

October 24, 2022

NOTICE

TO: THE PUBLIC AND MEMBERS OF THE PRACTICING BAR FOR THE EASTERN AND WESTERN DISTRICTS OF KENTUCKY

Pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure and Rule 57 of the Federal Rules of Criminal Procedure, the United States District Courts for the Eastern and Western Districts of Kentucky hereby give public notice of the following:

The Joint Local Rules Commission for the Eastern and Western Districts of Kentucky has recommended, and the District Court has authorized for release for a period of public comment through December 30, 2022, the revision of certain Joint Local Rules of Civil Practice and Joint Local Rules of Criminal Practice. Unless otherwise indicated, as seen in this Notice, underlined text is added and ~~struck~~ text is deleted. The proposed revisions are as follows:

- A. LCrR 57.2(a) – Permission to Practice in a Particular Case** – will be amended as follows in order to simplify the rule and procedure consistent with amendments to the Local Civil Rules (no amendments are made to subsections (b) or (c), nor to the clarification noted by “*”):

LCrR 57.2 Permission to Practice in a Particular Case*

(a) Procedure. An attorney who has not been admitted to the Bar of the Court ~~—but who is in good standing in the Bar of any state, territory, or the District of Columbia—~~ may represent parties before the Court if the attorney has paid the prescribed *pro hac vice* admission fee to the Clerk of the Court and been granted leave by the Court to appear *pro hac vice* in a particular case. A separate motion for each attorney requesting *pro hac vice* admission must include the following information:

(1) *Admission Status.* The motion must identify each Bar in which the attorney is a member and ~~attach a certificate of good standing issued by the highest court of the state, territory, or the District of Columbia in which the attorney is a resident. The certificate of good standing must be issued no more than ninety (90) days before the filing of the motion~~ include a statement indicating that the attorney requesting admission is admitted to practice, currently in active status, and in good standing as an attorney in another United States court or the highest court of any state.

(2) *Disciplinary History.* The motion must disclose whether the attorney is currently or has ever been disbarred, suspended from practice, or subject to other

disciplinary action by any court, ~~state, territory, or the District of Columbia Bar, or other admitting or licensing authority.~~

(3) *Consent to Jurisdiction.* The motion must include a statement indicating that the attorney consents to be subject to the jurisdiction and rules of the Kentucky Supreme Court governing professional conduct.

(4) *ECF Training.* The motion must identify the method of training completed by the attorney before use of the Court's electronic filing system.

B. LCrR 53.1 Courtroom Decorum – will be amended as follows in order to modernize the local rule consistent with amendments to the Local Civil Rules:

LCrR 53.1 Courtroom Decorum

- (a) **Persons Permitted Inside the Bar of the Courtroom.** Only those persons authorized by the Court, or those persons having an official function, are permitted inside the bar of the courtroom during ~~criminal~~ proceedings held in open court.
- (b) **Possession and Use of Electronic or Photographic Equipment; Generally.** Except as may be permitted by (c) or (d), no person may operate any visual or audio recording, broadcasting or transmitting device or equipment in any courtroom. This rule applies regardless of whether court is actually in session.
- (c) **Permitted Uses of Electronics.** The presiding judge may permit the following:
- (1) Use of electronic or photographic means for presenting evidence or perpetuating the record; ~~and/or~~
 - (2) The broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings;
 - (3) Use of electronic devices or auxiliary aids to assist individuals who require accommodation for a disability; or
 - (4) Any wireless or internet communication device approved by the Court.

The presiding judge retains authority and discretion to disallow use of electronic devices at any time.

- (d) **Devices and Equipment in Courthouses.** By General Order, the Eastern and Western Districts may regulate the possession of electronic devices and equipment within each courthouse, including possession by members of the Bar. Notice of any such General Order shall be posted in a conspicuous place in all federal court buildings in the District, and will be available on the Clerk's website. ~~Notice of (b) must be posted in a conspicuous place in all federal court buildings in Kentucky.~~

- (e) **Remote Participation.** Any person remotely participating in any court proceeding may not record or cause to be recorded any such proceeding without the express consent of the presiding judge.

C. **LR 83.11 Social Security Cases** – will be amended as follows in order to modernize the local rule consistent with the upcoming amendments to the Supplemental Social Security Rules:

LR 83.11 Social Security Cases.

- (a) **Service of Social Security Number on Separate Paper than Complaint.** Any person seeking judicial review of a decision of the Commissioner of Social Security under § 205(g) of the Social Security Act, 42 U.S.C. §405(g), shall provide, on a separate sheet of paper attached to the copies of the complaint served on the Commissioner and the United States Attorney, the name and social security number of the worker on whose wage record the application for benefits was filed. ~~The person shall also state in the complaint itself that the name and social security number have been attached to the copies served upon the Commissioner and the United States Attorney. Failure to provide a social security number in this manner is not grounds for dismissal of the complaint. However, in addition to other sanctions that the Court may order, the Commissioner's time for filing an answer and transcript will not begin until the Commissioner has been served in compliance with this subsection. To note for the record any period of tolling of the time to file an answer under this subsection, the United States Attorney must file a notice showing the plaintiff's failure to comply.~~
- (b) ~~**Commissioner's Time to Respond.** Within 60 days of service of the complaint, the Commissioner of Social Security must file an answer and transcript of the administrative proceedings. An initial extension of up to 60 days may be granted, for good cause, upon motion of the Commissioner. If the responsible Social Security Administration official files an affidavit detailing the circumstances that require additional time, a second extension of time to respond may be granted. No other extension will be granted.~~
- (c) ~~**Judicial Review.** At the discretion of the judge to whom the case is assigned, judicial review may occur on written motion or oral argument. Unless otherwise ordered, motion practice will occur as follows:~~
- ~~(1) Claimant must move for summary judgment or judgment on the pleadings within 60 days of the filing of the answer and administrative transcript.~~
 - ~~(2) The Commissioner must file a countermotion or a response to the claimant's motion within 30 days of service of the claimant's motion.~~
 - ~~(3) The Clerk must submit the case to the judicial officer immediately following the filing of the Commissioner's countermotion or response.~~

~~(4) Extensions of time may be granted only if good cause is shown or there is no objection from any party.~~

~~(d)~~ **Attorney's Fees Petitions Under Social Security Act.** Claimant's counsel may petition for attorney's fees, awardable under § 206(b) of the Social Security Act, 42 U.S.C. § 406(b), and any other applicable statute permitting an award of attorney's fees in such cases, within 30 days of a final favorable decision for claimant.

(1) *Petition.* The attorney's fee petition must include an itemization of the services provided in both the administrative and the judicial proceedings. Claimant's counsel must serve a copy of the fee petition on the claimant and the United States Attorney.

(2) *Responses.* The United States Attorney must respond to the attorney's fee petition within 30 days of the petition's filing. The government's response must include a statement of accrued benefits and must advise the Court whether the government considers the fee to be reasonable. The government must serve a copy of the response on the claimant and the petitioning attorney. The claimant may respond to the attorney's fee petition within 30 days of the petition's filing.

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Comments concerning the proposed rule amendments are welcome. Comments must be submitted in writing or via email on or before December 30, 2022, and should be sent to:

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