

April 25, 2016

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 July 1, 2016, 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. LR 5.2 – Pro Se Actions** – will be 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) **Current Mailing 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** will be 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** – will be amended as follows in order to update the Rule and delete reference to Joint General Orders, and the referenced Joint General Orders with bill withdrawn as superseded:

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

~~In accordance with Joint General Order 09-05 E.D.Ky. and Joint General Order 09-04 W.D.Ky. 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

~~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~~ 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 ~~signed~~ 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 – will be 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/>

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Comments concerning the proposed rule amendments are welcome. Comments must be submitted in writing or via email on or before July 1, 2016 and should be sent to:

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