

**Proposed Amendments to Local Civil Rules of Procedure**  
(to be effective December 1, 2009)

**5.7(e)(viii)**

Evidence of Original Signature - Filers of documents containing signatures authorized by Rule 5.7(e)(ii) (multiple attorney signatures) must maintain any records evidencing concurrence, and filers of documents containing signatures authorized by Rule 5.7(d)(iii) (electronically filed affidavits, etc.) must maintain the documents bearing the original manual signature for subsequent production to the Court or for inspection by a party until one year after the final resolution of the action (including appeal, if any). A non-filing signatory or party who disputes the authenticity of a signature on an electronically filed document must file an objection to the document within ~~ten~~ *fourteen (14)* days after service of that document.

**7.1a**

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.

**16.3(d)(i)**

Selection of mediator - Within ~~ten (10) calendar~~ *fourteen (14)* days of the issuance of the case management order, the parties jointly select one mediator from the list of court certified mediators. The plaintiff is responsible for notifying the ADR Administrator of the name of the selected mediator. If the parties are unable to agree on a mediator, the ADR Administrator selects the mediator for them. The proposed mediator will then check for conflicts of interest. Once the selection of a mediator is finalized, the judge issues an order of referral.

**16.3(f)**

Filing of outcome - Within fourteen (14) days following the conclusion of mediation, if settlement is reached, the mediator helps the parties draft a settlement agree and a stipulation and proposed order to dismiss. If settlement is not reached, the parties have seven (7) ~~calendar~~ days to inform the mediator whether they desire to continue with the mediation process. Within ~~ten (10) calendar~~ *fourteen (14)* days of the completion of mediation process, the mediator files a brief report with the ADR Administrator, with copies to all parties. The report indicates only who participated in the mediation session and whether settlement was reached and if not, whether the process will be continuing.

#### **16.4(d)**

Filing of outcome - Within fourteen (14) days following the conclusion of ENE, if settlement is reached, the evaluator, if requested, helps the parties draft a settlement agreement along with a stipulation and proposed order to dismiss, which when executed is filed with the Court. If settlement is not reached, the parties have seven (7) ~~calendar~~ days to inform the evaluator whether they desire to continue with the ENE process. Within ~~ten (10) calendar~~ *fourteen (14)* days of the completion of the ENE process, the evaluator files a brief report with the ADR Administrator, with copies to all parties. The report indicates only who participated in the ENE session and whether issues were narrowed or settlement was reached.

#### **16.6(e)(i)**

Selection of arbitrators - Within ~~ten (10) calendar~~ *fourteen (14)* days from the order of referral to arbitration, the parties jointly select one arbitrator from the list of court certified arbitrators. Plaintiff is responsible for notifying the ADR Administrator of the name of the selected arbitrator. If the parties fail to reach a timely agreement, the ADR Administrator will select an arbitrator for them. The ADR Administrator then notifies the arbitrator of his or her selection, and requests a check for potential conflicts of interest. If a conflict is found to exist, the arbitrator notifies the ADR Administrator, who will either select an alternative arbitrator or request that the parties make a new selection.

#### **16.6(g)(i)**

Announcement and submission of award - The arbitrator submits the original award to the ADR Administrator within ~~ten (10) calendar~~ *fourteen (14)* days following the close of the hearing and serves a copy thereof on all parties, with proof of service. The ADR Administrator makes a record of the service on the Court's docket sheet.

#### **16.6(g)(iii)**

Entry of judgment on award and time for demand for trial de novo - Within ~~thirty (30)~~ *twenty-eight (28)* days of the submission of the award, a party may file and serve a written demand for a trial de novo. If a demand for trial de novo is not timely made, the Clerk enters judgment on the award, in accordance with Rule 58 of the Federal Rules of Civil Procedure. The judgment has the same effect as any judgment of the Court in a civil action, except that no appeal lies from such a judgment.

#### **39.2(c)**

For good cause shown, the Court may order the Clerk to take custody of any or all exhibits on behalf of a party. If the Clerk does take custody of any exhibits, parties are to remove them within ~~thirty (30)~~ *twenty-eight (28)* days after the mandate of the final reviewing court is filed. Parties failing to comply with this rule shall be notified by the Clerk to remove their exhibits and upon their failure to do so within ~~thirty (30)~~ *twenty-eight (28)* days, the Clerk may dispose of them as the Clerk may see fit.

#### **45.1**

All subpoenas delivered to the United States Marshal's Office for service shall allow a minimum of ~~five (5) working~~ *seven (7)* days if within the Western District of Michigan, or ~~ten (10) working~~ *fourteen (14)* days if outside the district, prior to the required appearance.

#### **54.1**

If the parties in a case can agree on costs, it is not necessary to file a cost bill with the Clerk. If the parties cannot agree, a bill of costs shall be filed with the Clerk within ~~thirty (30)~~ *twenty-eight (28)* days from the entry of judgment. If a bill of costs is filed, any party objecting to the taxation of costs must file a motion to disallow all or part of the claimed costs within ~~ten (10)~~ *fourteen (14)* days of service of the bill of costs on that party. The motion and response thereto shall be governed by LCivR 7.1 and 7.3.

#### **72.3(a)**

Appeal of nondispositive matters - 28 U.S.C. § 636(b)(1)(A) - Any party may appeal from a magistrate judge's order determining any motion or matter within ~~ten (10)~~ *fourteen (14)* days after service of the magistrate judge's order, unless a longer time is prescribed by the magistrate judge or a judge. Such party shall file and serve a written statement of appeal which shall specifically designate the order, or part thereof, appealed from and the basis for any objection thereto. In any case in which the decision of the magistrate judge is reflected only in an oral opinion on the record, the appealing party shall provide the district judge with a transcript of the oral opinion, unless excused by the district judge. Any party may respond to another party's objections within fourteen (14) days of service. Objections and responses shall conform to the page limits for briefs set forth in LCivR 7.3(b). A judge of the Court shall consider the appeal and shall set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law.

#### **72.3(b)**

Review of case-dispositive motions and prisoner litigation - 28 U.S.C. § 636(b)(1)(B) - Any party may object to a magistrate judge's proposed findings, recommendations or report within ~~ten (10)~~ *fourteen (14)* days after being served with a copy thereof unless a longer time is prescribed by the magistrate judge or a judge. Such party shall file and serve written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objections are made and the basis for such objections. Any party may respond to another party's objections within fourteen (14) days after being served with a copy thereof. Objections and responses shall conform to the page limits for briefs set forth in LCivR 7.2(b). A judge shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need not conduct a new hearing only where required by law, and may consider the record developed before the magistrate judge, making a de novo determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.

**83.1(c)(ii)**

Effect of prior discipline - If the applicant has been held in contempt, disciplined, or convicted of a crime, the Chief Judge shall make an independent determination as to whether the applicant is qualified to be entrusted with professional matters and to aid in the administration of justice as an attorney and officer of the Court. An applicant dissatisfied with the decision of the Chief Judge may within ~~thirty (30)~~ *twenty-eight (28)* days file a petition for a hearing before a three judge panel as described in LCivR 83.1(m)(iii).

**83.1(k)(ii)(A)**

Initiation of proceedings - Formal disciplinary proceedings leading up to possible suspension or disbarment shall be initiated by the issuance of an order to show cause, signed by the Chief Judge. Such order may be issued by the Court, on its own initiative or in response to allegations brought to the attention of the Court in a written complaint, if the Court determines further investigation is warranted. The Chief Judge may dismiss a complaint and refuse to issue an order to show cause if the complaint is found to be frivolous. The order to show cause issued by the Court shall include the specific facts that give rise to the proposed discipline, including the date, place and nature of the alleged misconduct, and the names of all persons involved. A copy of the order and any supporting documents shall be mailed to the attorney who is the subject of investigation. The attorney shall have ~~twenty (20)~~ *twenty-one (21)* days from the entry of the order in which to respond. The response shall contain a specific admission or denial of each of the factual allegations contained in the order and, in addition, a specific statement of facts on which the respondent relies, including all other material dates, places, persons and conduct, and all documents or other supporting evidence not previously filed with the order that are relevant to the charges of misconduct alleged. The response shall contain a specific request for a hearing, if so desired by the respondent.

**83.1(k)(ii)(B)(1)**

Procedures - If it is determined that a hearing is necessary, the Chief Judge shall provide the attorney with written notice of the hearing a minimum of ~~twenty (20)~~ *twenty-one (21)* days before its scheduled date. The notice shall contain the date and location of the hearing and a statement that the attorney is entitled to be represented by counsel, to present witnesses and other evidence, and to confront and cross examine adverse witnesses.

**83.1(m)(ii)(A)**

Within ~~thirty (30)~~ *twenty-eight (28)* days after the effective date of the order of discipline in this Court, the attorney may apply to the Chief Judge for modification or vacation of the discipline.

**83.1(m)(iii)(B)**

The judicial officers assigned to the matter shall ~~within 30~~ *twenty-eight (28)* days after assignment schedule a hearing at which the attorney shall have the burden of demonstrating by clear and convincing evidence that: