

U. S. DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS
LOCAL RULES AND APPENDIXES as of March 19, 2008¹
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**U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
LOCAL COURT RULES**

SECTION I: CIVIL RULES

LOCAL RULE CV-1 Scope and Purpose of Rules

- (a) The rules of procedure in any proceeding in this court are those prescribed by the laws of the United States and the Federal Rules of Civil Procedure, along with these local rules and any orders entered by the Court. These local rules shall be construed as consistent with Acts of Congress and rules of practice and procedure prescribed by the Supreme Court of the United States and the United States Court of Appeals for the Fifth Judicial Circuit.
- (b) These rules may be known and cited as Local Court Rules.
- (c) The Supplemental Rules for Certain Admiralty and Maritime Claims, as adopted by the Supreme Court of the United States, shall govern all admiralty and maritime actions in this court.

LOCAL RULE CV-3 Commencement of Action

- (a) **Habeas Corpus and §2255 Motions.** The clerk may require that petitions for a writ of habeas corpus and motions filed pursuant to 28 U.S.C. §2255 be filed on a set of standardized forms approved by this court and supplied, upon request, by the clerk without cost, to the petitioner. Petitioners who are not proceeding in forma pauperis must pay a \$5.00 filing fee. See 28 U.S.C. §1914(a). There is no filing fee for § 2255 motions filed by prisoners in federal custody.
- (b) **Page Limitation for Documents Filed by Pro Se Prisoners and Pro Se Non Prisoners.** Absent permission obtained from the presiding judge, all documents filed by pro se prisoners and pro se non-prisoners are limited to twenty (20) pages, including attachments.

LOCAL RULE CV-4 Complaint, Summons and Return

- (a) At the commencement of the action, counsel shall prepare and file the civil cover sheet, Form JS 44, along with the complaint. When filing a patent, trademark or copyright case, counsel is also responsible for electronically filing an AO Form 120 or 121, and submitting a copy of the applicable form to the United States Patent Office or United States Copyright Office.

If service of summons is not waived, an original and two copies of the summons in a civil action must be prepared by the attorney for the plaintiff and submitted for each defendant to be served with a copy of the complaint. The clerk is required to collect the filing fee authorized by federal statute before accepting a complaint for filing.

by this court pursuant to applicable federal statute and rule. See Appendix E.

- (c) **Taxation of Jury Costs for Late Settlement.** Except for good cause shown, whenever the settlement of an action tried by a jury causes a trial to be postponed, canceled or terminated before a verdict, all juror costs, including attendance fees, mileage, and subsistence, may be imposed upon the parties unless counsel has notified the court and the clerk's office of the settlement at least one full business day prior to the day on which the trial is scheduled to begin. The costs shall be assessed equally against the parties and their counsel unless otherwise ordered by the court.

LOCAL RULE CV-41 Dismissal of Actions

A dismissal for failure to prosecute may be ordered by this court upon motion by an adverse party, or upon this court's own motion.

LOCAL RULE CV-42 Consolidation; Separate Trials

Consolidation of Actions.

- (a) **Duty to Notify Court of Collateral Proceedings and Re-filed Cases.** Whenever a civil matter, commenced in or removed to the court, involves subject matter that either comprises all or a material part of the subject matter or operative facts of another action, whether civil or criminal, then pending before this or another court or administrative agency, or previously dismissed or decided by this court, counsel for the filing party shall identify the collateral proceedings and/or re-filed case(s) on the civil cover sheet filed in this court. The duty to notify the court and opposing counsel of any collateral proceeding continues throughout the time the action is before this court.
- (b) **Consolidation - Single Judge Involved.** When two or more actions are pending before a judge which involve either (1) a common question of law or fact; or (2) the same parties and issues; or (3) different or additional parties and issues all of which arise out of the same transaction or occurrence, that judge may order that all or part of the actions be consolidated.
- (c) **Consolidation - Multiple Judges Involved.** When actions that may be consolidated under (b) above have been filed with two or more judges, the actions, upon consolidation, shall be assigned to the judge who was assigned the initial action or actions. The judge assigned the initial action or actions has the prerogative of declining the transfer and assignment of the additional action or actions.

LOCAL RULE CV-43 Taking of Testimony

Interpreters in Civil Cases Not Instituted by the United States. The presiding judge shall approve the utilization of interpreters in all civil cases not instituted by the United States. Absent a judicial order to the contrary, the presiding judge shall encourage the use of certified interpreters, or when no certified interpreter is reasonably available, "otherwise qualified" interpreters. See 28 U.S.C. § 1827(b). The presiding judge may approve the use of an interpreter who is not certified

or “otherwise qualified” if no certified or “otherwise qualified” interpreter is reasonably available. Upon request, the clerk of court shall make lists of certified and otherwise qualified interpreters available to parties.

LOCAL RULE CV-45 Subpoena

Attorneys shall prepare all subpoenas. See Fed.R.Civ.P. 45(a)(3).

LOCAL RULE CV-47 Selection of Jurors

Communication with Jurors

- (a) No party or attorney for a party shall converse with a member of the jury during the trial of an action.
- (b) After a verdict is rendered, an attorney must obtain leave of the judge before whom the action was tried to converse with members of the jury.

LOCAL RULE CV-54 Judgments; Costs

- (a) A party awarded costs by final judgment or by judgment that a presiding judge directs be entered as final under Fed.R.Civ.P. 54(b) must apply to the clerk for taxation of such costs by filing a bill of costs. Unless otherwise provided by statute or by order of the presiding judge, the bill of costs must be filed with the clerk and served on any party entitled to such service no later than 14 days after the clerk enters the judgment on the docket.
- (b) **Procedure for Contested Bill of Costs.** Before filing a bill of costs, a party must:
 - (1) submit the proposed bill of costs to opposing counsel for counsel’s review in light of the applicable law; and
 - (2) if there are any areas of disagreement, meet and confer with opposing counsel in an effort to submit an agreed bill of costs to the Court. If the parties have a legitimate dispute on which they cannot agree, the party seeking costs must file a bill of costs indicating areas of agreement and disagreement. The bill must contain a certificate by the party seeking costs certifying compliance with the provisions of this rule..

LOCAL RULE CV-56 Summary Judgment

Summary Judgment Procedure.

- (a) **Motion.** Any motion for summary judgment must include: (1) a statement of the issues to be decided by the Court; and (2) a “Statement of Undisputed Material Facts.” If the movant relies upon evidence to support its motion, the motion should include appropriate citations to proper summary judgment evidence as set forth below. Proper summary judgment evidence should be attached to the motion in accordance with section (d) of this rule.