



UNITED STATES DISTRICT COURT

Southern District of Indiana

Laura A. Briggs, Clerk
Alison M. Chestovich, Chief Deputy Clerk

Birch Bayh Federal Building
& U.S. Courthouse
46 East Ohio Street, Room 105
Indianapolis, IN 46204
(317) 229-3700

104 U.S. Courthouse
921 Ohio Street
Terre Haute, IN 47807
(812) 231-1840

304 U. S. Courthouse
101 NW Martin Luther King Blvd.
Evansville, IN 47708
(812) 434-6410

Lee H. Hamilton Federal Building
& U.S. Courthouse
121 West Spring Street
New Albany, IN 47150
(812) 542-4510

October 16, 2018

NOTICE

TO: THE PUBLIC AND MEMBERS OF THE PRACTICING BAR FOR THE SOUTHERN DISTRICT OF INDIANA

Pursuant to 28 U.S.C. § 2071 and Rule 83 of the Federal Rules of Civil Procedure, the United States District Court for the Southern District of Indiana hereby gives public notice of the following:

The Local Rules Advisory Committee for the Southern District of Indiana has recommended, and the District Court has authorized release for a period of **public comment through November 16, 2018**, the revision of certain Local Rules of the United States District Court for the Southern District of Indiana. Unless otherwise indicated, as seen in this Notice redline text is added and struck text is deleted. The proposed revisions are as follows:

- A. **Local Rule 5-2 - Filing of Documents Electronically Required** shall be **amended** as follows:

Local Rule 5-2 - Filing of Documents ~~Electronically Required~~

(a) **Electronic Filing.** Electronic filing of documents is generally required pursuant to Fed. R. Civ. P. 5(d)(3)(A).

(b) **Documents Exempt from Electronic Filing.** ~~Filing with the Clerk.~~ Any document that is exempt from electronic filing must be filed directly with the clerk and served on other parties in the case as required by those Federal Rules of Civil Procedure and these rules that apply to the service of non-electronic documents. Only the following documents are exempt from the electronic filing requirement of Fed. R. Civ. P. 5(d)(3)(A):

~~(a) — **Electronic Filing Required.** All civil cases (other than those cases the court specifically exempts) must be maintained in the court's electronic case filing (ECF) system. Accordingly, as allowed by Fed. R. Civ. P. 5(d)(3)(A), every document filed in this court (including exhibits) must be transmitted to the clerk's office via the ECF system consistent with S.D. Ind. Local Rules 5-2 through 5-11 2 except:~~

(1) documents filed by *pro se* litigants;

~~(2) transcripts in cases filed by claimants under the Social Security Act (and related statutes);~~

~~(3)~~(2) exhibits in a format that does not readily permit electronic filing (such as videos and large maps and charts);

~~(4)~~(3) documents that are illegible when scanned into .pdf format;

~~(5)~~(4) documents filed in cases not maintained on the ECF system; and

~~(6)~~(5) any other documents that the court or these rules specifically allow to be filed directly with the clerk.

~~(b)~~(c) **Case Initiating Documents.** The initial pleading and accompanying documents, including the complaint and issuance of the summons, may be filed either in paper form or electronically through the court's ECF system. Case initiating documents must be served in the traditional manner on paper. All subsequent documents must be filed electronically except as provided in these rules or as ordered by the court.

~~(c)~~(a) **Filing with the Clerk.** Any document that is exempt from electronic filing must be filed directly with the clerk and served on other parties in the case as required by those Federal Rules of Civil Procedure and these rules that apply to the service of non-electronic documents.

(d) **Document Filing by Non-Exempt Party.** When a party who is not exempt from the electronic filing requirement files a document directly with the clerk, the party must:

(1) electronically file a notice of manual filing that explains why the document cannot be filed electronically;

(2) present the document to the clerk within 1 business day after filing the notice of manual filing; and

(3) present the clerk with a copy of the notice of manual filing when the party files the document with the clerk.

Note: Amended December 1, 2018, for consistency with Fed. R. Civ. P. 5, which becomes effective on December 1, 2018. Amended Fed. R. Civ. P. 5(d)(3)(A) establishes a uniform national rule that mandates electronic filing by persons represented by counsel, except when local rules require or allow nonelectronic filing, or for good cause.
~~Note:~~ Effective January 1, 2012, former Local Rule 5.6 ~~was~~ combined with former Local Rule 5.10 to create new Local Rule 5-2.

B. Local Rule 5-3 - Eligibility, Registration, Passwords for Electronic Filing; Exemption from Electronic Filing shall be amended as follows:

~~(a) — **Mandatory Electronic Filing.** Unless exempted pursuant to (e) below, attorneys admitted to, and in good standing with, the court's bar (including those admitted *pro hac vice*) or authorized to represent the United States must use the court's ECF system to file documents.~~

~~(b)~~**(a) Registration.** To register to use the ECF system, an attorney must complete the registration form adopted by the clerk. The form must require:

- (1) the attorney's name, address, and telephone number;
- (2) the attorney's e-mail address; and
- (3) a declaration that the attorney is admitted to this court's bar.

~~(e)~~**(b) Change in Information; Compromise of Password.** An attorney who has registered to use the ECF system must notify the clerk:

- (1) in writing within 30 days after the attorney's address, telephone number, or e-mail address changes; and
- (2) immediately upon learning that the attorney's password for the ECF system has been compromised.

~~(d) — **Consent to Electronic Service.** By registering to use the ECF system, attorneys consent to electronic service of documents filed in cases maintained on the ECF system.~~

~~(e)~~**(c) Exemption from Participation Pursuant to Fed. R. Civ. P. 5(d)(3)(A).** ~~The court may exempt attorneys from using the ECF system in a particular case for good cause.~~ An attorney must file a

petition for ECF exemption and a CM/ECF technical requirements exemption questionnaire in each case in which the attorney seeks an exemption. (The CM/ECF technical requirements exemption questionnaire is available on the court's website, www.insd.uscourts.gov).

~~(f)~~**(d) Suspension of Electronic Filing.** Only attorneys who are active and in good standing with the court's bar may utilize the ECF system. Upon receipt of a court order subjecting an attorney to suspension or disbarment, or notice that the attorney's license to practice law is inactive, the clerk will suspend the attorney's ECF rights, pending the attorney's reinstatement to active, good standing status.

~~(g)~~**(e) Electronic Filing by an Unrepresented Person** — ~~A person not represented by an attorney may file electronically only if allowed by court order.~~ If authorized to file electronically pursuant to Fed. R. Civ. P. 5(d)(3)(B), the person's electronic signature in accordance with Local Rule 5-7 act of filing using his/her assigned ECF log in and password constitutes the person's signature on the document for purposes of the Federal Rules of Civil Procedure, including Rule 11, and these local rules, and for any other purpose for which the unrepresented person's signature may be required in connection with the court's activities.

Note: Amended December 1, 2018, for consistency with amended Fed. R. Civ. P. 5(b)(2)(E), which explicitly provides that service is accomplished by filing with the court's electronic filing system. The amendment also is consistent with Fed. R. Civ. P. 5(d)(3)(A), which generally requires electronic filing. Amended July 1, 2017, to clarify that attorneys in good standing with the court are required to file electronically, and provide a mechanism for permissive filing by pro se litigants. Effective January 1, 2012, former Local Rule 5.7 ~~became becomes~~ Local Rule 5-3.

C. **Local Rule 5-7 - Signatures in Cases Filed Electronically** shall be amended as follows:

~~(a) — Filing Certain Documents Signed by an Attorney. A pleading, motion, brief, or notice filed electronically under an attorney's ECF log in and password must be signed by that attorney.~~

~~(b)~~**(a) Form of Electronic Signature.** ~~If a~~ A document that is converted directly from a word processing application to .pdf (as opposed to scanning); must be signed in accordance with Fed. R. Civ. P. 5(d)(3)(C). ~~the name of the Filing User under whose log in and password the document is submitted must be preceded by a "s/" and~~

~~typed on the signature line where the Filing User's handwritten signature would otherwise appear.~~

~~(e)(b)~~ Other Documents. A signature on a document other than a document filed as provided under subdivision (a) must be an original handwritten signature and must be scanned into .pdf format for electronic filing.

~~(d) — Effect of Electronic Signature. Filing an electronically signed document under an attorney's ECF log-in and password constitutes the attorney's signature on the document under the Federal Rules of Civil Procedure, under these local rules, and for any other reason a signature is required in connection with the court's activities.—~~

~~(e)(c)~~ Documents with Multiple Attorneys' Signatures. A document signed by more than one attorney and electronically filed must:

(1) include a representation on the signature lines where the handwritten signatures of the non-filing attorneys would otherwise appear that the non-filing attorneys consent to the document;

(2) identify in the signature block the non-filing attorneys whose signatures are required and be followed by notices of endorsement filed by the other attorneys within three business days after the original document is filed; or

(3) include a scanned document containing all necessary signatures.

~~(f)(d)~~ Unauthorized Use of ECF Log-in and Password. No one may knowingly allow anyone other than a filer's authorized agent to use the filer's ECF log-in and password.

Note: Amended December 1, 2018, to eliminate the court's prior signature requirement including an "s/". The amendment is consistent with amendments to Fed. R. Civ. P. 5(d)(3)(C), effective December 1, 2018, which require that documents filed through a person's electronic filing account contain the person's name on a signature block.
Effective January 1, 2012, former Local Rule 5.11 became Local Rule 5-7.

D. Subparagraph (a) of Local Rule 6-1 – Extensions of Time shall be amended as follows:

(a) Motion Ordinarily Required. Ordinarily, a request for an extension of time not made in open court or at a conference must:

- (1) be made by written motion;
- (2) state the original deadline and the requested deadline;
- (3) provide the reasons why an extension is requested; and
- (4) if all parties are represented by counsel, either:
 - (A) state that there is no objection to the extension; or
 - (B) describe all attempts made to obtain an agreement to the extension and state whether opposing counsel objects to it.

(5) be filed at least three full business days prior to the deadline absent extraordinary circumstances, or summary denial may result.

* * *

Note: Amended December 1, 2018, to add a requirement that motions for extensions of time must be filed at least three full business days prior to a filing deadline absent extraordinary circumstances, or summary denial may result.

E. Subparagraph (a) of Local Rule 37-1 – Discovery Disputes shall be amended as follows:

(a) Required Actions Prior to Court Involvement. Prior to involving the court in any discovery dispute, including disputes involving depositions, counsel must confer in a good faith attempt to resolve the dispute. If any such dispute cannot be resolved in this manner, counsel ~~shall are encouraged to~~ contact the chambers of the assigned Magistrate Judge to determine whether the Magistrate Judge is available to resolve the discovery dispute by way of a telephone conference or other proceeding prior to counsel filing a formal discovery motion. When the dispute involves an objection raised during a deposition that threatens to prevent completion of the deposition, any party may recess the deposition to contact the Magistrate Judge's chambers.

* * *

Note: Amended December 1, 2018, to require counsel contact the Magistrate Judge to request a conference to resolve discovery disputes before filing a motion.

F. Proposed New Local Rule 81-2 – State Court Record and Pending Motions in Removed Actions shall state as follows:

(a) Attachment of State Court Record. When removing an action from state court, the removing party must file a copy of the State Court Record as

an attachment to the Notice of Removal. The State Court Record must include a copy of the state court docket sheet, all pleadings, motions, orders, and all other filings, organized in chronological order by the state court filing date.

(b) Format and Description of Electronic Attachment. Notwithstanding Local Rule 5-6, if the State Court Record is filed electronically, it should be created and filed as an attachment to the Notice of Removal as a single .pdf file. The filing party should describe the attachment as the State Court Record, listing each document filed. (E.g., “State Court Record (Complaint, Appearance, Summons, Motion for Temporary Restraining Order)”).

(c) Attachment of Operative Complaint. In addition to including the operative complaint in the State Court Record (as defined in paragraph (b) above), the removing party must file an additional copy of the operative complaint as a separate attachment to the Notice of Removal.

(d) Pending State Court Motions.

(1) Notice. At the time of removal, the removing party must file a separate notice listing any state court motions that remain pending at the time of removal.

(2) Obligation to Refile. If any motion remains pending in state court at the time of removal, and if the movant wishes the District Court to rule on the motion, the party that initially filed the motion must refile the motion in the District Court case, and attach any responses thereto, within seven (7) days of the filing party’s appearance.

Note: Effective December 1, 2018, the rule is added to facilitate the court’s receipt of the full state court record when a case is removed.

G. **Subparagraph of (c)(3)(B) of Local Rule 83-5 - Bar Admission shall be amended as follows:**

* * *

(c) Admission.

(1) Who May Be Admitted. An attorney admitted to practice by the United States Supreme Court or the highest court in any state may become a member of the court’s bar on a member’s motion.

(2) Character. An applicant will be admitted to the bar if the court – after being assured by a member or by the report of a committee appointed by the court – is satisfied that the applicant:

(A) has good private and professional character; and

(B) is a member in good standing of the bar in every jurisdiction where the applicant is admitted to practice.

(3) **Entry on Court's Records.** The attorney's admission will be entered on the court's records and the court will issue a certificate to that effect only after the applicant:

(A) takes a prescribed oath or affirmation;

(B) certifies that he or she has read and will abide by the *Seventh Circuit Standards of Professional Conduct* and the Local Rules for the United States District Court for the Southern District of Indiana;

(C) pays the required fees (law clerks to the court's judges and attorneys representing the United States are exempt from these fees);

(D) signs the roll of attorneys;

(E) registers for electronic case filing;

(F) gives a current address; and

(G) agrees to notify the clerk promptly of any change in address.

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Note: Amended December 1, 2018, to add a requirement that new admittees to the court's bar certify they will abide by the court's Local Rules.

H. **Local Criminal Rule 49-1 - Filing of Documents Electronically Required** shall be **amended** as follows:

Local Criminal Rule 49-1 - Filing of Documents ~~Electronically Required~~

(a) **Electronic Filing.** Electronic filing of documents is generally required pursuant to Fed. R. Crim. P. 49(b)(3)(A).

(b) **Documents Exempt from Electronic Filing.** Any document that is exempt from electronic filing must be filed with the clerk and served on other parties in the case as required by Fed. R. Crim. P. 49(a)(4) and Fed. R. Crim. P. 49(b) as they relate to the service of non-electronic documents. ~~Original documents consisting of more than~~

~~one page must be fastened by paperclip or binder clip and may not be stapled. Copies for service on other parties must be stapled in the top left corner. Only the following documents are exempt from the electronic filing requirements of Fed. R. Crim. P. 49(b)(3):~~

~~(a) — **Electronic Filing Required.** All criminal cases (other than those cases the court specifically exempts) must be maintained in the court's electronic case filing (ECF) system. Accordingly, as allowed by Fed. R. Crim. P. 49(e) every document filed in this court (including exhibits) must be transmitted to the clerk's office via the ECF system consistent with S.D. Ind. Local Rules 5-2 through 5-11 except:—~~

(1) any case initiating document resulting in the assignment of a criminal ~~or~~ magistrate ~~case number and/or,~~ ~~or miscellaneous case number and~~ any charging instrument, initiating or superseding, and accompanying documents;

(2) documents requiring the oath or affirmation of a law enforcement officer in the presence of a judge or magistrate;

(3) documents filed in open court;

(4) documents filed by *pro se* defendants;

(5) exhibits in a format that does not readily permit electronic filing (such as videos and large maps and charts);

(6) documents that are illegible when scanned into .pdf format;

(7) documents filed in cases not maintained on the ECF system;
and

(8) any other documents that the court or these rules specifically allow to be filed directly with the clerk.

~~(b)(c)~~ **Documents Requiring Hand Signatures.** Waivers, plea agreements and other documents that require a defendant's signature or the signature of a person other than an attorney of record must be signed by hand and scanned into .pdf format for electronic filing, pursuant to Local Rule 5-7 ~~(b)(e)~~. All hand-signed documents that contain the signature of the defendant must be maintained in the custody of the filing attorney.

~~(d) Filing with the Clerk.~~ Any document that is exempt from electronic filing

~~must be filed directly with the clerk and served on other parties in the case as required by Fed. R. Crim. P. 49(b) and Fed. R. Civ. P. 5(b) as they relate to the service of non-electronic documents. Original documents consisting of more than one page must be fastened by paperclip or binder clip and may not be stapled. Copies for service on other parties must be stapled in the top left corner.~~

Note: Amended December 1, 2018, for consistency with amendments to Fed. R. Crim. P. 49, which become effective on December 1, 2018. Amended Fed. R. Crim. P. 49 addresses what papers must be served, service through the court's electronic-filing system and by other electronic means, and when certificates of service are required. The amended Rule largely parallels the amendments to the Civil Rules on each of these subjects.

Comments concerning the proposed rule amendments are welcome. Comments must be submitted in writing or via email on or before **November 16, 2018**, and should be sent to:

Laura A. Briggs, Clerk of Court
United States District Court
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46 East Ohio Street, Room 105
Indianapolis, IN 46204
or via email: LocalRules@insd.uscourts.gov