

BACK STORY

AMENDMENTS TO FEDERAL COURT LOCAL RULES

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Effective August 1, 2011, the District Court amended the Local Rules of Practice. A complete copy of the Amended Local Rules, as well as a matrix showing the changes and a red-lined version, can be found on the court's website at www.nvd.uscourts.gov. Given space constraints, it is not possible to discuss all of the amendments in this article. Instead, I intend to address only a few of the amendments that will have the greatest immediate effect on your practice. I encourage practitioners to review all the amendments in detail.

CHANGES OF DEADLINES

To be more consistent with the recent amendments to the Federal Rules of Civil Procedure, the court has amended most of the filing deadlines in the local rules. For instance, most of the deadlines in the former local rules that provided a 10-day deadline have been changed to 14 days. One important change relates to filing oppositions and replies to motions under the Amended Local Rules. A party now has 14 days to oppose a motion (instead of 15) and seven days to file a reply (instead of 11). (See LR 7-2 (b) and (c)). In addition, the deadlines for such filings as objecting to a Magistrate Judge recommendation and filing a bill of costs has been changed from 10 days to 14 days. (See LR IB 3-1).

NOTICE OF RELATED CASES

The court has adopted a new rule relating to the notification to the court of related cases. Under LR 7-2.1, a case is "related" if (a) both actions involve the same parties and are based on the same or similar claims; (b) both actions involve the same property, transaction, or event; (c) both actions involve similar questions of fact and the same question of law such that their assignment to the same judge would result in judicial efficiency; or (d) if the cases would "entail substantial duplication of labor" if the cases were heard by different judges.

Counsel who believes that an action may be related to another action is now required to file a "Notice of Related Cases" with the court. The notice must set forth the title and number of each possibly related case, together with a brief statement of why they are related.

EMERGENCY MOTIONS

Local rule 7-5 deals with ex parte and emergency motions. The amended rule clarifies the distinction between an ex parte motion and an emergency motion. For instance, the rule now provides that ex parte motions may only be made "for compelling reasons," and cannot be made simply because the motion is unopposed or it is an emergency motion.

Motions requesting emergency relief must be entitled "Emergency Motion" and must be accompanied by an affidavit identifying:

1. The nature of the emergency;
2. The address and telephone numbers of the movant and all affected parties; and
3. A statement of the movant certifying that, after personal consultation and "sincere effort to do so" the movant has been unable to resolve the matter without court action.

CONCLUSION

The Amended Rules also amend numerous other portions of the local rules. You are encouraged to review the full set of amendments and modify your procedures accordingly. ■



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