

UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN

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ADMINISTRATIVE ORDER RE: )  
PROPOSED AMENDMENTS TO ) Administrative Order No. 09-079  
LOCAL CIVIL RULES and )  
LOCAL CRIMINAL RULES )  
\_\_\_\_\_)

Pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure, and Rule 57 of the Federal Rules of Criminal Procedure, the Court hereby gives notice of its consideration of amendments to the Local Civil and Criminal Rules of Procedure.

**1.**

The first set of proposed amendments concern the computation of time. These amendments are occasioned by the pending amendments to the Federal Rules of Appellate, Civil and Criminal Procedure scheduled to take effect December 1, 2009. A schedule of the proposed changes to the Local Rules of this Court is attached to and made a part of this Administrative Order.

**2.**

The second proposed amendment is designed to clarify the requirements for briefs submitted in support of motions. The Court is considering amending Local Civil Rule 7.1(a) to read as follows:

Briefs - All motions except those made during a hearing or trial, shall be accompanied by a supporting brief. Any party opposing a written motion ~~shall~~ *must* do so by filing and serving a brief conforming to these rules. *If no opposing brief is submitted, the court may deem the motion unopposed and grant relief.* All briefs filed in support of or in opposition to any motion shall contain ~~a concise statement of the reasons all arguments, grounds and authorities~~ in support of the party's position ~~and shall cite all applicable federal rules of procedure, all applicable local rules, and the other authorities upon which the party relies,~~ *upon pain of waiver.* Briefs shall not be submitted in the form of a letter to the judge.

The proposed amendments have been reviewed and tentatively approved by the judges of this Court, at a regular meeting conducted on September 17, 2009. The text of the proposed rule amendments is available on the court's website or in paper form at the Clerk's Office.

NOTICE IS HEREBY GIVEN to all members of the public of their opportunity to review and comment upon the foregoing proposed amendments. A copy of this order shall be posted in each divisional office and on the Court's website. In addition, the Clerk shall send electronic notice to all attorneys registered to use the CM/ECF system. The Clerk shall provide a copy of the proposed amendment to the Federal Bar Association, West Michigan Chapter, the State Bar of Michigan Committee on United States Courts, and the *Michigan Lawyer's Weekly*.

All comments should be in writing and must be received by the Court no later than **November 6, 2009**. Comments should be addressed to:

Tracey Cordes, Clerk  
United States District Court  
399 Ford Federal Building  
110 Michigan, N.W.  
Grand Rapids, MI 49503

or submitted electronically to [ecfhelp@miwd.uscourts.gov](mailto:ecfhelp@miwd.uscourts.gov). The Court will consider all comments before promulgating a final version of the proposed rules.

FOR THE COURT:

Dated: September 30, 2009

  
\_\_\_\_\_  
Paul L. Maloney  
Chief Judge  
United States District Court

**LOCAL CIVIL RULES**

<b>Rule</b>	<b>Present Time</b>	<b>Amended Time</b>	<b>Action</b>
5.7(e)(viii)	10	14	Object to authenticity of electronic signature
16.3(d)(i) (f)	10c 7c 10c	14 7 14	Select mediator Inform mediator of desire to continue process VFM mediator's report due
16.4(d)	7c 10c	7 14	Inform evaluator of desire to continue process ENE evaluator's report due
16.6(e)(i) (g)(i) (iii)	10c 10c 30	14 14 28	Select arbitrator Arbitration award due Demand trial <i>de novo</i>
39.2(c)	30 30	28 28	Parties to retrieve exhibits after mandate Clerk may discard abandoned exhibits
45.1	5w 10w	7 14	Minimum time for service of subpoena Minimum time if out of district
54.1	30 10	28 14	Deadline for bill of costs Objections to costs
72.3(a) (b)	10 10	14 14	Appeal of magistrate judge order Object to report and recommendation
83.1(c)(ii) (k)(ii)(A) (k)(ii)(B)(1) (m)(ii)(A) (m)(iii)(B)	30 20 20 30 30	28 21 21 28 28	Appeal Chief Judge discipline Attorney responds to disciplinary OSC Notice of disciplinary hearing Apply to modify automatic discipline Conduct disciplinary hearing

**LOCAL CRIMINAL RULES**

<b>Rule</b>	<b>Present Time</b>	<b>Amended Time</b>	<b>Action</b>
10.1	7b	7	Arraignment after indictment
11.1(d)	10	14	Motion to review guilty plea before MJ
17.1	5w 10w	7 14	Minimum time to serve subpoena Minimum time if out of state
32.2(a)	5w	7	Time for initial presentence interview
	5w	7	Govt to provide relevant conduct
(b)	35c	35	Initial disclosure of PSIR
(d)	14c	14	Response to PSIR
(g)	7w	9	Final PSIR to judge
(h)	5w	7	Motions for departure/variance
(l)	10	10	Minimum time between disclosure and sentence (Also, eliminate last sentence)
49.10(e)(viii)	10	14	Object to authenticity of electronic signature
57.1(c)(ii)	30	28	Appeal Chief Judge discipline
(k)(ii)(A)	20	21	Attorney responds to disciplinary OSC
(k)(ii)(B)(1)	20	21	Notice of disciplinary hearing
(m)(ii)(A)	30	28	Apply to modify automatic discipline
(m)(iii)(B)	30	28	Conduct disciplinary hearing
57.2(d)	10	14	Appeal misdemeanor judgment from MJ
57.3(g)	10w	14	Minimum time for service of writ of HC

b = business  
w = working  
c = calendar

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN**

**COURT COMMENTARY TO PROPOSED AMENDMENTS TO  
LOCAL CIVIL AND CRIMINAL RULES  
(effective December 1, 2009)**

On December 1, 2009, amendments to the Federal Rules of Appellate, Civil, Criminal, and Bankruptcy Procedure will take effect. These rules change the method of computing time in the federal courts. The principal simplifying change in the amended time-computation rules is the adoption of the method that counts all days, even intermediate weekends and holidays, in computing time periods. Another change is the preference for seven-day time periods, which assures that most deadlines will fall on weekdays. As a result of these amendments, the district courts are required to review their own local rules to assure conformity with the amended Federal Rules.

At their September 2009 meeting, the judges of this Court tentatively approved amendments to the Local Civil and Criminal Rules to conform to the new methodology. Many of the proposed amendments merely translate the old method of time computation into the new method. Thus, a ten-day period under the old rules becomes fourteen days, because all days will now be counted. In some instances, the Local Rules spoke in terms of “business” or “working” days. In those instances, five working days translates to seven days, and ten working days translates to fourteen days, in an effort to retain rough parity. In a few instances, the Local Rules spoke in terms of “calendar days,” a concept that is now superfluous, as all days are now calendar days. All reference to business, working and calendar days has been removed and the time periods have been expressed in terms of real days. In short, most of the proposed amendments are technical in nature and do not change the period of time available to perform the prescribed act.

There are two exceptions. The Local Rule governing sentencing, W.D. Mich. LCrimR 32.2, contains a highly coordinated series of deadlines leading up to sentencing. To maintain the logic of Rule 32.2, it was necessary to deviate from the seven-day system in one instance. Under W.D. Mich. LCrimR 32.2(g), the probation officer has seven working days to submit the final presentence report to the sentencing judge. The proposed amendment changes this period to nine days, which has the effect of leaving the actual time period unchanged. The other exception is found in Local Criminal Rule 10.1, which requires that an arraignment be conducted not more than “seven business days” after return of an indictment. Rather than extending this time, the court decided to leave the period at seven days, in order to serve speedy trial concerns. Consequently, under amended Criminal Rule 10.1, the United States Attorney and defense counsel must arrange for arraignment within one calendar week after an indictment is returned, if the defendant has already made an initial appearance.