

UNITED STATES DISTRICT COURT
FOR THE
EASTERN AND WESTERN DISTRICTS OF KENTUCKY

FILED
July 8, 2016

JOINT GENERAL ORDER No. 16-01

IN RE: AMENDMENTS TO JOINT LOCAL RULES

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Pursuant to LR 83.14 and LCrR 57.7 of the Joint Local Rules of the Eastern and Western Districts of Kentucky, and pursuant to the authority granted by Rule 83 of the Federal Rules of Civil Procedure and Rule 57 of the Federal Rules of Criminal Procedure, upon recommendation of the Joint Local Rules Commission, and upon the close of the comment period without comment, the Judges of the Eastern and Western Districts hereby ORDER that the following amendments be made to the Joint Local Rules:

A. LR 5.2(d), (e) – Pro Se Actions – is amended as follows in order to clarify procedures for non-prisoner *pro se* litigants and to better enable the Courts to contact non-prisoner *pro se* litigants:

(d) **Disclosure of Contact Information; Sanctions.** In addition to the requirements of LR 5.1(a), all pro se litigants must include, if available, in the caption of the litigant’s first filing, the litigant’s current telephone number, residential address, and, if different, mailing address. Failure to provide the required address and telephone information upon request may result in the dismissal of the litigant’s case or other appropriate sanctions.

(e) **Notification of Change in Address; Sanctions.** All pro se litigants must provide written notice of a change of residential address, and, if different, mailing address, to the Clerk and to the opposing party or the opposing party’s counsel. Failure to notify the Clerk of an address change may result in the dismissal of the litigant’s case or other appropriate sanctions.

- B. A new LR 5.7 – Filing Documents Under Seal** is added as follows in order to clarify the procedures for seeking leave to file documents under seal:

LR 5.7 FILING DOCUMENTS UNDER SEAL

(a) **Presumption of public access.** Parties and counsel should presume that all documents filed in district court should be available for the public to access and that restricting public access can occur only in limited circumstances, as set forth in this Rule.

(b) **“Sealed Document” defined.** A “sealed document” is defined as a document or motion filed pursuant to (1) a protective order restricting public access, (2) an order granting leave to file the sealed document or motion, in conjunction with a motion for leave to seal or a previously-filed redacted document, or (3) included within a category of documents considered sealed under a federal statute or federal rule of procedure, local rule, or standing order of this court. A sealed document or motion is not available electronically, or by any other means, to the parties, attorneys, or the public.

(c) **Specific Authority or Motion Required; Protective Orders.** Absent a federal statute or federal rule of procedure, local rule, or standing order of this court, a party seeking to file a sealed document must electronically file a motion for leave to seal. The motion must state why sealing is required and must establish that the document sought to be filed under seal is entitled to protection from public disclosure. Reference to a stipulation that allows a party to designate certain documents as confidential is not sufficient grounds to establish that a document, or portions thereof, warrants filing under seal.

(d) **Electronic Filing Rules and Procedures.** All procedures for filing documents under seal, whether pursuant to this Rule or a federal statute or federal rule of procedure, are contained in the court’s Amended Electronic Case Filing Administrative Policies and Procedures, available from the Clerk’s office on the following websites:

WDKY – <http://www.kywd.uscourts.gov/>

EDKY – <http://www.kyed.uscourts.gov/>

- C. LR 54.4 – Time for Filing Motion for Attorneys [sic] Fees and Nontaxable Expenses** – is amended as follows in order to update the Rule:

LR 54.4 TIME FOR FILING MOTION FOR ATTORNEY’S FEES AND NONTAXABLE EXPENSES

Unless otherwise provided by statute, a motion for attorney’s fees and related nontaxable litigation expenses, pursuant to Fed. R. Civ. P. 54(d)(2), must be filed no later than 30 days after entry of judgment. If a motion for attorney’s fees or nontaxable expenses is not filed within 30 days, such fees and nontaxable expenses shall be waived. The Court may, on motion filed within

the time provided for filing a motion for attorney's fees or nontaxable expenses, extend the time for filing such a motion.

- D. LR 83.6(c) – Substitution or Withdrawal of Attorney of Record** – will be amended as follows in order to correct a typographical error:

(c) In cases where an attorney seeks to be substituted for another as attorney of record, and both attorneys are within the same partnership or other legal professional association, a notice of substitution must be filed by the withdrawing attorney and the substitute attorney with an affirmative representation stating that the substitution is made with the client's consent; the notice may, but need not be, signed by the client.

- E. A new LCrR 49.6 – Filing Documents Under Seal** – is added as follows in order to clarify the procedures for seeking leave to file documents under seal:

LCrR 49.6 FILING DOCUMENTS UNDER SEAL

(a) **Presumption of public access.** Parties and counsel should presume that all documents filed in district court should be available for the public to access and that restricting public access can occur only in limited circumstances, as set forth in this Rule.

(b) **“Sealed Document” defined.** A “sealed document” is defined as a document or motion filed pursuant to (1) a protective order restricting public access, (2) an order granting leave to file the sealed document or motion, in conjunction with a motion for leave to seal or a previously-filed redacted document, or (3) included within a category of documents considered sealed under a federal statute or federal rule of procedure, local rule, or standing order of this court. A sealed document or motion is not available electronically, or by any other means, to the parties, attorneys, or the public.

(c) **Specific Authority or Motion Required; Protective Orders.** Absent a federal statute or federal rule of procedure, local rule, or standing order of this court, a party seeking to file a sealed document must electronically file a motion for leave to seal. The motion must state why sealing is required and must establish that the document sought to be filed under seal is entitled to protection from public disclosure. Reference to a stipulation that allows a party to designate certain documents as confidential is not sufficient grounds to establish that a document, or portions thereof, warrants filing under seal.

(d) **Electronic Filing Rules and Procedures.** All procedures for filing documents under seal, whether pursuant to this Rule or a federal statute or federal rule of procedure, are contained in the court's Amended Electronic Case Filing Administrative Policies and Procedures, available from the Clerk's office on the following websites:

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EDKY – <http://www.kyed.uscourts.gov/>

IT IS FURTHER ORDERED that Joint General Orders 09-05 E.D.Ky. and 09-04 W.D.Ky. are withdrawn as superseded

The amendments reflected in this Joint General Order shall be incorporated into the Courts' Joint Local Rules published on the Courts' respective websites. Copies of this Order shall be made available to the public on the Courts' respective websites and made available to the various publishing companies that publish the Joint Local Rules of the Eastern and Western Districts of Kentucky. The amendments noted in this Order shall take effect upon entry of this Order.

IT IS SO ORDERED:

s/ Karen K. Caldwell
Hon. Karen K. Caldwell
Chief Judge, United States District
Court, Eastern District of Kentucky

s/ Joseph H. McKinley, Jr.
Hon. Joseph H. McKinley, Jr.
Chief Judge, United States District
Court, Western District of Kentucky