UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

IN RE:

Administrative Order 2007-65

AMENDMENTS TO THE LOCAL RULES - NOTICE OF PROPOSED AMENDMENTS, OF OPPORTUNITY FOR PUBLIC COMMENTS, AND OF HEARING TO RECEIVE COMMENTS

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FILED by W D.C.
NOV 20 2007
CLARENCE MADDOX
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

The Court's Ad Hoc Committee on Rules and Procedures has recommended that this Court amend Local Rules 1.1 and 7.5.C and repeal Local Rules 40.1 and 41.1. In accordance with Fed.R.Civ.P. 83(a)(1) and Fed.R.Crim.P. 57(a)(1), it is hereby

ORDERED that the Clerk of the Court is directed, for the next 30 days: (a) to publish this Order (without the attachments) three times per week in the Daily Business Review (in the editions published in Miami-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 proposed rule amendments.

IT IS FURTHER ORDERED that the Court will conduct an *en banc* public hearing on the proposed rule amendments on the 17th day of January, 2008, at two o'clock p.m. at the David W. Dyer Federal Building and United States Courthouse, 300 Northeast First Avenue, Central Courtroom, Miami, Florida. Those who desire to appear and offer oral comments on the proposed rule amendments at this hearing shall file written notice to that effect with the Clerk of the Court no later than five days prior to the hearing. Those who desire to offer only written comments on the proposed rule amendments must file their written comments with the Clerk of the Court no later than ten days prior to the hearing.

DONE AND ORDERED in Chambers at Miami, Miami-Dade County, Florida this 19th day of November, 2007.

FEDERICO A. MORENO
CHIEF UNITED STATES DISTRICT JUDGE

Copies furnished to:

Honorable J.L. Edmondson, Chief Judge, United States Court of Appeals for the Eleventh Circuit
All Southern District Judges and Magistrate Judges
Norman E. Zoller, Circuit Executive, Eleventh Circuit
Thomas Meeks, Chair, Ad Hoc Committee on Rules & Procedures
All members of the Ad Hoc Committee on Rules and Procedures
Library
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LOCAL RULES
OF THE
UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF FLORIDA

GENERAL RULES

RULE 1.1 SCOPE OF THE LOCAL RULES

A. Title and Citation. These Local Rules shall be known as the Local Rules of the United States District Court for the Southern District of Florida. They may be cited as "S.D. Fla. L.R."

B. Effective Date. These Local Rules became effective February 15, 1993, provided, however, that the 1994 amendments took effect on December 1, 1994, the 1996 amendments took effect on April 15, 1996, and each subsequent year's amendments take effect on April 15 of that year, and shall govern all proceedings thereafter commenced and, insofar as just and practicable, all proceedings then pending.

C. Scope of Rules. These Local Rules shall apply in all proceedings in civil and criminal actions except where indicated otherwise. Additional Local Rules governing procedures before Magistrate Judges and in admiralty may be found herein.

D. Relationship to Prior Rules. These Local Rules supersede all prior Local Rules promulgated by this Court or any Judge of this Court.

E. Rules of Construction and Definitions. Title 1, United States Code, Sections 1 to 5, shall, as far as applicable, govern the construction of these Local Rules.

F. Applicability of Rules to Pro Se Litigants. When used in these Local Rules, the word "counsel" shall be construed to apply to a party if that party is proceeding pro se.

Effective Dec. 1, 1994; amended effective April 15, 1996; April 15, 1997; April 15, 1998; April 15, 1999; April 15, 2000; April 15, 2001; April 15, 2002; April 15, 2003; April 15, 2004; April 15, 2005; April 15, 2006; April 15, 2007~~.~~; April 15, 2008.

Authority

(1993) Model Rule 1.1 (All references to "Model Rules" refer to the Local Rules Project of the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States.)

Comment

(1994) The following Local Rules were amended or adopted by Administrative Order 94–51, In Re

Amendments to the Local Rules: Local Rules 1.1.B., 5.1.A.9., 5.2.D., 7.3., 16.1.B., 16.1.B.K., 26.1, 88.2 and 88.9; Local Magistrate Rule 4(a)(1); and Rule 4F of the Special Rules Governing the Admission and Practice of Attorneys.

* * *

RULE 7.5 MOTIONS FOR SUMMARY JUDGMENT

A. Motions for Summary Judgment. Motions for summary judgment shall be accompanied by a memorandum of law, necessary affidavits, and a concise statement of the material facts as to which the movant contends there exists no genuine issue to be tried.

B. Opposition Papers. The papers opposing a motion for summary judgment shall include a memorandum of law, necessary affidavits, and a single concise statement of the material facts as to which it is contended that there exists a genuine issue to be tried.

C. Statement of Material Facts. The statement of material facts submitted either in support of or in opposition to a motion for summary judgment shall:

1. Not exceed ten pages in length; ~~and~~

2. Be supported by specific references to pleadings, depositions, answers to interrogatories, admissions, and affidavits on file with the Court~~.~~; and

3. Consist of separately numbered paragraphs.

Statements of material facts submitted in opposition to a motion for summary judgment shall correspond with the order and with the paragraph numbering scheme used by the movant, but need not repeat the text of the movant's paragraphs. Additional facts which the party opposing summary judgment contends are material shall be numbered and placed at the end of the opposing party's statement of material facts; the movant shall use that numbering scheme if those additional facts are addressed in the reply.

D. Effect of Failure to Controvert Statement of Undisputed Facts. All material facts set forth in the movant's statement filed and supported as required by Local Rule 7.5.C will be deemed admitted unless controverted by the opposing party's statement, provided that the Court finds that the movant's statement is supported by evidence in the record.

E. Briefing Schedule. As oral argument is not always scheduled on motions for summary judgment, the briefing schedule in Local Rule 7.1 shall apply.

Effective Dec. 1, 1994; amended effective April 15, 1999; April 15, 2002; April 15, 2005; April 15, 2007~~.~~; April 15, 2008.

Authority

(1993) Former Local Rule 10J.

Comments

(1993) Deletes specific briefing schedule and reference to submitting envelopes. These are covered by the general motion Local Rule.

(1999) Adds a page limit for the statement of material facts and makes clear that only one such statement shall be submitted with a motion for summary judgment.

(2002) This Local Rule is amended to require specific references to materials on file with the Court to support or controvert the movant's statement of undisputed facts. The "on file with the Court" language will require litigants to file any materials on which they intend to rely or to which they refer. This is in accord with the practice contemplated by Federal Rule of Civil Procedure 5(d)(1), as amended effective December 1, 2000. The Advisory Committee Notes to the December 2000 amendments make clear that, with regard to voluminous materials, only those parts actually used need to be filed, with any other party free to file other pertinent portions of the materials that are so used. *See* Fed. R. Evid. 106; cf. Fed. R. Civ. P. 32(a)(4). Therefore, only the portions of deposition transcripts actually "used" need be filed.

(2005) Local Rule 7.5.D is amended to clarify that the Court will not grant summary judgment unless supported by a review of evidence in the record. *See United States v. One Piece of Real Prop. Located at 5800 S.W. 74th Ave., Miami, Fla.*, 363 F.3d 1099, 1103 n. 6 (11th Cir. 2004).

(2008) Local Rule 7.5.C is amended to ensure that statements of material facts filed by movants and opponents shall correspond with each other in numerical order so as to make review of summary judgment motions less burdensome to the Court.

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~~**RULE 40.1 NOTICE THAT ACTION IS AT ISSUE**~~

~~**A.** An action is at issue after any motions directed to the last pleadings served have been resolved, or if no such motions are served, twenty days after service of the last pleading. The party entitled to serve notices directed to the last pleading may waive the right to do so by filing a notice for trial at any time after the last pleading is served. The existence of cross-claims among the parties shall not prevent the Court from setting the action for trial on the issues raised by the complaint, answer and any counterclaim.~~

~~**B.** All counsel shall have a continuing duty to notify the Court promptly upon an action or proceeding becoming at issue. The notice shall include a statement as to whether a jury trial has been demanded.~~

~~C. This duty is in addition to the requirements set forth in Local Rule 16.1.~~

~~Effective Dec. 1, 1994; amended effective April 15, 2007.~~

~~Authority~~

~~(1993) Former Local Rule 10E; Florida Rule of Civil Procedure 1.440.~~

~~RULE 41.1 DISMISSAL FOR WANT OF PROSECUTION~~

~~Civil actions not at issue which have been pending without any proceedings having been taken therein for more than three months may be dismissed for want of prosecution by the Court on its own motion after notice to counsel of record. Such actions may also be dismissed for want of prosecution at any time on motion by any party upon notice to the other parties.~~

~~Effective Dec. 1, 1994.~~

~~Authority~~

~~(1993) Former Local Rule 13. Renumbered per Model Rules.~~