UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FILED BY _____ D.C
97 JAN 31 PM 1:26
CARLOS JUENKE
CLERK U.S. DIST. CT.
S.D. OF FLA.-MIAMI

IN RE: Administrative Order 97-06

AMENDMENTS TO THE LOCAL RULES
_____/

THIS COURT has given notice and opportunity to be heard in accordance with Rule 83, Fed.R.Civ.P., has conducted an *en banc* hearing, and has considered the comments of the public and the Court's Advisory Committee on Rules and Procedures with regard to proposed amendments to Local General Rules 1.1, 7.1.C.2., 16.1.B.6., 16.1.B.9., 16.2.C., 16.2.E., and 88.9 and Local Magistrate Rule 4(a)(2) in the form attached. Upon consideration of the public comments received and the report of the Advisory Committee, it is hereby

ORDERED that Local General Rules 1.1, 7.1.C.2., 16.1.B.6., 16.1.B.9., 16.2.C., 16.2.E., and 88.9 and Local Magistrate Rule 4(a)(2) are amended in the form attached (with the language to be deleted ~~stricken~~ and the language to be added double underlined).

IT IS FURTHER ORDERED that the foregoing rule amendments shall take effect on April 15, 1997, and shall govern all proceedings thereafter commenced and, insofar as just and practicable, all proceedings then pending.

IT IS FURTHER ORDERED that the Clerk of the Court is hereby directed, for the next 60 days: (a) to publish this Order (without the attachments) twice a week in the Daily Business Review (in the editions published in Dade, Broward and Palm Beach Counties, Florida); and (b) to offer every person who files any papers in any action in this Court, and to give to anyone who so desires, a copy of this Order with the attached rule amendments.

DONE AND ORDERED in Chambers at the United States Federal Building and Courthouse, 299 East Broward Boulevard, Fort Lauderdale, Florida this 30 day of January 1997.

Norman C. Roettger
NORMAN C. ROETTGER
CHIEF UNITED STATES DISTRICT JUDGE

c: Honorable Joseph W. Hatchett, Chief Judge, Eleventh Circuit Court of Appeals
All Southern District Judges and Magistrate Judges
Norman E. Zoller, Circuit Executive, Eleventh Circuit
Carlos Juenke, Court Administrator/Clerk of Court
All members of the Advisory Committee on Rules and Procedures
Brian F. Spector, Chair, Advisory Committee on Rules & Procedures
Library
Daily Business Review

Key to changes
Language deleted ~~stricken~~
Language added double underlined

RULE 1.1 SCOPE OF THE RULES

B. Effective Date. These Rules become effective February 15, 1993, provided however, that the 1994 amendments shall take effect on December 1, 1994, ~~and~~ the 1996 amendments shall take effect on April 15, 1996, and the 1997 amendments shall take effect on April 15, 1997, and shall govern all proceedings thereafter commenced and, insofar as just and practicable, all proceedings then pending.

RULE 7.1 MOTIONS, GENERAL

C. Memoranda of Law.

2. *Length.* Absent prior permission of the Court, no party shall file any legal memorandum exceeding twenty (20) pages in length,. With the exception of a reply which shall not exceed ten (10) pages in length. The practice of filing multiple motions for partial summary judgment which are collectively intended to dispose of the case (as opposed to one comprehensive motion for summary judgment) in order to evade memorandum page limitations is specifically prohibited.

Comments

(1997) Addition of language to Rule 7.1.C.2. prohibiting the practice of filing multiple motions for summary judgment to evade page limitations.

Key to changes
Language deleted ~~stricken~~
Language added double underlined

RULE 16.1 PRETRIAL PROCEDURE IN CIVIL ACTIONS

B. Scheduling Conference and Order.

6. *Complicated Case.* To discuss whether the action is sufficiently complicated so that all or part of the procedures of the Manual ~~on~~ For Complex Litigation, Third (Federal Judicial Center 1995) should be used. Counsel may propose to the Court modifications of the procedures in the Manual to facilitate the management of a particular action.

RULE 16.1 PRETRIAL PROCEDURE IN CIVIL ACTIONS

B. Scheduling Conference and Order.

9. *Exempt Actions.* The following types of cases are exempt from the requirements of this subsection:

* * * * * *

(q) letters rogatory;

(r) registration of foreign judgments; and

(~~q~~ s) Upon motion of any party or the Court, any other case expressly exempted by Court order.

Comments

(1997) Letters rogatory and registrations of foreign judgment made exempt from scheduling requirements as unnecessary.

Key to changes
Language deleted ~~stricken~~
Language added double underlined

RULE 16.2 COURT ANNEXED MEDIATION

C. Types of Cases Subject to Mediation. The following types of cases shall not be subject to mediation pursuant to these rules:

* * * * * *

19. letters rogatory;

20. registration of foreign judgments; and

~~19~~21.Any other case expressly exempted by Court order.

Comments

(1997) Letters rogatory and registrations of foreign judgment made exempt from mediation requirements as unnecessary.

Key to changes
Language deleted ~~stricken~~
Language added double underlined

RULE 16.2 COURT ANNEXED MEDIATION

E. Party Attendance Required. Unless otherwise excused by the presiding judge in writing, all parties, corporate representative, and any other required claims professionals (insurance adjusters, etc.), shall be present at the mediation conference with full authority to negotiate a settlement. If a party to a mediation is a public entity required to conduct its business pursuant to chapter 286, Florida Statutes, and is a defendant or counterclaim defendant in the underlying litigation, that party shall be deemed to appear at a mediation conference by the physical presence of a representative with full authority to negotiate on behalf of the entity and to recommend settlement to the appropriate decision-making body of the entity. The mediator shall report non-attendance and may recommend that the Court enter sanctions for non-attendance. Failure to comply with the attendance or settlement authority requirements may subject a party to sanctions by the Court.

Comments

(1997) Florida's "Government in the Sunshine"Law, Florida Statutes § 286.011, as incorporated into the Florida Government Cooperation Act, Florida Statutes § 164.106, does not permit public entities to settle litigation against them without a public hearing preceded by due public notice. Public entities have therefore at times found themselves unable to comply with Local Rule 16.2.E. and have had to seek an exception from the rule in order to permit mediation. This amendment relaxes the requirement that parties be present with full authority to consummate a settlement where a public entity is a defendant, and provides instead that a representative be present who can negotiate settlement on the entity's behalf and recommend settlement to the entity.

Key to changes
Language deleted ~~stricken~~
Language added double underlined

RULE 88.9 MOTIONS IN CRIMINAL CASES

A. Motions in criminal cases are subject to the requirements of, and shall comply with, Local Rule 7.1. with the following exceptions:

Section 7.1A(3). which is superseded by this Rule.

Section 7.1B. which pertains to hearings. Hearings on criminal motions may be set by the Court upon appropriate request or as required by the Federal Rules of Criminal Procedure and/or Constitutional Law.

In addition, motions ~~Motions~~ in criminal cases shall be accompanied by a written statement certifying that counsel for the moving party has conferred with opposing counsel in an effort in good faith to resolve by agreement the subject matter of any motion, but has not been able to do so. Further ~~In addition~~, the written statement shall specify the information that has been made available to opposing counsel in lieu of filing the motion.

Comments

(1997) Explicitly incorporates into Rule 88.9 applicable portions of Rule 7.1.

Key to changes
Language deleted ~~stricken~~
Language added double underlined

LOCAL MAGISTRATE RULE
RULE 4. REVIEW AND APPEAL

(a) Appeal of Non-dispositive Matters—Government Appeal of ~~Bond~~ Release Order.

* * * * * *

(2) *Government Appeal of ~~Bond~~ Release Order*. At the conclusion of a ~~bond~~ hearing pursuant to 18 U.S.C. § 3142 in which a Magistrate Judge has entered an order granting pretrial release, ~~set a bond which will result in release of a defendant if the conditions of the bond are met, an announcement in open Court by the prosecutor that the government intends to appeal the bond to a District Judge shall result in an immediate stay of the bond set by the Magistrate Judge. Such stay shall continue until 5:00 p.m. that day, or in the event bond is set in open court after 5:00 p.m., until 9:30 a.m. the morning of the following business day, unless the prosecutor shall file a written notice of appeal with the Clerk, upon which the stay shall become permanent unless and until it is lifted by a District Judge. The notice of appeal may be summary in form and need not be typed, but it shall be followed on or before the close of the business day next following the day the bond was set by the filing of a detailed factual statement, in proper form, setting forth the grounds of the appeal~~ the government may make an ore tenus motion that the Magistrate Judge exercise discretion to stay the release order for a reasonable time, to allow the government to pursue review or appeal of the release order, in accordance with 18 U.S.C. § 3145.

~~Whenever~~ If a stay is ~~had~~ ordered pursuant to this rule, the Clerk/Court Administrator is directed to~~: (1)~~ obtain the tape recording or cassette immediately after ~~a bond~~ the hearing ~~where an intention to appeal is announced by the United States Attorney's Office;~~ and ~~(2)~~ deliver the cassettes or tapes promptly to the appropriate court reporter so that an expedited transcript can be delivered to the District Judge within forty-eight (48) hours of the ~~bond~~ hearing~~;~~ at which the release order is entered. ~~t~~ The United States Attorney's Office is to pay the court reporter's charges.

Comments

(1997) Repeals automatic stay provision of government appeal of bond order and recognizes Magistrate Judge's authority to exercise discretion to stay release order.

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