IN THE UNITED STATES DISTRICT COURT

FOR THE

EASTERN AND WESTERN DISTRICTS OF KENTUCKY

JOINT GENERAL ORDER NO. 09-04 - E.D.Ky.
JOINT GENERAL ORDER NO. 09-03 - W.D.Ky.

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Pursuant to LR 83.14 of the Joint Local Rules of the Eastern and Western Districts of Kentucky, and pursuant to the authority granted by Rule 83, F.R.Civ.P., and upon recommendation of the Joint Local Rules Commission, the Judges of the Eastern and Western Districts hereby ORDER that the following amendments and additions be made to the Joint Local Rules:

1. To comply with the time computation revisions of the federal rules to take effect December 1, 2009, and to make other non-substantive or clarifying language changes, the local rules below are revised as follows (revisions noted in bold italics):

LR 4.2 Service of Summons by United States Marshal

(a) **Generally**. If service of a summons by the United States Marshal is permitted, a party must present the following to the U.S. Marshal at least ***thirty (30) days*** before the compliance date specified in the summons:

(1) A properly completed summons; and
(2) A properly completed U.S. Marshal Form 285

(b) **Service upon a Party in Custody**. If the party to be served is in state or federal custody, properly completed process must be presented to the U.S. Marshal at least ***thirty (30) days*** before the compliance date specified in the summons.

LR 4.3 Preparation of Process

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(b) **Time for Completion**. The Clerk must accept for filing any pleading or document tendered even if it is not accompanied by the appropriate forms. If the pleading is not accompanied by the appropriate forms, the attorney or

filing party must comply with this rule within ***seven (7) days*** of filing the pleading. If counsel or the party fails to comply with this order within ***seven (7) days*** of filing the pleading, the Court will issue an order requiring the party to show cause why the pleading should not be stricken.

LR 5.5 **Service of Documents by Electronic Means**

Documents ***must*** be served through the court's transmission facilities by electronic means to the extent and in the manner authorized by General Order 05-03 of the Court. Transmission of the Notice of Electronic Filing (NEF), ***with a hyperlink to the electronically filed document***, constitutes service of the filed document upon each party in the case who is registered as an electronic case filing user with the Clerk. Any other party or parties ***must*** be served documents according to these Local Rules and the Federal Rules of Civil Procedure.

LR 5.6 **Time of Filing and Service**

Documents filed by electronic means under LR 5.4 shall be deemed filed on the date and time stated on the Notice of Electronic Filing which is transmitted, with a hyperlink to the electronically filed document, to the filing party.

Documents served by electronic means under LR 5.5 shall be deemed served on the date and time stated on the Notice of Electronic Filing which is transmitted, with a hyperlink to the electronically filed document, to the party served.

LR 7.1 **Motions**

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(b) **Motions for an Extension of Time**. Subject to any deadlines established by the Court, parties may extend time limits by agreed order. Absent an agreement, the party seeking the extension must file a motion setting forth the reasons the extension is sought and tender a proposed order. A memorandum opposing the motion must be filed within ***seven (7) days*** of service of the motion.

(c) **Time for Filing Memoranda in Response and Reply**. A party opposing a motion must file a response memorandum

within ***twenty-one (21) days*** of service of the motion. Failure to timely respond to a motion may be grounds for granting the motion. A party may file a reply memorandum within ***fourteen (14) days of*** service of the response. When ***a party*** request***s*** an extension of time to file a memorandum, please do so by agreed order or state whether others parties consent.

LR 45.1 Service of Subpoenas by United States Marshal

If service of a subpoena by the United States Marshal is permitted, a party must present the following to the U.S. Marshal Service at least ***fourteen (14) days*** before the compliance date specified in the subpoena:

(1) a properly completed subpoena;
(2) a properly completed U.S. Marshal Form 285; and
(3) attendance fees and mileage to be tendered to the person to whom the subpoena is directed.

LR 54.4 Time for Filing Motion for Attorneys Fees and Nontaxable Expense

In accordance with Joint General Order [number], 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 thirty (30) days after entry of judgment. If a motion for ***attorney's*** fees or nontaxable expenses is not filed within thirty (30) days, such fees and costs 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.

LR 83.8 Writs of Habeas Corpus Ad Testificandum

If a person in state or federal custody is needed for testimony or for trial in a civil case, the party desiring the person's attendance must move for a writ of habeas corpus ad testificandum at least ***thirty (30) days*** before the date the person is needed in court to appear or testify unless exigent circumstances otherwise exist.

LR 86.1 Effective Date

These rules are effective ***December 1, 2009***. Except for jury plans, speedy trial plans and criminal justice plans for

each district, these rules supersede all previous local rules and court orders.

LCrR 12.1 Motions

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(b) **Motions for an Extension of Time**. Extension of time in criminal actions will be granted only if the party seeking the extension files a motion and affidavit demonstrating good cause. Extensions of time by agreement of the parties are not valid in criminal cases. A memorandum opposing a motion for an extension of time must be filed within ***seven (7) days*** of the service of the motion.

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(d) **Time for Filing Memoranda in Response and Reply**. A party opposing a motion must file a response memorandum within ***fourteen (14) days*** of service of the motion. Failure to timely respond to a motion may be grounds for granting the motion. A party my file a reply memorandum within ***fourteen (14) days*** of service of the response.

LCrR 49.4 Service of Documents by Electronic Means

Documents ***must*** be served through the court's transmission facilities by electronic means to the extent and in the manner authorized by General Order 05-03 of the Court. Transmission of the Notice of Electronic Filing (NEF), ***with a hyperlink to the electronically filed document***, constitutes service of the filed document upon each party in the case who is registered as an electronic case filing user with the Clerk. Any other party or parties ***must*** be served documents according to these Local Rules and the Federal Rules of Criminal Procedure.

LCrR 49.5 Time of Filing and Service

Documents filed by electronic means under LCrR 49.3 shall be deemed filed on the date and time stated on the Notice of Electronic Filing which is transmitted, with a hyperlink to the electronically filed document, to the filing party.

Documents served by electronic means under LCrR 49.4 shall be deemed served on the date and time stated on the Notice of Electronic Filing which is transmitted, with a hyperlink to the electronically filed document, to the party served.

LCrR 59.1 Effective Date

These rules are effective ***December 1, 2009***. Except for jury plans, speedy trial plans and criminal justice plans for each district, these rules supersede all previous local rules and court orders.

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2. To comply with the time computation revisions of the federal rules to take effect December 1, 2009, the following are new local rules:

LR 6.1 "Last Day" Defined

For purposes of Federal Rule of Civil Procedure 6(a)(4), unless a different time is set by a statute or court order, the "last day" ends for electronic filing at midnight, **EASTERN TIME**.

LCrR 45.1 "Last Day" Defined

For purposes of Federal Rule of Criminal Procedure 45(a)(3), unless a different time is set by a statute or court order, the "last day" ends for electronic filing at midnight, **EASTERN TIME**.

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3. To clarify the service date for electronic notices of entry of Court judgments/orders, the following are new local rules:

LR 77.1 Service Date for Electronic Notice of the Entry of Court Judgments and Orders

When the Notice of Electronic Filing transmitted to a party contains a complete court order and states that there is no document attached, notice of entry of the order shall be deemed served on the date and time stated on the Notice of Electronic Filing that is transmitted to the party served.

In all other cases, court judgments and orders shall be deemed served on the date and time stated on the Notice of Electronic Filing that is transmitted, with a hyperlink to the judgment or order, to the party served.

LCrR 49.7 Service Date for Electronic Notice of the Entry of Court Judgments and Orders

When the Notice of Electronic Filing transmitted to a party contains a complete court order and states that there is no document attached, notice of entry of the order shall be deemed served on the date and time stated on the Notice of Electronic Filing that is transmitted to the party served.

In all other cases, court judgments and orders shall be deemed served on the date and time stated on the Notice of Electronic Filing that is transmitted, with a hyperlink to the judgment or order, to the party served.

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4. To revise the local rule governing social security practice to reflect more accurately actual practice, the following is a revision to LR 83.11. All of Subsection (c)(2) is deleted and changes in the wording and re-numbering are proposed such that revised LR83.11 shall read as follows (revisions noted in bold italics):

LR 83.11 Social Security Cases

* * * no changes to current Subsections (a) and (b) * * *

(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) Plaintiff must move for summary judgment or judgment on the pleadings within sixty (60) days of the filing of the answer and administrative transcript.

(2) The Commissioner must file a countermotion or a response to the plaintiff's motion within thirty (30)

days of service of the Plaintiff'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.

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The changes 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 various publishing companies that publish the Joint Local Rules of the Eastern and Western Districts of Kentucky and to the public upon request. The changes noted in this Order shall take effect on December 1, 2009.

Dated this the 30th day of November, 2009.

IT IS SO ORDERED:

Hon. Jennifer B. Coffman, Chief Judge
U.S. District Court
Eastern District of Kentucky

Hon. Thomas B. Russell, Chief Judge
U.S. District Court
Western District of Kentucky

ENTERED
DEC 02 2009
JEFFREY A. APPERSON, CLERK
BY DEPUTY CLERK