

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

LOCAL RULES

GENERAL, CIVIL, AND

CRIMINAL

Effective February 1, 2010.

**LOCAL RULES COMMITTEE
FOR THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
September 2019**

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INTRODUCTION

The Local Rules are divided into three parts: (1) General Local Rules applicable to civil and criminal cases; (2) Civil Local Rules applicable only to civil cases; and (3) Criminal Local Rules applicable only to criminal cases. Each part begins with a rule defining its scope.

Following the recommendation of the Judicial Conference, the numbering of the General and the Civil Local Rules has been tied to the Federal Rules of Civil Procedure and, in the case of the Criminal Local Rules, to the Federal Rules of Criminal Procedure.

Some of the Local Rules are similar to certain Federal Rules of Civil Procedure and Federal Rules of Criminal Procedure. The Local Rules do not, however, repeat the Federal Rules in their entirety, and practitioners are advised to consult both the Local Rules and the applicable Federal Rules.

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APPENDIX Appendix 1
 Stipulated Protective Order Template Appendix 1

admitted to practice in this District is based, in substantial part, on 28 U.S.C. §§ 515-517.

General L. R. 83(f) is new and explicitly states that the Court has the ability to issue sanctions under the local rules. The second and third sentences reflect the Court's expectation that counsel will rarely file such motions.

PART B: CIVIL RULES

I. SCOPE OF RULES

Civil L. R. 1. Scope of Rules

The Civil Rules set forth in Part B govern all civil proceedings in this District.

II. COMMENCING AN ACTION; SERVICE OF PROCESS AND PAPERS

Civil L. R. 3. Commencing an Action.

(a) Civil Cover Sheet. A Civil Cover Sheet (AO Form JS 44) must accompany each civil action presented for filing.

(b) Assigning Related Actions. Where the Civil Cover Sheet discloses a pending related civil action, the new civil action will be assigned to the same judge. Factors to be considered in determining whether the actions are related include whether the actions: (i) arise from substantially the same transaction or events; (ii) involve substantially the same parties or property; or (iii) involve the same patent, trademark or copyright. The judge to whom the action with the lower case number is assigned will resolve any dispute as to whether the actions are related.

(c) Bankruptcy Appeals. Appeals to the United States District Court for the Eastern District of Wisconsin from the Bankruptcy Court must be commenced and administered as prescribed in Part VIII of the Federal Rules of Bankruptcy Procedure 8001-8020.

(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.

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.

(k) Notice of Supplemental Authority. If pertinent and significant authorities relevant to an issue raised in a pending motion come to a party's attention after a party's final brief on the motion has been filed, the party may file a Notice of Supplemental Authority, attaching the new authority, without leave of the court. The Notice of Supplemental Authority may not contain any argument but may identify the page or section in the filed briefs to which the authority is relevant.

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(k) addressing Notice of Supplemental Authority is also new. The Notice of Supplemental Authority should be submitted in the following format: "[Case name and citation], is relevant to [page or section] of [title of brief, ECF No ___]." The rule does not contemplate a response by any party absent extraordinary circumstances.

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:

(1) file the disclosure statement with its first appearance, pleading, petition, motion, response, notice of removal or other request addressed to the