

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

ADMINISTRATIVE ORDER RE:)	
PROPOSED AMENDMENTS TO)	
LOCAL CIVIL RULE 7 AND LOCAL)	Administrative Order
CRIMINAL RULE 12 REGARDING)	No. <u>15-048</u>
MOTION PRACTICE)	
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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 Rules of this Court.

Civil Rule 7 and Criminal Rule 12 presently set forth the procedures for parties to attempt to obtain concurrence prior to filing a discovery motion. Amended Administrative Order No. 15-022, issued on March 30, 2015, proposed changes to include parties concurring in a motion to do so in writing by filing and serving a brief. The proposed change also sought to require all motions be accompanied by a separately filed certificate, detailing efforts made by a moving party for compliance with the obligations set forth in the rules.

Based upon the comments received in response to the proposed changes set forth in Amended Administrative Order No. 15-022, the following proposed amendment deletes the requirement that a party concurring in a written motion shall do so by filing a brief; expands the requirement to seek concurrence prior to filing any *non dispositive* motions, as opposed to only *discovery* motions; and modifies the requirement that a movant file a certificate setting forth their efforts to comply with the obligation of seeking concurrence to only non dispositive motions.

The proposed amendments have been reviewed and approved by the Judges of this Court at a regular meeting conducted on June 19, 2015. The text of the proposed amendments to the rules are attached to this order and are also 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 attached proposed rule amendments. A copy of this order will be available 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*.

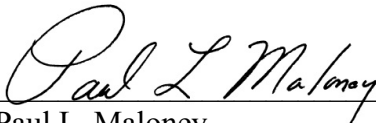
All comments should be in writing and must be received by the Court no later than **July 24, 2015**. Comments should be addressed to:

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. The Court will consider all comments at its September, 2015, meeting before promulgating a final version of the proposed rules.

FOR THE COURT:

Dated: June 29, 2015



Paul L. Maloney
Chief United States District Judge

III. PLEADINGS AND MOTIONS

Local Civil Rule 7. Motion practice

7.1 Motions in general

- (a) 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 do so by filing and serving a brief conforming to these rules. All briefs filed in support of or in opposition to any motion shall contain a concise statement of the reasons 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. Briefs shall not be submitted in the form of a letter to the judge.
- (b) Supporting documents - When allegations of facts not appearing of record are relied upon in support of or in opposition to any motion, all affidavits or other documents relied upon to establish such facts shall accompany the motion. All discovery motions shall set forth verbatim, or have attached, the relevant discovery request and answer or objection.
- (c) Modification of limits - In its discretion, the Court may in a particular case shorten or enlarge any time limit or page limit established by these rules, with or without prior notice or motion.
- (d) Attempt to obtain concurrence - With respect to all motions, the moving party shall ascertain whether the motion will be opposed. In addition, in the case of all ~~discovery non dispositive~~ motions, counsel or pro se parties involved in the ~~discovery~~ dispute shall confer ~~in person or by telephone~~ in a good-faith effort to resolve ~~each specific discovery~~ the dispute. ~~All motions shall affirmatively state the efforts of the moving party to comply with the obligation created by this rule. All non dispositive motions shall be accompanied by a separately filed certificate setting forth in detail the efforts of the moving party to comply with the obligation created by this rule.~~
- (e) Motion for expedited consideration - Where the relief requested by a motion may be rendered moot before the motion is briefed in accordance with the schedules set forth herein, the party shall so indicate by inserting the phrase "EXPEDITED CONSIDERATION REQUESTED," in boldface type, below the case caption, and shall identify in the motion the reason expedited consideration is necessary.
- (f) Unavailability of judge - If it appears that any matter requires immediate attention, and the judge to whom the case has been assigned, or in the usual course would be assigned, is not available, the matter shall be referred to the judge's assigned magistrate judge, who shall decide the matter if it is within the magistrate judge's jurisdiction. If the matter can only be decided by a judge, the magistrate judge shall determine whether the matter can be set for a hearing at a time when the assigned judge is available. If the matter is determined by a magistrate judge to require an immediate hearing before a judge, the case will be referred to the Chief Judge, or in the Chief Judge's absence, the next available judge by seniority for decision or reassignment to an available judicial officer. After disposition of this emergency matter, the case will be returned to the originally assigned judge.

Local Criminal Rule 12. Motion practice

12.1 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 do so by filing and serving a brief conforming to these rules. All briefs filed in support of or in opposition to any motion shall contain a concise statement of the reasons 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. Briefs shall not be submitted in the form of a letter to the judge.

12.2 Supporting documents - When allegations of facts not appearing of record are relied upon in support of or in opposition to any motion, all affidavits or other documents relied upon to establish such facts shall accompany the motion. All discovery motions shall set forth verbatim, or have attached, the relevant discovery request and answer or objection.

12.3 Modification of limits - In its discretion, the Court may in a particular case shorten or enlarge any time limit or page limit established by these rules, with or without prior notice or motion.

12.4 Attempt to obtain concurrence - With respect to all motions, the moving party shall ascertain whether the motion will be opposed. In addition, in the case of all ~~discovery non dispositive~~ motions, counsel or pro se parties involved in the ~~discovery~~ dispute shall confer ~~in person or by telephone~~ in a good-faith effort to resolve ~~each specific discovery~~ the dispute. ~~All motions shall affirmatively state the efforts of the moving party to comply with the obligation created by this rule.~~ All non dispositive motions shall be accompanied by a separately filed certificate setting forth in detail the efforts of the moving party to comply with the obligation created by this rule.

12.5 Motion for expedited consideration - Where the relief requested by a motion may be rendered moot before the motion is briefed in accordance with the schedules set forth herein, the party shall so indicate by inserting the phrase "EXPEDITED CONSIDERATION REQUESTED," in boldface type, below the case caption, and shall identify in the motion the reason expedited consideration is necessary.

12.6 Unavailability of judge - If it appears that any matter requires immediate attention, and the judge to whom the case has been assigned, or in the usual course would be assigned, is not available, the matter shall be referred to the judge's assigned magistrate judge, who shall decide the matter if it is within the magistrate judge's jurisdiction. If the matter can only be decided by a judge, the magistrate judge shall determine whether the matter can be set for a hearing at a time when the assigned judge is available. If the matter is determined by a magistrate judge to require an immediate hearing before a judge, the case will be referred to the Chief Judge, or in the Chief Judge's absence, the next available judge by seniority for decision or reassignment to an available judicial officer. After disposition of this emergency matter, the case will be returned to the originally assigned judge.

12.7 Privacy - [Repealed]