

On December 1, 2015 the Federal Rules of Civil Procedure 1, 16, 26, 34 and 37 were amended. Below are the proposed changes to the District Court Local Rules which reflect the changes in the Federal Rules. The proposed changes to the Local Rules are highlighted in red.

Comments regarding the proposed changes should be submitted by February 12, 2016 to the Clerk of Court, Sue Beitia, via email. The email address is:

clerkofcourt.hid.uscourts.gov

Thank you

**Sue Beitia
Clerk of Court**

I. Proposed changes to LR.1.3

The amended FRCP 1 potentially impacts LR.1.3.

The amended FRCP 1 reads:

These rules govern the procedure in all civil actions and proceedings in the United States district courts, except as stated in Rule 81. They should be construed, **administered, and employed by the court and the parties** to secure the just, speedy, and inexpensive determination of every action and proceeding.

The current LR.1.3 reads:

These rules supplement the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure, and shall be construed so as to be consistent with those rules and to promote the just, efficient, and economical determination of every action and proceeding

Proposed Local Rule Change:

These rules supplement the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure, and shall be construed, **administered, and employed by the court and the parties** so as to be consistent with those rules and to promote the just, efficient, and economical determination of every action and proceeding

II. Proposed changes to LR.16.2

The amended FRCP 16(b)(1)(2) potentially impacts LR.16.2.

The amended FRCP 16(b)(1)(2) reads:

The judge must issue the scheduling order as soon as practicable, but **unless the judge finds good cause for delay, the judge must issue it** within the earlier of **90** days after any defendant has been served with the complaint or **60** days after any defendant has appeared.

The current LR 16.2(a) reads:

(a) Within ninety-one (91) days (thirteen weeks) after the appearance of a defendant and within one hundred twenty-six (126) days (eighteen weeks) after an action or proceeding has been served on a defendant, the court shall set a scheduling conference.

Proposed Local Rule Change:

(a) The court shall issue a scheduling order within the earlier of 90 days after any defendant has been served with the complaint or 60 days after any defendant has appeared, unless the court finds good cause for delay.

III. Proposed changes to LR.16.3

The amended FRCP 16(b)(3)(B) potentially impacts LR.16.3.

The amended FRCP 16(b)(3)(B) reads:

(B) Permitted Contents. The scheduling order may:

(i) modify the timing of disclosures under Rules 26(a) and 26(e)(1);

(ii) modify the extent of discovery;

(iii) provide for disclosure, or discovery, **or preservation** of electronically stored information;

(iv) include any agreements the parties reach for asserting claims of privilege or of protection as trial-preparation material after information is produced, **including agreements reached under Federal Rule of Evidence 502;**

***(v)* direct that before moving for an order relating to discovery, the movant must request a conference with the court;**

The current LR.16.3 reads:

At the conclusion of the scheduling conference, the judge shall enter an order governing disclosures under Fed. R. Civ. P. 26(a) and LR26.1, the extent of discovery to be permitted, the discovery completion date, deadlines for motions to be filed and heard, deadlines to join other parties, and deadlines to amend pleadings. Unless otherwise ordered, all discovery must be completed no later than thirty-five (35) days (five weeks) prior to the scheduled trial date. The order may include other matters that the judge deems appropriate, including provisions for

initiation of pretrial proceedings and trial settings, and reference of the case to the court mediation program or other ADR process pursuant to LR88.1.

Proposed Local Rule Change:

At the conclusion of the scheduling conference, the judge shall enter an order governing disclosures under Fed. R. Civ. P. 26(a) and LR26.1, the extent of discovery to be permitted, the discovery completion date, deadlines for motions to be filed and heard, deadlines to join other parties, and deadlines to amend pleadings. Unless otherwise ordered, all discovery must be completed no later than thirty-five (35) days (five weeks) prior to the scheduled trial date. The order may include other matters that the judge deems appropriate, including **(1) provisions for the disclosure, discovery, or preservation of electronically stored information; (2) agreements reached by the parties for asserting claims of privilege or of protection as trial-preparation material after information is produced, including agreements reached under Federal Rule of Evidence 502; (3) a directive that prior to moving for an order relating to discovery, the movant must request a conference with the court; (4) provisions for the** initiation of pretrial proceedings and trial settings; and **(5)** reference of the case to the court mediation program or other ADR process pursuant to LR88.1.

IV. Proposed changes to LR 37.1

The above-referenced amendment to FRCP 16(b)(3)(B)(v), discussed in Section III, also potentially impacts LR 37.1. Further, amendments to FRCP 26(b) now specifically require that discovery be “proportional to the needs of the case...”

The current LR37.1 reads:

(a) Conference Required. The court will not entertain any motion pursuant to Fed. R. Civ. P. 26 through 37, including any request for expedited discovery assistance pursuant to LR37.1(c), unless counsel have previously conferred, either in person or by telephone, concerning all disputed issues, in a good faith effort to limit the disputed issues and, if possible, eliminate the necessity for a motion or expedited discovery assistance.

Proposed Local Rule Change:

(a) Conference Required. The court will not entertain any motion pursuant to Fed. R. Civ. P. 26 through 37, including any request for expedited discovery assistance pursuant to LR37.1(c), unless counsel have previously conferred, either in person or by telephone, concerning all disputed issues **(including the requirement that discovery be proportional to the needs of the case)**, in a good faith effort to limit the disputed issues and, if possible, eliminate the necessity for a motion or expedited discovery assistance.

The Court may also direct that before moving for an order relating to discovery, the movant must request a conference with the court pursuant to Fed. R. Civ. P. 16(b)(3)(B)(v) and LR 16.3.