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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY  DEPUTY CLERK

IN RE:)

ADOPTION OF AMENDMENTS TO)
LOCAL RULES OF COURT EFFECTIVE)
DECEMBER 1, 2007)
_____)

GENERAL ORDER NO. 464

Good cause appearing,

IT IS HEREBY ORDERED that the amendments to the Local Rules of Court for the Eastern District of California, detailed in the attachment hereto, are hereby adopted and are effective on December 1, 2007. An amended copy of the Local Rules is available on the Court's Web Site.

DATED: November 20, 2007

FOR THE COURT:



GARLAND E. BURRELL, JR.
Chief United States District Judge

Amendments to Local Rules of Court Effective December 1, 2007

1. L.R. 1-101:

- A. **Consent to Service:** This definition is amended as follows to reflect the amended subdivisions of Fed. R. Civ. P. 5:

"Consent to Service" is the authorization by an attorney or party to accept service during the course of an action by electronic means pursuant to Fed. R. Civ. P. 5(b)(2)(~~D~~)(E) and Fed. R. Crim. P. 49. See L.R. 5-135(g).

- B. **Conventional Service:** This definition is amended as follows to reflect the amended subdivisions of Fed. R. Civ. P. 5:

"Conventional Service" is service during the course of an action accomplished by traditional means (either personal or mailing) pursuant to Fed. R. Civ. P. 5(b)(2)(A)-(~~C~~)(D) and Fed. R. Crim. P. 49.

- C. **Pretrial Conference:** This definition is amended as follows to reflect the amended subdivisions of Fed. R. Civ. P. 16:

"Pretrial Conference" means the final pretrial conference as defined in Fed. R. Civ. P. 16(~~d~~)(e). See L.R. 16-282.

- D. **Status Conference:** This definition is amended as follows to reflect the amended subdivisions of Fed. R. Civ. P. 16:

"Status Conference" means any pretrial, scheduling or discovery conference excepting the final pretrial conference as defined in Fed. R. Civ. P. 16(~~d~~)(e). See L.R. 16-240.

2. L.R. 5-133(b)(3): This subdivision is amended as follows to correct an error in the current rule (since L.R. 83-141 does not exist):

(3) Form of Requests. Requests to use paper or electronic filing as exceptions from these Rules shall be submitted as stipulations as provided in L.R. ~~83-141~~ **83-143** or, if a stipulation cannot be had, as written motions setting out an explanation of reasons for the exception. Points and authorities are not required, and no argument or hearing will normally be held. Requests may also be made in scheduling conference and pretrial conference statements when the need can be foreseen.

3. **L.R. 5-135(a):** This subdivision is amended as follows to reflect the amended subdivisions of Fed. R. Civ. P. 5:

(a) Service of Electronic Documents. "Service" as utilized in these Rules includes electronic service as set forth in the CM/ECF procedures in these Local Rules. "Notice of Electronic Filing" is a notice automatically generated by CM/ECF at the time a document is filed with the system. When counsel have consented to electronic service, see L.R. 5-135(g), this Notice will constitute automatic service of the document on all others who have consented. This Notice will set forth the time of filing, the name of the parties and attorney(s) filing the document, the type of document, the text of the docket entry, the name of the parties and/or attorney(s) receiving the notice, and an electronic link (hyperlink) to the filed document that allows recipients to retrieve the document automatically. Service via this electronic Notice constitutes service pursuant to Fed. R. Civ. P. 5(b)(2)(~~D~~)(E) and Fed. R. Crim. P. 49.

4. **L.R. 5-135(g)(1):** This subdivision is amended as follows to reflect the amended subdivisions of Fed. R. Civ. P. 5 and to create consistency with the other local rules:

(1) Consent to Service. Unless an attorney opts out by designating such on the registration form, registration as a filing user constitutes: (1) consent to receive service electronically and waiver of the right to receive service by first class mail pursuant to Fed. R. Civ. P. ~~Rule~~ 5(b)(2)(~~D~~)(E) and Fed. R. Crim. P. ~~Rule~~ 49; (2) consent to making electronic service and waiver of the right to make service by personal service or first class mail pursuant to Fed. R. Civ. P. ~~Rule~~ 5(b)(2)(~~D~~)(E). This consent pertinent to Fed. R. Civ. P. ~~Rule~~ 5 does not affect service of a summons and complaint pursuant to Fed. R. Civ. P. ~~Rule~~ 4, i.e., there is no electronic service of a complaint. Waiver of service and notice by first class mail applies to notice of the entry of an order or judgment. Service by electronic means is complete upon transmission of the Notice of Electronic Filing.

5. **L.R. 6-136(a):** This subdivision is amended as follows to reflect the amended subdivisions of Fed. R. Civ. P. 6:

(a) Additional Time After Service. The time period fixed by these Local Rules shall be subject to the provisions of Fed. R. Civ. P. 6(~~e~~)(d) or Fed. R. Crim. P. 45(c), allowing, when authorized by law, additional time to do some act or take some proceeding within a prescribed period after service of a notice or other paper on the party by mail or by electronic means in accordance with Fed. R. Civ. P. 5(b) or Fed. R. Crim. P. 49. Whenever in these Local Rules a different time period is prescribed for an act depending on whether service is in person or by mail or electronic means, the Rule shall be deemed to include the time period prescribed in Fed. R. Civ. P. 6(~~e~~)(d) and Fed. R. Crim. P. 47, and no additional time shall be allowed for service by mail or electronic means. For purposes of Fed. R. Civ. P. 5(b)(2)(A) and Fed. R. Crim. P. 49, a party may effect personal service in addition to electronic service.

6. **L.R. 6-136(c):** This subdivision is amended as follows to reflect the amended subdivisions of Fed. R. Civ. P. 6:

(c) Specific Time Provisions. Pursuant to the provisions of Fed. R. Civ. P. 6~~(d)~~(c) or Fed. R. Crim. P. 45(d), the otherwise applicable time periods fixed by those Rules have been lengthened by order of the Court as set forth in these Local Rules governing service of notices of motion, affidavits, and other documents.

7. **L.R. 4-210(b):** This subdivision is amended as follows to distinguish the letter l from a numeral 1:

(b) Proof of Service of Process. If service is not waived, proof of service of process shall be made by acknowledgment of the party served or by affidavit of the person serving such process. Such proof of service shall be filed and served on all parties who have been served or who have appeared in the action as of the time of filing the proof of service, as soon as possible after service has been completed and, in any event, before any action based upon the service is requested or taken by the Court or is taken by a party in reliance on proper service. Such proof of service shall show the date, place and manner of the service. When service is made by manual delivery, it shall show the hour, the particular address or vicinity at which service was made, the name and address of the person served, and the name and address of the person making the service. See Fed. R. Civ. P. 4~~(f)~~(l).

8. **L.R. 78-230(f):** This subdivision is amended as follows to reflect the amended subdivisions of Fed. R. Civ. P. 6:

(f) Calculation of Time Periods. The time periods fixed by this Rule shall supersede the time periods for service of notices of motions, affidavits, and other documents prescribed by Fed. R. Civ. P. 6~~(d)~~(c). See generally L.R. 6-136.

9. **L.R. 78-230(g):** This subdivision is amended as follows to correct errors in the current rule (since L.R. 83-141 and L.R. 6-142 do not exist):

(g) Continuances. Requests for continuances of hearings on the motion calendar, upon stipulation or otherwise, shall be made to the Judge or Magistrate Judge on whose calendar the matter is set, at least five (5) court days prior to the scheduled hearing date. All stipulations for continuance shall be submitted for approval to the Court. See L.R. ~~83-141~~ 83-143, ~~6-142~~, 6-144.

10. **L.R. 16-240(b):** This subdivision is amended as follows to reflect the amended subdivisions of Fed. R. Civ. P. 26:

(b) Reports. Except in those types of cases specifically exempted from initial disclosure by Fed. R. Civ. P. 26(a)(1)(~~E~~)(**B**), the parties must submit reports to the Court concerning their proposed discovery plan within 14 days after their discovery conference. The Court may require the submission of preconference reports on some or all of the foregoing subjects. See also L.R. 16-271(d)(2).

11. **L.R. 54-292(b):** This subdivision is amended as follows to reflect the amended subdivisions of Fed. R. Civ. P. 6:

(b) Filing of Cost Bill. Within ten (10) days after entry of judgment or order under which costs may be claimed, the prevailing party may serve on all other parties and file with the Clerk a bill of costs conforming to 28 U.S.C. § 1924. See Fed. R. Civ. P. 6(a), (~~e~~)(**d**). The cost bill shall itemize the costs claimed and shall be supported by a memorandum of costs and an affidavit of counsel that the costs claimed are allowable by law, are correctly stated, and were necessarily incurred. Cost bill forms shall be made available by the Clerk's Office upon request or on the Court's website.

12. **L.R. 72-303(b):** This subdivision is amended as follows to reflect the amended subdivisions of Fed. R. Civ. P. 6 and to correct an error in the current rule (since Fed. R. Crim. P. 45(e) does not exist):

(b) Finality. Rulings by Magistrate Judges shall be final if no reconsideration thereof is sought from the Court within ten (10) court days calculated from the date of service of the ruling on the parties, see Fed. R. Civ. P. 6(a), (~~e~~)(**d**); Fed. R. Crim. P. 45(a), (~~e~~)(**c**), unless a different time is prescribed by the Magistrate Judge or the Judge.

13. **L.R. 72-304(b):** This subdivision is amended as follows to reflect the amended subdivisions of Fed. R. Civ. P. 6 and to create consistency with L.R. 72-303(b):

(b) Objections. Within ten (10) court days after service of the proposed findings and recommendations on the parties, see Fed. R. Civ. P. 6(a), ~~;~~ ~~Fed. R. Civ. P. 6(e)(d)~~; Fed. R. Crim. P. 45(a), ~~;~~ ~~Fed. R. Crim. P. 45(c)~~, unless a different time is prescribed by the Court, any party may file with the Clerk, and serve on all parties, objections to such proposed findings and/or recommendations to which objection is made and the basis for the objection.

14. **L.R. Crim 58-422(e):** This subdivision is amended as follows to correct an error in the current rule (since L.R. 6-142 does not exist):

(e) Time for Serving and Filing Briefs. Appellant's brief shall be served and filed within twenty-one (21) days after service of the notice of hearing. Appellee's brief shall be served and filed within twenty-one (21) days after the filing and service of the appellant's brief. See L.R. 5-135(a), 6-136(a). Appellant may serve and file a reply brief within five (5) court days after service of the appellee's brief. These periods may be altered by the assigned Judge upon application of the parties or sua sponte. See L.R. ~~6-142~~, **6-144**.

15. **L.R. Crim 12-430(f):** This subdivision is amended as follows to correct an error in the current rule (since L.R. 6-142 does not exist):

(f) Extensions of Time. If a party is unable to comply with the foregoing schedule for the filing of motions, that party shall move the assigned Magistrate Judge for an extension of time specifically setting forth the basis for the requested extension. See L.R. ~~6-142~~, **6-144**. Such motion shall be made as soon as practicable but, in any event, not later than the last date set by the Court for the filing of motions.

16. **L.R. Crim 17.1-430(c):** This subdivision is amended as follows to correct an error in the current rule (since L.R. 6-142 does not exist):

(c) Shortening and Extending Time. See L.R. ~~6-142~~, **6-144**.

17. **L.R. A-540(d):** This subdivision is amended as follows to correct an error in the current rule (since L.R. 6-142 does not exist):

(d) Motion for Default Judgment. Upon a showing that no one has appeared to claim the property and give security, and that due notice of the action and arrest of the property has been given, a party may move for judgment at any time after the time for answer has expired. See L.R. 72-302(c)(19). If no one has appeared, the party may have an ex parte hearing before the Court and judgment without further notice. If any person has appeared and does not join in the motion for judgment, such person shall be given seven (7) court days notice of the motion, see L.R. 6-136; provided, however, that the Court can extend or shorten the time of the required notice on good cause. See L.R. ~~6-142~~, **6-144**.