

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
MAR - 2 2004
CLERK, U.S. DISTRICT COURT
By Y. Kelley
Deputy

Special Order No. 2-56

1. The District Judges of this Court have considered and adopted the attached amendments to the local civil rules and local criminal rules of this Court. These amendments amend local civil rules 7.1(c), 7.1(h), 7.1(i), 9.1(a), 56.6(b)(1), and 83.8(e), and local criminal rule 57.8(e), and repeal local civil rules 4.2, 80.1, 83.5, 83.8(c), and 83.15, and local criminal rules 57.5, 57.6, 57.8(c), and 57.15.
2. Unless modified after receipt of public comment, these rules shall take effect on September 1, 2004 and shall apply to all proceedings in civil and criminal actions thereafter commenced and, insofar as just and practicable, all proceedings in civil and criminal actions then pending.
3. Any persons who desire to comment on any of these rules may do so by submitting written comments to:

Clerk of Court
United States District Court for the Northern District of Texas
Attention: 2004 Rules Revision Comments
1100 Commerce Street, Room 1452
Dallas, Texas 75242-1495

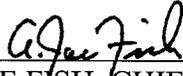
The deadline by which the Clerk must receive comments is June 1, 2004.

4. The Clerk of Court is directed to make the necessary distribution.

SO ORDERED.

March 2, 2004.

FOR THE COURT:



A. JOE FISH, CHIEF JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

NOTE: New material is redlined and deleted material is ~~stricken through~~ or designated “[REPEALED]”.

REPEAL OF LR 4.2, 80.1, 83.5, LCrR 57.5, AND 57.6

LR 4.2 Marshal’s Fees. [REPEALED]

Unless a judge has permitted a party to proceed without prepayment of fees, the United States Marshal shall not render any service for which a fee is required unless the appropriate fee, and any immediate costs to the marshal, are paid.

LR 80.1 Court Reporter’s Fees. [REPEALED]

Unless a judge has permitted a party to proceed without prepayment of fees, a court reporter shall not perform any service for which a fee is required unless the appropriate fee, or security therefor in the amount determined by the court reporter, has been paid.

LR 83.5 Clerk’s Fees. [REPEALED]

Unless a judge has permitted a party to proceed without prepayment of fees, the clerk shall not render any service for which a fee is required unless the appropriate fee is paid.

LCrR 57.5 Clerk’s Fees. [REPEALED]

Unless a judge has permitted a party to proceed without prepayment of fees, the clerk shall not render any service for which a fee is required unless the appropriate fee is paid.

LCrR 57.6 Court Reporter’s Fees. [REPEALED]

Unless a judge has permitted a party to proceed without prepayment of fees, a court reporter shall not perform any service for which a fee is required unless the appropriate fee, or security therefor in the amount determined by the court reporter, has been paid.

AMENDMENTS TO LR 7.1(c) AND (h)

LR 7.1 Motion Practice.

* * *

(c) Proposed Order. An unopposed motion must be accompanied by an agreed proposed order, signed by the attorneys or parties. ~~An opposed motion must be accompanied by a proposed order, unless an order is not required by subsection (h) of this rule. A proposed order must be and set forth on a separate document.~~

* * *

(h) Uniform Requirements on Motion Practice.

B--Brief required (not required with agreed motion)

C--Certificate of conference required

Θ--Order required

MOTION (to/for):	B	C	Θ
AMEND		X	X
CHANGE OF VENUE	X	X	X
COMPEL	X	X	X
CONSOLIDATION	X	X	X
CONTINUANCE		X	X
DISMISS	X		
EXTEND TIME		X	X
INTERVENE	X	X	X
JUDGMENT AS A MATTER OF LAW	X		X
JUDGMENT ON PLEADINGS	X		
LEAVE TO FILE	X	X	X
LIMINE	X	X	X
MORE DEFINITE STATEMENT	X	X	X
NEW TRIAL	X		
PRELIMINARY INJUNCTION	X	X	X
PRODUCE DOCUMENTS	X	X	X
PROTECTIVE ORDER	X	X	X
QUASH	X	X	X
REMAND	X	X	X
SANCTIONS	X	X	X
STAY	X	X	X
STRIKE	X	X	X
SUBSTITUTE COUNSEL		X	X
SUMMARY JUDGMENT	X		
WITHDRAW		X	X

NOTE: If a motion is not listed, a brief; and certificate of conference, ~~and an order~~ are required.

AMENDMENTS TO LR 7.1(i)(2) AND 56.6(b)(1)

LR 7.1 Motion Practice.

* * *

(i) Requirement of Appendix; Appendix Requirements.

- (1) A party who relies on documentary (including an affidavit, declaration, deposition, answer to interrogatory, or admission) or non-documentary evidence to support or oppose a motion must include such evidence in an appendix.
- (2) The appendix must be assembled as a self-contained document, separate from the ~~motion and brief~~ **pleading it supports.**

* * *

LR 56.6 Requirement of Appendix; Appendix Requirements.

- (a) Appendix Required.** A party who relies on affidavits, depositions, answers to interrogatories, or admissions on file to support or oppose a motion for summary judgment must include such evidence in an appendix.
- (b) Appendix Requirements.**
 - (1) The appendix must be assembled as a self-contained document, separate from the motion and brief **or response and brief.**

AMENDMENT TO LR 9.1(a)

LR 9.1 Social Security and Black Lung Cases.

(a) Form of Complaint. A complaint filed pursuant to Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), for benefits under Titles II, XVI, or XVIII of the Social Security Act, or Part B, Title VI, of the Federal Coal Mine Health and Safety Act, must contain, in the first paragraph of the complaint, the last four digits of the social security number of:

- (1) the worker on whose wage record the application for benefits is filed, regardless whether the worker is the plaintiff; and
- (2) the plaintiff.

On the defendant's request, the plaintiff must separately disclose the complete social security number of the worker or the plaintiff, but the defendant must not disclose or otherwise use the complete number except by leave of court or in accordance with law.

AMENDMENTS TO LR 83.8(e) AND LCrR 57.8(e) AND REPEAL
OF LR 83.8(c), 83.15, LCrR 57.8(c), AND LCrR 57.15

LR 83.8 Loss of Membership and Discipline of Attorneys.

* * *

~~(c) **Appeal of Disciplinary Action.** An attorney who is suspended or disbarred under LR 83.8(b) shall have the right to petition the chief judge of this court for relief. The petition must be filed within 10 days after the discipline is ordered. The chief judge shall have absolute discretion as to what, if any, further action will be taken in respect to the matter.~~

* * *

(e) Unethical Behavior. The term “unethical behavior,” as used in this rule, ~~includes any means~~ conduct undertaken in or related to a civil action in this court that violates any code, rule, or standard of professional conduct or responsibility governing the conduct of attorneys authorized to practice law in the State of Texas the Texas Disciplinary Rules of Professional Conduct.

LCrR 57.8 Loss of Membership and Discipline of Attorneys.

* * *

~~(c) **Appeal of Disciplinary Action.** An attorney who is suspended or disbarred under LR 57.8(b) shall have the right to petition the chief judge of this court for relief. The petition must be filed within 10 days after the discipline is ordered. The chief judge shall have absolute discretion as to what, if any, further action will be taken in respect to the matter.~~

* * *

(e) Unethical Behavior. The term “unethical behavior,” as used in this rule, ~~includes any means~~ conduct undertaken in or related to a criminal proceeding in this court that violates any code, rule, or standard of professional conduct or responsibility governing the conduct of attorneys authorized to practice law in the State of Texas the Texas Disciplinary Rules of Professional Conduct.

LR 83.15 Attorney as a Witness. [REPEALED]

(a) Acceptance of Employment. An attorney must not accept employment in a contemplated or pending case if the attorney knows, or in the exercise of reasonable diligence should know, that the attorney or another attorney in the firm may be called as a witness on behalf of the client. The attorney may accept employment, and the attorney or another attorney in the firm may testify, if the testimony relates solely to:

- (1) an uncontested matter;
- (2) a matter of formality where there is no reason to believe that substantial evidence will be offered in opposition to the testimony; or
- (3) the nature and value of legal services rendered.

(b) Exception for Substantial Hardship. Notwithstanding the requirements of subsection (a), an attorney may accept employment if refusal would work a substantial hardship on the client because of the distinctive value of the attorney or the firm in the particular case.

(c) Withdrawal From Representation. If, after accepting employment in a case, an attorney learns, or in the exercise of reasonable diligence should know, that the attorney or another attorney in the firm may be called as a witness on behalf of the client, the attorney and the firm must withdraw from the case unless one of the exceptions listed in subsection (a) or (b) applies.

(d) Testimony Prejudicial to Client. If, after accepting employment in a case, an attorney learns, or in the exercise of reasonable diligence should know, that the attorney or another attorney in the firm may be called as a witness other than on behalf of the client, the attorney and firm may continue to represent the client unless it appears that the testimony will or may be prejudicial to the client.

LCrR 57.15 Attorney as a Witness. [REPEALED]

(a) Acceptance of Employment. An attorney must not accept employment in a contemplated or pending case if the attorney knows, or in the exercise of reasonable diligence should know, that the attorney or another attorney in the firm may be called as a witness on behalf of the client. The attorney may accept employment, and the attorney or another attorney in the firm may testify, if the testimony relates solely to:

- (1) an uncontested matter;
- (2) a matter of formality where there is no reason to believe that substantial evidence will be offered in opposition to the testimony; or
- (3) the nature and value of legal services rendered.

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