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## IndyBar: Southern District of Indiana, We Have a Problem

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**By Chief Judge Jane Magnus-Stinson, U.S. District Court for the Southern District of Indiana**

It's no secret that the current caseload of the Southern District of Indiana is at an all-time high. Civil filings for the 2019 fiscal year totaled 6,328 cases and criminal filings are likewise at unprecedented levels. The 2020 fiscal year funding levels from Washington call for a reduction in funding, but given the excellent stewardship of the court's budget by Clerk Laura Briggs and the court's Finance Division, staffing will remain constant. Because there will be no increases in staffing despite rising caseload, the efficient use of human resources is crucial to the court's ability to efficiently process the voluminous filings in the Southern District of Indiana.

As of Oct. 31, 2019, there were 1,320 pending ripe motions throughout the court. Many of these motions are motions for extension or enlargement of court deadlines. In the one-year period ending Sept. 30, 2019, there were 4,496 motions for time filed in civil cases. The processing of each such motion requires on average five actions by court personnel, including judicial officers. This means 22,480 acts by court personnel to process requests for time.

So, what's the problem? In at least half of these motions, the request fails to comply with three important and relevant Federal Rules of Civil Procedure; Rules 1, 6 and 16. Rule 1 of the Federal Rules of Civil Procedure provides that the rules governing procedure in all civil actions shall be construed, administered and employed by the court and the parties to secure the just, speedy and inexpensive determination of every action and proceeding. The



*Magnus-Stinson*

prevalence of motions for time burden the clerk's office, slow and complicate the resolution of cases and impede the court's efforts to manage its docket.

Federal Rules of Civil Procedure 6(b) and 16(b)(4) require a showing of good cause. Often, there is no showing made whatsoever. No explanation is given why deadlines were not met, why discovery wasn't timely sought or responded to, or what emergency or unanticipated conflict precludes compliance with existing deadlines. Instead the parties frequently simply agree to an extension, ignoring that the court's consent is required.

Moreover, the movant frequently overlooks Southern District of Indiana Local Rule 6-1, which requires that such motions demonstrate effective use of prior time and show the impact of the proposed extension on other existing deadlines, settings, or schedules, including the dispositive motions deadline and the trial date. That rule also requires counsel to state whether opposing counsel agrees or objects to the extension. When that provision is ignored, additional work by court staff is required to determine whether opposition will be filed.

The crush of substantive work often prevents a judge from taking the time to prepare a comprehensive ruling noting the foregoing deficiencies in denying a motion. And often when motions for time are denied, the denial is followed up by a dreaded motion to reconsider, creating more work for the court and court staff.

This practice of noncompliant and unfounded motions for extension of time must stop. Before the court takes unilateral and systemic action, it seeks the assistance of counsel to respect the court's limited time and resources.

#### **Counsel can help in several important ways:**

1. Only file motions for extension of time that are compliant, both substantively and procedurally, with Federal Rules of Civil Procedure 1, 6 and 16(b) as well as Southern District of Indiana Local Rules 6-1.
2. Calendar the Case Management Plan deadlines immediately after the initial pretrial conference.
3. Serve written discovery immediately after the initial pretrial conference.
4. Keep in mind that under Southern District of Indiana Local Rule 6-1(b), a motion isn't necessary to obtain an unopposed initial extension of up to 28 days to respond to a complaint, counterclaim, or other pleading. Rather, counsel can file a notice of automatic initial extension. These notices require fewer acts by the court than motions.
5. Also remember that Local Rule 6-1(b) applies to unopposed initial extensions to respond to written discovery requests. When counsel agree to provide more time for a response to a discovery request, no filing with the court is generally necessary anyway, so long as the later response won't affect case management deadlines.
6. Calendar a deadline reminder 30 days in advance of the deadline.
7. Be mindful as to how an extension of a deadline may impact the court's schedule.
8. Always confer with opposing counsel before filing for an extension.
9. Remember that only the court can extend a deadline; agreement of the parties may not carry the day.

We need your help and anticipate your cooperation. If you have any ideas about how to increase the efficiency of court processes, please email us at [\[email protected\]](#) •

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