

Local Rules Update for Federal Court Litigators

BY LINDSAY AGER, ESQ.

The Local Rules of Practice for the U.S. District Court for the District of Nevada were amended effective April 17, 2020. The amendments were the result of careful review and lively debate by the court's local rules committees for the civil, criminal and patent rules, as well as public comment. Significantly, the amendments clarify several local rules that were added in 2016, which was when the court completed the most comprehensive overhaul of the local rules in more than two decades. The amendments bring a host of changes and will have a significant impact on litigators' practice in federal court. This article discusses what litigators need to know about key rules amendments.

Farewell to Certificates of Service

Federal Rule of Civil Procedure 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 to specify the limited circumstances a proof of service is required. Amended Local Rule 5-1 is now consistent with the federal rule, so certificates of service are not required for documents filed in CM/ECF. Litigators should update their motion templates accordingly.

Pre-Motion Discovery Conferences

Local Rule 26-1 governs discovery plans and scheduling orders. Subsection (c) is a new rule that 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 Federal Rule of Civil Procedure 16(b)(3)(B)(v). Litigators should consider meeting and conferring regarding this topic in their Rule 26(f) conferences.

Interim Status Reports Eliminated

The former local rule requiring interim status reports has been deleted. The rationale for deleting the rule was that the burden on the



parties in preparing and filing the interim status report outweighed its usefulness to the court. Litigators should update their template discovery plans to delete the deadline for an interim status report.

New Deadline for Motions for Reconsideration

Local Rule 59-1, which was added in 2016, provides standards and procedures for motions for reconsideration of interlocutory orders, but it did not provide a deadline for these motions. Under new subsection (c), litigators must file motions for reconsideration within a “reasonable time.” Although 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. Thus, it is crucial litigators promptly file motions for reconsideration.

Page Limit Clarifications

Although the court did not change the page limits for any types of motions or briefs, amended Local Rule 7-3 now provides that parties must not file multiple motions for partial summary judgment to circumvent the 30-page limit. As before, litigators may move to exceed the page limits under Local Rule 7-3(c). But the rule is amended to clarify that the filing of a motion to exceed page limits does alter the briefing schedule for the underlying motion or brief. Absent a court order on the motion to exceed page limits, the responding party should respond to the over-length brief.

New Meet-and-Confer Requirement in Criminal Cases

Local Criminal Rule 12-2, which governs trial-related motions, is a new rule requiring attorneys to certify they have participated in a meet-and-confer conference as defined by Local Rule IA 1-3(f) before filing trial-related motions, such as motions in limine.

Local Rule IA 1-3(f) mandates that a meet-and-confer conference be a face-to-face meeting, telephone conference or video conference. The exchange of letters, emails or voicemails does not satisfy the rule, except that written communication is acceptable in the case of an incarcerated party who is appearing pro se. Attorneys are advised to participate actively in a meaningful meet-and-confer conference before filing any motion to which the requirement applies, as failure to do so may result in the denial of the motion.

Other Highlights

Local Rule IA 7-2, which governs ex parte filings and communications with the court, is amended to clarify that an attorney may contact courtroom deputies or the clerk’s office regarding scheduling or non-substantive matters without violating this rule.

Local Rule IA 11-2, which governs pro hac vice applications, is amended in two ways.

First, subsection (b)(3) requires 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.

Local Rule IC 2-2(h) is a new rule requiring an attorney who files a notice of errata to explain the changes made to the corrected document. The purpose of the amendment is to promote efficiency by requiring the attorney 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.

The Devil is in the Details

This article highlights the amendments that will have the most significant and immediate impact on your litigation practice, but there are numerous other important amendments that require attention. Attorneys are advised to review all the amendments in detail. The local rules are available on the court’s website at www.nvd.uscourts.gov.

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