)(H).

LR 26-1. DISCOVERY PLANS AND MANDATORY DISCLOSURES

(a) Fed. R. Civ. P. 26(f) Meeting; Filing and Contents of Discovery Plan and Scheduling Order.

The pro se plaintiff or plaintiff's attorney must initiate the scheduling of the conference required by Fed. R. Civ. P. 26(f) to be held within 30 days after the first defendant answers or otherwise appears. Fourteen days after the mandatory Fed. R. Civ. P. 26(f) conference, the parties must submit a stipulated discovery plan and scheduling order. The plan must be formatted to permit the plan, once the court approves it, to become the scheduling order required by Fed. R. Civ. P. 16(b). If the plan sets deadlines within those specified in LR 26-1(b), the plan must state on its face in bold type, "SUBMITTED IN COMPLIANCE WITH LR 26-1(b)." If longer deadlines are proposed, the plan must state on its face "SPECIAL SCHEDULING REVIEW REQUESTED." Plans requesting special scheduling review must include, in addition to the information required by Fed. R. Civ. P. 26(f) and LR 26-1(b), a statement of the reasons why longer or different time periods should apply to the case or, in cases in which the parties disagree on the form or contents of the discovery plan, a statement of each party's position on each point in dispute.

(b) Form of Stipulated Discovery Plan and Scheduling Order; Applicable Deadlines. The discovery plan must include, in addition to the information required by Fed. R. Civ. P. 26(f), the following information:

(1) Discovery Cut-Off Date. The plan must state the date the first defendant answered or otherwise appeared, the number of days required for discovery measured from that date, and the calendar date on which discovery will close. Unless the court orders otherwise, discovery periods longer than 180 days from the date the first defendant answers or appears will require special scheduling review;

(2) Amending the Pleadings and Adding Parties. Unless the discovery plan otherwise provides and the court so orders, the deadline for filing motions to amend the pleadings or to add parties is 90 days before the close of discovery. The plan must state the calendar date on which these amendments are due;

(3) Fed. R. Civ. P. 26(a)(2) Disclosures (Experts). Unless the discovery plan otherwise provides and the court so orders, the deadlines in Fed. R. Civ. P. 26(a)(2)(D) for expert disclosures are modified to require that the disclosures be made 60 days before the discovery cut-off date and that rebuttal-expert disclosures be made 30 days after the initial disclosure of experts. The plan must state the calendar dates on which these exchanges are due;

(4) Dispositive Motions. Unless the discovery plan otherwise provides and the court so orders, the deadline for filing dispositive motions is 30 days after the discovery cut-off date. The plan must state the calendar date on which dispositive motions are due;

(5) Pretrial Order. Unless the discovery plan otherwise provides and the court so orders, the deadline for the joint pretrial order is 30 days after the dispositive-motion deadline. If dispositive motions are filed, the deadline for filing the joint pretrial order will be suspended until 30 days after decision on the dispositive motions or further court order;

(6) Fed. R. Civ. P. 26(a)(3) Disclosures. Unless the discovery plan otherwise provides and the court so orders, the disclosures required by Fed. R. Civ. P. 26(a)(3) and any objections to them must be included in the joint pretrial order;

(7) Alternative Dispute Resolution. The parties must certify that they met and conferred about the possibility of using alternative dispute-resolution processes including mediation, arbitration, and if applicable, early neutral evaluation;

(8) Alternative Forms of Case Disposition. The parties must certify that they considered consent to trial by a magistrate judge under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73 and the use of the Short Trial Program (General Order 2013-01);

(9) Electronic Evidence. In cases in which a jury trial has been demanded, the parties must certify that they discussed whether they intend to present evidence in electronic format to jurors for the purposes of jury deliberations. The plan must state any stipulations the parties reached regarding providing discovery in an electronic format compatible with the court's electronic jury evidence display system. Parties should consult the court's website or contact the assigned judge's courtroom administrator for instructions about how to prepare evidence in an electronic format and other requirements for the court's electronic jury evidence display system; and

(10) Form of Order. All discovery plans must include on the last page of the plan the words "IT IS SO ORDERED" with a date and signature block for the judge in the manner set forth in LR IA 6-2.

(c) The discovery plan may direct that before moving for an order relating to discovery, the movant must request a conference with the assigned magistrate judge.

(d~~c~~) Unless the court orders otherwise, subsections (a) and (b) do not apply to interpleader actions. The procedures in LR 22-1 govern all interpleader actions.

Committee Note

Subsection (c) is a new rule. It permits the court to include in the scheduling order a provision that parties must seek a conference with the assigned magistrate judge before moving for an order relating to discovery, as contemplated by Fed. R. Civ. P. 16(b)(3)(B)(v).

~~**LR 26-3. INTERIM STATUS REPORTS**~~

~~Not later than 60 days before the discovery cut-off, the parties must file an interim status report stating the time they estimate will be required for trial, giving 3 alternative available trial dates, and stating whether, in the opinion of the attorneys or pro se parties who will try the case, trial will be eliminated or its length affected by substantive motions. The parties must certify that they considered consent to trial by a magistrate judge under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73, use of the Short Trial Program (General Order 2013-01), and the use of alternative dispute-resolution processes including mediation, arbitration, and early neutral evaluation. This status report must be signed by the attorney for each party or by the party if appearing pro se.~~

Committee Note

The committee recommends deleting this rule because the burden on the parties in preparing and filing the interim status report outweighs its usefulness to the court.

LR 26-8. ~~FILING OF~~ DISCOVERY PAPERS

~~Unless the court orders otherwise, written discovery, including discovery requests, discovery responses, deposition notices, and deposition transcripts, must not be filed with the court.~~ Originals of responses to written discovery requests must be served on the party who served the discovery request, and that party must make the originals available at the pretrial hearing, at trial, or when ordered by the court. In addition to the documents listed in Fed. R. Civ. P. 5(d)(1)(A), deposition notices and deposition transcripts must not be filed with the court until they are used in the proceeding, unless the court orders otherwise. ~~Likewise, a deposing party must make the original transcript of a deposition available at any pretrial hearing, at trial, or when ordered by the court.~~

Committee Note

Under Fed. R. Civ. P. 83(a)(1), the local rules must be consistent with—but not duplicate—federal rules. LR 26-8 repeats Fed. R. Civ. P. 5(d)(1)(A)'s prohibition of filing discovery responses and requests, but it omits reference to Rule 26(a)(1) or (2) disclosures and adds "deposition notices" as documents that must not be filed. To resolve the overlap and inconsistencies, the committee recommends deleting the first sentence of the local rule as redundant of Fed. R. Civ. P. 5(d)(1)(A). Given the ongoing effort to make the numbering of local rules correspond to the applicable Federal Rule, the final sentence is moved to new LR 30-1.

LR 30-1. DEPOSITIONS

A deposing party must make the original transcript of a deposition available at the pretrial hearing, at trial, or when ordered by the court.

Committee Note

LR 30-1 is a new rule. Its provisions formerly were included in LR 26-8. Given the ongoing effort to make the numbering of local rules correspond to the applicable Federal Rule, the committee recommends creating this rule.

LR 42-1. NOTICING THE COURT ON RELATED CASES; CONSOLIDATION OF CASES

(a) Related Cases. A party who has reason to believe that an action on file or about to be filed is related to another action on file (whether active or terminated) must file in each action and serve on all parties in each action a notice of related cases. This notice must set forth the title and case number of each possibly related action, together with a brief statement of their relationship and the reasons why assignment to a single district judge or magistrate judge is desirable.

An action may be considered to be related to another action when:

(1) Both actions involve the same parties and are based on the same or similar claim;

(2) Both actions involved the same property, transaction, or event;

(3) Both actions involve similar questions of fact and the same question of law, and their assignment to the same district judge or magistrate judge is likely to effect a substantial savings of judicial effort;

(4) Both actions involve the same patent, trademark, or copyright, and one of the factors identified in (1), (2), or (3) above is present; or

(5) For any other reason, it would entail substantial duplication of labor if the actions were heard by different district judges or magistrate judges.

If a notice of related cases is filed, the assigned judges will determine whether the actions will be assigned to a single district judge or magistrate judge.

(b) Consolidation of Cases. Under Fed. R. Civ. P. 42(a), if actions before the court involve a common question of law or fact, the court may: (1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay.

The court may make a determination to consolidate actions sua sponte. A party may file a motion for consolidation as soon as it reasonably appears the actions involve common questions of law or fact and consolidation would aid in the efficient and economic disposition of an action. A party seeking consolidation must file and serve the motion in each of the pending lawsuits the party seeks to have consolidated. If the party seeking to consolidate actions is not a party to an action it seeks to have consolidated, it may file a motion for leave to intervene in that action for the limited purpose of seeking consolidation of actions. The party must include the proposed motion for consolidation as an exhibit to the motion for leave to intervene.

A motion to consolidate must identify all actions that are the subject of the motion by case name and number and must address in detail the asserted common questions of law or fact in the actions the party seeks to consolidate.

The motion to consolidate will be decided by the judge to whom the earliest-filed action is assigned. If the actions are consolidated, they will be transferred to the judge to whom the earliest-filed action is assigned. A joint order signed by all judges in the cases to be consolidated will be filed in each of the pending cases. After consolidation, the Clerk of Court must administratively close the latter-filed actions.

Committee Note

This amendment is to authorize the Clerk of Court to close latter-filed actions after the judges have ordered consolidation.

LR 54-1. COSTS OTHER THAN ATTORNEY'S FEES

(a) ~~Unless the court orders otherwise, the prevailing party is entitled to reasonable costs.~~ A prevailing party who claims costs must file and serve a bill of costs and disbursements on the form provided by the clerk no later than 14 days after the date of entry of the judgment or decree. *See* 28 U.S.C. §§ 1920, 1921, and 1923; Fed. R. Civ. P. 54(d)(1).

(b) A bill of costs and disbursements must be supported by an affidavit and distinctly set forth each item so that its nature can be readily understood. An itemization and, where available, documentation of requested costs in all categories must be attached to the bill of costs. *See* 28 U.S.C. § 1924.

(c) The deadline to file and serve any objection to a bill of costs is 14 days after service of the bill of costs. An objection must specify each item to which objection is made and the grounds for the objection and, if appropriate, must include supporting declarations or other material. The deadline to file and serve any response to an objection is seven days after service of the objection.

(d) If no objection is filed, the clerk must enter the bill of costs as submitted. Failure to object to a bill of costs may constitute a consent to the award of all costs included, but it does not prevent a party from filing a motion to re-tax as provided in LR 54-12, subject to the court's consideration of the party's failure to file an objection.

(e) If an objection is filed, once a response to the objection is filed or the deadline for doing so has passed, the clerk may prepare, sign, and enter an order disposing of a bill of costs, subject to a motion to re-tax under LR 54-12. The clerk's taxation of costs is final, unless modified on review as provided in these rules.

(f) Notice of the clerk's taxation of costs must be given by serving a copy of the bill of costs approved by the clerk on all parties in compliance with Fed. R. Civ. P. 5.

(g) Neither the parties nor their attorneys may appear on the date set for the taxation of costs.

Committee Note

The first sentence of LR 54-1(a) is deleted because it is inconsistent with Fed. R. Civ. P. 54(d)(1). The federal rule notes four instances in which a prevailing party may not be entitled to an award of costs other than attorney's fees. The first sentence of LR 54-1(a) omits three of those instances and arguably authorizes an award of costs when doing so would violate a federal statute, the Federal Rules of Civil Procedure, or the restrictions on awards of costs against the United States. The first sentence of LR 54-1(a) also suggests the court must award costs to the prevailing party. By contrast, the federal rule's "should be allowed" language suggest the court has more discretion in determining whether to award costs to a prevailing party.

LR 54-14. MOTIONS FOR ATTORNEY'S FEES

~~(a) Time for Filing. When a party is entitled to move for attorney's fees, the motion must be filed with the court and served within 14 days after entry of the final judgment or other order disposing of the action.~~

(a~~b~~) Content of Motions. Unless the court orders otherwise, a motion for attorney's fees must include the following in addition to those matters required by Fed. R. Civ. P. 54(d)(2)(B):

(1) A reasonable itemization and description of the work performed;

(2) An itemization of all costs sought to be charged as part of the fee award and not otherwise taxable under LR 54-1 through 54-13;

(3) A brief summary of:

(A) The results obtained and the amount involved;

(B) The time and labor required;

(C) The novelty and difficulty of the questions involved;

(D) The skill requisite to perform the legal service properly;

(E) The preclusion of other employment by the attorney due to acceptance of the case;

(F) The customary fee;

(G) Whether the fee is fixed or contingent;

(H) The time limitations imposed by the client or the circumstances;

(I) The experience, reputation, and ability of the attorney(s);

(J) The undesirability of the case, if any;

(K) The nature and length of the professional relationship with the client;

(L) Awards in similar cases; and

(M) Any other information the court may request.

(b~~c~~) Attorney Affidavit. Each motion must be accompanied by an affidavit from the attorney responsible for the billings in the case authenticating the information contained in the motion and confirming that the bill was reviewed and edited and that the fees and costs charged are reasonable.

(c~~d~~) Failure to provide the information required by subsections (b) and (c) in a motion for attorney's fees may be deemed a consent to the denial of the motion.

(de) Opposition. If no opposition is filed, the court may grant the motion after independent review of the record. If an opposition is filed, it must set forth the specific charges that are disputed and state with reasonable particularity the basis for the opposition. The opposition must include affidavits to support any contested fact.

(e~~f~~) Hearing. If either party wishes to examine the affiant, the party must specifically make that request in writing. Absent such a request, the court may decide the motion on the papers or set the matter for evidentiary hearing.

Committee Note

Subsection (a) is deleted because it is redundant of Fed. R. Civ. P. 54(d)(2)(B)(i). Under Fed. R. Civ. P. 83(a)(1), the local rules must be consistent with—but not duplicate—federal rules. The rule's subsequent subsections are re-lettered accordingly.

LR 59-1. MOTIONS FOR RECONSIDERATION OF INTERLOCUTORY ORDERS

(a) Motions seeking reconsideration of case-dispositive orders are governed by Fed. R. Civ. P. 59 or 60, as applicable. A party seeking reconsideration under this rule must state with particularity the points of law or fact that the court has overlooked or misunderstood. Changes in legal or factual circumstances that may entitle the movant to relief also must be stated with particularity. The court possesses the inherent power to reconsider an interlocutory order for cause, so long as the court retains jurisdiction. Reconsideration also may be appropriate if (1) there is newly discovered evidence that was not available when the original motion or response was filed, (2) the court committed clear error or the initial decision was manifestly unjust, or (3) ~~if~~ there is an intervening change in controlling law.

(b) Motions for reconsideration are disfavored. A movant must not repeat arguments already presented unless (and only to the extent) necessary to explain controlling, intervening law or to argue new facts. A movant who repeats arguments will be subject to appropriate sanctions.

(c) Motions for reconsideration must be brought within a reasonable time. Lack of diligence or timeliness may result in denial of the motion.

Committee Note

Subsection (a)(3) is amended to delete the word "if," which is redundant of the "if" preceding subsection (a)(1).

The purpose of subsection (c) is to clarify that while the court retains inherent power to reconsider any interlocutory order so long as it has jurisdiction, untimeliness or lack of diligence may result in the denial of a motion. This proposed amendment echoes Fed. R. Civ. P. 60(c)'s requirement that Rule 60(b) motions must "be made within a reasonable time."

LR 67-2. INVESTMENT OF FUNDS ON DEPOSIT

(a) Unless the court orders otherwise, funds on deposit in the court's Registry Account under to 28 U.S.C. § 2041 will be invested in an interest-bearing account established by the clerk.

(b) All motions or stipulations for an order directing the clerk to invest Registry Account funds in an account other than the court's standard interest-bearing account must contain the following:

(1) The name of the bank or financial institution where the funds are to be invested;

(2) The type of account or instrument and the terms of investment where a timed instrument is involved; and

(3) Language that either:

(A) Directs the clerk to deduct from income earned on the investment a fee, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office; or

(B) States affirmatively the investment is being made for the benefit of the United States and, therefore, no fee may be charged.

(c) An attorney or pro se party obtaining an order under these rules must cause a copy of the order to be served personally on (1) the clerk or (2) the chief deputy and the financial deputy. A supervisory deputy clerk may accept service on behalf of the clerk, chief deputy, or financial deputy in their absence.

(d) The clerk must take all reasonable steps to deposit funds into interest-bearing accounts or instruments within 14 days after service of the order for such investment.

(e) An attorney or pro se party who obtains an order directing investment of funds by the clerk must, within 14 days after service of the order on the clerk, verify the funds were invested as ordered.

(f) An attorney or pro se party's failure to personally serve (1) the clerk or (2) the chief deputy and the financial deputy, or in their absence a supervisory deputy clerk, with a copy of the order, or failure to verify investment of the funds, will release the clerk from any liability for lost earned interest on the funds.

(g) An attorney or pro se party must notify the clerk regarding disposition of funds at maturity of a timed instrument. In the absence of such notice, funds invested in a

timed instrument subject to renewal must be reinvested for a like period of time at the prevailing interest rate. Funds invested in a timed instrument not subject to renewal will be ~~re-~~deposited by the clerk into the court's Registry Account~~, which is a non-interest-bearing account~~.

(h) Service of notice by an attorney or pro se party required by LR 67-2(g) must be made as provided in LR 67-2(c) not later than 14 days before maturity of the timed instrument.

(i) Any change in terms or conditions of an investment must be only by court order, and an attorney or pro se party must comply with LR 67-2(b) and (c).

Committee Note

This amendment is to clarify that as stated in Local Rule 67-2(a), the court's Registry Account is an interest-bearing account.

LSR 2-1. PRO SE CIVIL-RIGHTS COMPLAINTS; FORM OF COMPLAINT

A civil-rights complaint filed by a person who is not represented by ~~counsel~~ an attorney must be submitted on the form provided by this court or must be legible and contain substantially all the information called for by the court's form.

Committee Note

LSR 2-1 is amended in parallel with LSR 3-1 and LSR 4-1. The amendment's purpose is to clarify that a civil-rights complaint may be filed on the court's form. Alternatively, if the civil-rights complaint is not on the court's form, it must be legible and substantially follow the court's form.

LSR 3-1. PETITIONS FOR WRIT OF HABEAS CORPUS; FORM OF PETITION

A petition for writ of habeas corpus ~~filed by a person who is not represented by an attorney must be on the form provided by this court. If a petition for writ of habeas corpus~~ under 28 U.S.C. § 2254 ~~is filed by an attorney on behalf of a person seeking relief, it~~ must be on the form supplied by the court or must be legible and substantially follow either that form or the form appended ~~contain all of the information required in the model form in the Appendix of Forms~~ to the Rules Governing Section 2254 Cases in the United States District Courts.

Committee Note

LSR 3-1 is amended to comply with Rule 2(d) of the Rules Governing § 2254 cases, which requires a petition to "substantially follow either the form attended to the[] rules or a form prescribed by a local district-court rule."

Changes Made After Publication and Comment

In response to public comment requesting that LSR 2-1's legibility requirement be added to LSR 3-1 and LSR 4-1 in the same manner and context, the committed added the language "must be legible" to this rule.

LSR 4-1. MOTIONS UNDER 28 U.S.C. § 2255; FORM OF MOTION

A motion under 28 U.S.C. § 2255~~, filed by a person who is not represented by an attorney,~~ must be on the form provided by this court or must be legible and substantially follow either that form or the form appended ~~. If a motion under 28 U.S.C. § 2255 is filed by an attorney, it must be on the form supplied by the court or contain all of the information required in the model form in the Appendix of Forms~~ to the Rules Governing Section 2255 Proceedings for the United States District Courts.

Committee Note

LSR 4-1 is amended to comply with Rule 2(c) of the Rules Governing § 2255 cases, which requires a petition to "substantially follow either the form attended to the[] rules or a form prescribed by a local district-court rule."

Changes Made After Publication and Comment

In response to public comment requesting that LSR 2-1's legibility requirement be added to LSR 3-1 and LSR 4-1 in the same manner and context, the committed added the language "must be legible" to this rule.