

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN

IN RE: PROPOSED AMENDMENTS  
TO LOCAL CIVIL RULE 7.1(d) and  
LOCAL CRIMINAL RULE 12.4  
REGARDING MOTION PRACTICE AND  
ATTEMPT TO OBTAIN CONCURRENCE

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Administrative Order  
No. 23-RL-068

Pursuant to 28 U.S.C. § 2071, Federal Rules of Civil Procedure 83, and Federal Rules of Criminal Procedure 57, the Court hereby gives notice of its consideration of amendments to the Local Civil Rules and the Local Criminal Rules. The proposed amendments are intended to facilitate more timely and meaningful consultation between parties regarding issues that may require judicial decision and to minimize the expenditure of judicial resources.

The proposed amendments have been reviewed and tentatively approved by the Judges of this Court at a regular meeting conducted June 9, 2023. The proposed rule amendments are attached to this order in both mark-up form, as well as a clean copy without markup. The rule amendments 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 on 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.

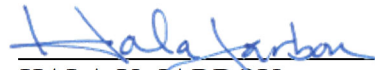
All comments should be in writing and must be received by the Court no later than **July 31, 2023**. Comments should be addressed to:

Ann Filkins, Clerk of Court  
United States District Court  
399 Ford Federal Building  
110 Michigan St., 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: June 12, 2023

  
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HALA Y. JARBOU  
CHIEF UNITED STATES DISTRICT JUDGE

## Proposed Amendment to Local Civil Rule 7.1(d)

The proposed change to the language of Local Civil Rule 7.1(d) is reflected in following redline version:

**7.1(d)(1) 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 nondispositive motions, counsel or *pro se* parties involved in the dispute shall confer in a good-faith effort to resolve the dispute. To accomplish this, the movant must confer with the other parties and persons entitled to be heard on the motion in a manner that reasonably explains the basis for the motion and allows for an interactive process aimed at reaching agreement on the matter or those aspects of the matter that can be resolved without court intervention, given the nature of the contemplated motion. The conference must be held sufficiently in advance of filing the motion to allow the opportunity for meaningful discussion. All nondispositive 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.

**(d)(2) If concurrence is not obtained – the nondispositive motion shall be accompanied by a separately filed certificate setting forth in detail:**

**(A) the identification of the participants of the conference, the issues addressed in the conference, and the legal basis for each party’s position;**

**(B) the reasons why, despite reasonable and timely efforts, the movant was unable to conduct a conference; or**

(C) the reasons why, given the emergent nature of the motion, concurrence could not reasonably be sought.

(d)(3) Sanctions – The Court may impose sanctions for unreasonably withholding of concurrence and for violating this rule, which may include taxing costs and attorney’s fees, denying the motion, and striking the filing.

#### **Proposed Amendment to Local Criminal Rule 12.4**

The proposed change to the language of Local Criminal Rule 12.4 is reflected in following redline version:

**12.4(a) 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 nondispositive motions, counsel or *pro se* parties involved in the dispute shall confer in a good-faith effort to resolve the dispute. To accomplish this, the movant must confer with the other parties and persons entitled to be heard on the motion in a manner that reasonably explains the basis for the motion and allows for an interactive process aimed at reaching agreement on the matter or those aspects of the matter that can be resolved without court intervention, given the nature of the contemplated motion. The conference must be held sufficiently in advance of filing the motion to allow the opportunity for meaningful discussion. All nondispositive 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.

(b) If concurrence is not obtained – the nondispositive motion shall be accompanied by a separately filed certificate setting forth in detail:

(1) the identification of the participants of the conference, the issues addressed in the conference, and the legal basis for each party’s position;

(2) the reasons why, despite reasonable and timely efforts, the movant was unable to conduct a conference; or

(3) the reasons why, given the emergent nature of the motion, concurrence could not reasonably be sought.

(c) Sanctions – The Court may impose sanctions for unreasonably withholding of concurrence and for violating this rule, which may include taxing costs and attorney’s fees, denying the motion, and striking the filing.

### **Proposed Amendment to Local Civil Rule 7.1(d)**

7.1(d)(1) 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 nondispositive motions, counsel or *pro se* parties involved in the dispute shall confer in a good-faith effort to resolve the dispute. To accomplish this, the movant must confer with the other parties and persons entitled to be heard on the motion in a manner that reasonably explains the basis for the motion and allows for an interactive process aimed at reaching agreement on the matter or those aspects of the matter that can be resolved without court intervention, given the nature of the contemplated motion. The conference must be held sufficiently in advance of filing the motion to allow the opportunity for meaningful discussion.

(d)(2) If concurrence is not obtained – the nondispositive motion shall be accompanied by a separately filed certificate setting forth in detail:

- (A) the identification of the participants of the conference, the issues addressed in the conference, and the legal basis for each party's position;
- (B) the reasons why, despite reasonable and timely efforts, the movant was unable to conduct a conference; or
- (C) the reasons why, given the emergent nature of the motion, concurrence could not reasonably be sought.

(d)(3) Sanctions – The Court may impose sanctions for unreasonably withholding of concurrence and for violating this rule, which may include taxing costs and attorney's fees, denying the motion, and striking the filing.

## **Proposed Amendment to Local Criminal Rule 12.4**

12.4(a) 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 nondispositive motions, counsel or *pro se* parties involved in the dispute shall confer in a good-faith effort to resolve the dispute. To accomplish this, the movant must confer with the other parties and persons entitled to be heard on the motion in a manner that reasonably explains the basis for the motion and allows for an interactive process aimed at reaching agreement on the matter or those aspects of the matter that can be resolved without court intervention, given the nature of the contemplated motion. The conference must be held sufficiently in advance of filing the motion to allow the opportunity for meaningful discussion.

(b) If concurrence is not obtained – the nondispositive motion shall be accompanied by a separately filed certificate setting forth in detail:

- (1) the identification of the participants of the conference, the issues addressed in the conference, and the legal basis for each party's position;
- (2) the reasons why, despite reasonable and timely efforts, the movant was unable to conduct a conference; or
- (3) the reasons why, given the emergent nature of the motion, concurrence could not reasonably be sought.

(c) Sanctions – The Court may impose sanctions for unreasonably withholding of concurrence and for violating this rule, which may include taxing costs and attorney's fees, denying the motion, and striking the filing.