

FILED
Sep 20, 2012
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
by Y. Williams

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

IN RE:)
)
ADOPTION OF AMENDED LOCAL)
RULE 133 (Fed. R. Civ. P. 5) AND)
LOCAL RULE 160 (Fed. R. Civ. P. 16))
_____)

GENERAL ORDER NO. 526

IT IS HEREBY ORDERED that the Judges of the Eastern District of California, after the notice and comment period provided by 28 U.S.C. §2071(b), adopt the attached Amended Local Rule 133 (Fed. R. Civ. P. 5) Filing and Contents of Documents and Amended Local Rule 160 (Fed. R. Civ. P. 16) Notice of Settlement or Other Disposition. These amended local rules shall take effect upon the filing of this general order.

DATED: September 20, 2012

FOR THE COURT:



ANTHONY W. ISHII
Chief United States District Judge

RULE 133 (Fed. R. Civ. P. 5)

FILING AND CONTENTS OF DOCUMENTS

(a) Electronic Filing. The Eastern District of California is an electronic case management/filing district (CM/ECF). Unless excused by the Court or by the electronic filing procedures set forth in these Rules, attorneys shall file all documents electronically pursuant to those Rules. All complaints, and subsequent motions, pleadings, briefs, exhibits, and all other documents in an action shall be electronically filed except as otherwise provided by these Rules. Pro se parties shall file and serve paper documents as provided in these Rules. After a pro se party files a paper document, the Clerk will transform the paper filing into an electronic record and ultimately discard the paper filing.

(b) Exceptions

(1) Attorney Exceptions. In exceptional circumstances and for specific documents, an attorney may apply for permission to file documents in paper format. See L.R. 133(b)(3). The decision to permit paper filing is in the sole discretion of the assigned Judge or Magistrate Judge. Any request to file paper documents must be made no less than seven (7) days before the date the documents would otherwise be due to be filed. Permission to file paper documents may be revoked at any time. Paper filings will be scanned, and the electronic format will become the official court record unless otherwise ordered by the assigned Judge or Magistrate Judge. The paper filing will ultimately be discarded.

(2) Pro Se Party Exception. Any person appearing pro se may **not** utilize electronic filing except with the permission of the assigned Judge or Magistrate Judge. See L.R. 133(b)(3). All pro se parties shall file and serve paper documents as required by applicable Federal Rules of Civil or Criminal Procedure or by these Rules.

(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. 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.

(4) Grand Jury Exception. Grand jury proceedings shall be submitted for filing by the United States Attorney in paper format. These documents will be scanned into .pdf format by the Clerk and, unless authorized to be publicly available, shall be kept under seal. All paper documents shall be returned to the United States Attorney.

(5) **Exception for Certain Other Criminal Documents.** See L.R. 131(h).

(c) **Controlling Procedures.** Whenever, in these Rules, reference is made to filing or service of a document, the reference shall include filing and serving documents electronically in conformity with these Rules. If these Rules require paper filings or service for certain persons or circumstances, then conventional filing and service procedures shall control to that extent.

(d) **Paper Documents**

(1) **Delivery of Paper Documents to the Clerk.** Except as expressly authorized in advance by the Court, all paper documents presented for filing or lodging shall be delivered to the Clerk who will, when appropriate, deliver the documents to the Judge or Magistrate Judge after docketing. Original documents to be filed or lodged shall not be mailed to chambers. If a particular document is to be brought to the immediate attention of the Judge or Magistrate Judge assigned to the action, a copy may be mailed or otherwise delivered to the chambers, but the original shall be presented to the Clerk. See Fed. R. Civ. P. 5; L.R. 121(b). All documents delivered to the Clerk for filing or lodging in a pending action **should** be presented to the Clerk at the office where the action is pending. See L.R. 120, 121. **However, unless otherwise ordered by the Court, documents filed at an incorrect office will be accepted by that office.**

(2) **Filing of Multiple Copies of Paper Documents.** One additional legible conformed copy of all paper documents to be filed or lodged shall be delivered to the Clerk, for the Court's use, except that in actions to be heard by a District Court composed of three Judges, three additional legible conformed copies of each brief and supporting documents shall be delivered to the Clerk.

(3) **Handling of Improper Paper Documents.** The Clerk will not refuse to file a paper document that is submitted for filing in a pending action **on account of improper formatting**. The Clerk will scan it and, if improperly filed, notify the Court that the document was filed in an improper format. An order to show cause (OSC) may be issued in appropriate actions regarding an attorney's disregard for the requirement to utilize electronic filing or other violations of these electronic filing procedures. See L.R. 110.

(e) **Facsimile Documents.**

(1) **Facsimile as Original Document.** For purposes of this Rule, the image of the original manual signature appearing on a facsimile (fax) copy filed pursuant to this Rule shall constitute an original signature for all court purposes. The document, which itself may be in whole or in part a fax copy, must be marked "original" before submission to the Clerk for filing.

(2) Retention of Actual Original. The originator of the document, or in the case of an affidavit or certification, the presenting attorney or party, must maintain the document containing the original manual signature until the conclusion of the action, including any appeal and remand after appeal. In the event there are multiple signatories to a document, the filing party or attorney shall retain the originally signed document(s).

(3) Filing of Actual Original. The Court may require that the document containing the original manual signature be filed.

(4) No Direct Fax to Clerk or Chambers. This Rule does not provide for documents to be transmitted via fax directly to the Clerk. Documents directly faxed to the Clerk or to a chambers of the Court will not be filed, lodged, received, returned, or acknowledged, absent an express order of the Court.

(f) Chambers Courtesy Paper Copies. A person who electronically files any document (excluding attachments or exhibits) in excess of 25 pages must also provide a courtesy paper copy of the document to the appropriate chambers. A person who electronically files attachments or exhibits that total in excess of 50 pages must also provide a paper courtesy copy of those attachments or exhibits to chambers by delivering it to the Clerk. The courtesy copy must be mailed or otherwise sent to the pertinent courtroom deputy clerk no later than the next business day following the electronic filing. *All courtesy copies shall be prominently labeled as such in capital letters on the face sheet of the courtesy copy.* Chambers have no obligation to retain the courtesy copies. See also L.R. 130(b).

(g) Caption and Title. Following the counsel identification and commencing on the eighth line of the initial page of each document (except where additional space is required for identification), there shall appear: (1) the title of the Court, (2) the title of the action, (3) the file number of the action, followed by the initials of the Judge and Magistrate Judge to whom it is currently assigned, (4) a title describing the document, (5) immediately below the case number and title of the document, a statement of the date, time, and name of the Judge or Magistrate Judge for any scheduled hearing, and (6) any other matter required by these Rules.

(h) Reference to Parties. If there are more than two parties, including intervenors or amici, references to all parties shall include the name (which may be abbreviated) of the particular party or parties to whom reference is made.

(i) Citations.

(1) Federal Citations. Citations to federal decisions shall be to the United States Supreme Court Reports, Federal Reports, Federal Supplement, or Federal Rules Decisions, if so reported, and shall indicate the court and year of decision. Citations to federal statutes shall be to the United States Code, if so codified. Citations to federal administrative rules shall be to the Code of Federal Regulations, if

so codified, or to the Federal Register, if published therein.

(2) State Citations. Citations to California decisions shall be to the official California Reports. Citations to other state cases shall be to the National Reporter System, showing state and year of decision. Other parallel citations may be added.

(3) Unreported, Uncodified Citations.

(i) General Requirement. If case, statutory, or regulatory authority is relied upon that has not been reported, published or codified in any of the foregoing references, and that is not available through Westlaw/Lexis, a copy of that authority shall be appended to the brief or other document in which the authority is cited. This requirement shall include, but not be limited to, the Statutes at Large, the Public Laws of the United States, the California Administrative Code, administrative regulations not contained in the Code of Federal Regulations or the Federal Register, and decisions and other matters published in specialized reporter services.

(ii) Incarcerated Pro Se Parties. In any action wherein a party is incarcerated and appearing pro se, that party shall be served with a paper copy of the case, statutory, or regulatory authority cited by the filing party that has not been reported as set forth in (1) and (2) above, regardless of its availability in Westlaw/Lexis, as well as a paper copy of that authority otherwise required to be appended in 3(i) above. No copy of the authority available in Westlaw/Lexis shall be filed with the court.

(j) Depositions. Depositions shall not be filed through CM/ECF. Before or upon the filing of a document making reference to a deposition, counsel relying on the deposition shall ensure that a courtesy hard copy of the entire deposition so relied upon has been submitted to the Clerk for use in chambers. Alternatively, counsel relying on a deposition may submit an electronic copy of the deposition in lieu of the courtesy paper copy to the mailbox of the Judge or Magistrate Judge and concurrently email or otherwise transmit the deposition to all other parties. Neither hard copy nor electronic copy of the entire deposition will become part of the official record of the action absent order of the Court. Pertinent portions of the deposition intended to become part of the official record shall be submitted as exhibits in support of a motion or otherwise. See L.R. 250.1(a).

(k) Tables. Briefs exceeding fifteen (15) pages in length shall be accompanied by an indexed table of contents related to the headings or subheadings and by an indexed table of statutes, rules, ordinances, cases, and other authorities cited.

RULE 160 (Fed. R. Civ. P. 16)

NOTICE OF SETTLEMENT OR OTHER DISPOSITION

(a) Notice. When an action has been settled or otherwise **resolved by agreement of the parties**, or when any motion seeking general or interim relief has been resolved **by agreement outside** of Court, and whether the action is pending in the District Court or is before an appellate court, it is the duty of counsel to **immediately file a notice of settlement or resolution**. See L.R. 272.

(b) Dispositional Documents. Upon such notification of disposition or resolution of an action or motion, the Court shall fix a date upon which the documents disposing of the action or motion must be filed, which date shall not be more than twenty-one (21) days from the date of said notification, absent good cause. The Court may, on good cause shown, extend the time for filing the dispositional papers. A failure to file dispositional papers on the date prescribed by the Court may be grounds for sanctions. See L.R. 272.