

**UNITED STATES DISTRICT
COURT FOR THE EASTERN
DISTRICT OF WISCONSIN**

LOCAL RULES

GENERAL, CIVIL, AND

CRIMINAL

Effective February 1, 2010.

(d) Social Security Disability Appeals. Appeals from a decision of the Commissioner of Social Security may be administered by special procedures ordered by the judges of this District. These procedures may be found on the official website of the United States District Court for the Eastern District of Wisconsin.

Committee Comment: As amended, this rule eliminates the former exemption from the Civil Cover sheet requirement for persons filing civil cases, who were at the time of such filing in the custody of civil, state, or federal institutions, and persons filing pro se civil actions. Former Civil L. R. 3(c) has been designated as Civil L. R. 3, and re-worded. The statement from the former rules: “Civil cases cannot be related to criminal cases” has been eliminated as unnecessary.

Civil L.R. 3(d) is a new provision alerting all practitioners that, apart from the procedures set forth in the formal rules as codified here, the judges of the United States District Court for the Eastern District of Wisconsin have adopted and routinely follow discrete practices, including requirements about filing deadlines, with respect to the litigation of the Social Security Disability Appeals docket.

Civil L. R. 4. Service of Process Upon the State of Wisconsin or Its Employees When Sued by a State Prisoner Pursuant to 42 U.S.C. § 1983.

When service of process upon the State of Wisconsin or its employees is made in an action brought by a state prisoner pursuant to 42 U.S.C. § 1983, the process server, in addition to serving the named defendant or defendants, must serve a copy of the summons and complaint upon the Secretary of the Wisconsin Department of Corrections and the Administrator of the Legal Services Division of the Wisconsin Department of Justice as provided in Fed. R. Civ. P. 4(j).

Civil L. R. 5. Service of Papers Through the Court’s Electronic Transmission Facilities.

A separate certificate of service is not required for papers served electronically if all parties were served through the Court’s Electronic Case Filing (ECF) system.

Committee Comment: The ECF notification will be deemed “the certificate of service” for purposes of Fed. R. Civ. P. 5(d)(1).

III. PLEADINGS AND MOTIONS

Civil L. R. 7. Form of Motions and Other Papers

(a) Form of Motion and Moving Party’s Supporting Papers. Every motion must state the statute or rule pursuant to which it is made and, except for

those brought under Civil L. R. 7(h) (Expedited Non-Dispositive Motion Practice), must be accompanied by:

(1) a supporting memorandum and, when necessary, affidavits, declarations, or other papers; or

(2) a certificate stating that no memorandum or other supporting papers will be filed.

(b) Non-Moving Party's Response. For all motions other than those for summary judgment or those brought under Civil L. R. 7(h) (Expedited Non-Dispositive Motion Practice), any memorandum and other papers in opposition must be filed within 21 days of service of the motion.

(c) Reply. For all motions other than those for summary judgment or those brought under Civil L. R. 7(h) (Expedited Non-Dispositive Motion Practice), the moving party may serve a reply memorandum and other papers within 14 days from service of the response memorandum.

(d) Sanction for Noncompliance. Failure to file either a supporting memorandum or other papers, or a certificate of counsel stating that no memorandum or other supporting papers will be filed, is sufficient cause for the Court to deny the motion. Failure to file a memorandum in opposition to a motion is sufficient cause for the Court to grant the motion. The Court also may impose sanctions under General L. R. 83(f).

(e) Oral Argument. The Court will hear oral argument at its discretion.

(f) Length of Memoranda. Subject to the limitations of Civil L. R. 7(h) (Expedited Non-Dispositive Motion Practice) and Civil L. R. 56 (Summary Judgment Motion Practice), the principal memorandum in support of, or in opposition to, any motion must not exceed 30 pages and reply briefs must not exceed 15 pages (excluding any caption, cover page, table of contents, table of authorities, and signature block). No memorandum exceeding the page limitations may be filed unless the Court has previously granted leave to file an oversized memorandum.

(g) Modification of Provisions in Particular Cases. The Court may provide by order or other notice to the parties that different or additional provisions regarding motion practice apply.

(h) Expedited Non-Dispositive Motion Practice.

(1) Parties in civil actions may seek non-dispositive relief by expedited motion. The motion must be designated as a "Civil L. R. 7(h) Expedited Non-Dispositive Motion." The Court may schedule the motion for hearing or may

decide the motion without hearing. The Court may designate that the hearing be conducted by telephone conference call. The Court may order an expedited briefing schedule.

(2) The motion must contain the material facts, argument, and, if necessary, counsel's certification pursuant to Civil L. R. 37. The motion must not exceed 3 pages excluding any caption and signature block. The movant may not file a separate memorandum with the motion. The movant may file with the motion an affidavit or declaration for purposes of (1) attesting to facts pertinent to the motion and/or (2) authenticating documents relevant to the issue(s) raised in the motion. The movant's affidavit or declaration may not exceed 2 pages. The respondent must file a memorandum in opposition to the motion within 7 days of service of the motion, unless otherwise ordered by the Court. The respondent's memorandum must not exceed 3 pages. The respondent may file with its memorandum an affidavit or declaration for purposes of (1) attesting to facts pertinent to the respondent's memorandum and/or (2) authenticating documents relevant to the issue(s) raised in the motion. The respondent's affidavit or declaration may not exceed 2 pages. No reply brief is permitted absent leave of Court.

(3) The provisions of subsection (h) do not apply to 42 U.S.C. § 1983 actions brought by incarcerated persons proceeding pro se.

(i) **Leave to file paper.** Any paper, including any motion, memorandum, or brief, not authorized by the Federal Rules of Civil Procedure, these Local Rules, or a Court order must be filed as an attachment to a motion requesting leave to file it. If the Court grants the motion, the Clerk of Court must then file the paper.

(j) Citations.

(1) With the exception of the prohibitions in Seventh Circuit Rule 32.1, this Court does not prohibit the citation of unreported or non-precedential opinions, decisions, orders, judgments, or other written dispositions.

(2) If a party cites an unreported opinion, decision, order, judgment or other written disposition, the party must file and serve a copy of that opinion, decision, order, judgment, or other written disposition.

Committee Comment: The rule expressly allows the Court to expand the page count if needed, but it does not allow the filing of a memorandum longer than permitted by Civil L. R. 7 unless the Court grants leave before the memorandum is filed. See Civil L. R. 7(g) and (i).

The rule also makes clear that declarations made in compliance with 28 U.S.C. § 1746 may be used to the same effect as affidavits in supporting motions.

Civil L. R. 7(d) specifies that the Court may take action adverse to a party who fails to comply with the motion rules. It also makes clear that the Court may award other sanctions under General L. R. 83(f).

Civil L. R. 7(i) is new. The provision addresses the filing of papers, including motions or memoranda, for which leave to file is required. The rule provides that any paper, which may not be filed without the Court's first granting leave to file, must be attached to the motion seeking leave to file that paper. If the Court grants leave to file, the Clerk of Court must then file the paper.

Civil L. R. 7(j) addressing "unreported" or non-precedential authorities is also new. The provision clarifies the Court's existing practice of allowing the citation of authorities in addition to those reported in printed national reporters, with the exception of orders whose citation and consideration is prohibited by Seventh Circuit Rule 32.1. Civil L. R. 7(j) additionally requires a party relying on such an authority to file a copy of that authority and serve it on all parties. Notably, with the exception of orders subject to Circuit Rule 32.1, the new provision does not bar the citation of decisions or orders even if a rule would bar the citation of the decision to the court that issued the decision or to any other court. The Court may take limitations on the authority's use before other courts, as well as the "unpublished" or "non-precedential" nature of the authority, into consideration when deciding the weight, if any, to be afforded to the authority.

Civil L. R. 7.1. Disclosure Statement.

(a) Required information. To enable the Court to determine whether recusal is necessary or appropriate, an attorney for a nongovernmental party or an amicus curiae must file a Disclosure Statement that:

(1) states the full name of every party or amicus the attorney represents in the action; and

(2) if such party or amicus is a corporation:

(A) identifies any parent corporation and any publicly held corporation owning 10% or more of its stock; or

(B) states there is no such corporation; and

(3) states the names of all law firms whose attorneys will appear, or are expected to appear, for the party in this Court.

(b) Filing and Serving. A party or amicus curiae must: