

UNITED STATES DISTRICT & BANKRUPTCY COURTS
DISTRICT OF IDAHO

STEPHEN W. KENYON
CLERK OF COURT



L. JEFF SEVERSON
CHIEF DEPUTY CLERK

November 7, 2024

NOTICE FOR PUBLIC COMMENT

The United States District Court's Local Rules Committee invites the public to review and provide comment on the amendments to the District Court's Local Rule of Civil Procedure: 15.1 (Motions to Amend), 54.4 (New Local Rule for SSA Attorney Fee Motions), 73.1 (Amendments to Magistrate Judge Consent Process) and 83.1 (Amendments to Remote Public Access). A redline copy of the proposed amended rules are attached to this notice. The proposed amendments are scheduled to take effect January 1, 2025.

There will also be a paper copy provided for reference at the United States Courthouses in Boise, Coeur d'Alene, and Pocatello. If you are unable to access the website, or not able to travel to a courthouse location, please call Lauri Thompson, Law Clerk, at (208) 334-9403.

All public comments are due by December 7, 2024, at 5 p.m. (MST). Please send your comments by email to local_rulesDC@id.uscourts.gov, or by mail at the following address:

United States District Court, District of Idaho
Attn: Lauri Thompson, Law Clerk
550 West Fort Street
Boise, ID 83724

If you have any question, you can send your question to local_rulesDC@id.uscourts.gov, or please call (208) 334-9403. Thank you.

Civil Local Rule 15.1 will be amended as follows:

~~FORM OF A MOTION TO AMEND
AND ITS SUPPORTING DOCUMENTATION~~
MOTIONS TO AMEND OR SUPPLEMENT PLEADINGS

(a) Motions to Amend or Supplement Pleadings. The document title ~~A party who moves to amend a pleading~~ must describe the type of the proposed amended or supplemental pleading in the motion (i.e., motion to amend answer~~;~~ motion to amend counterclaim; motion to supplement complaint). Motions made under Fed. R. Civ. P. 15(a)(2) or (d) must also include as an exhibit (1) a clean copy of the proposed amended or supplemental pleading; and (2) a version of the proposed pleading that shows—through redlining, underlining, strikeouts, or other similarly effective methods—all differences from the pleading that it is intended to amend or supplement.

Self-represented persons who are in custody are exempted from the exhibit requirement. All other self-represented persons may be exempted from the exhibit requirement with leave of the court. Any amendment to a pleading, whether filed as a matter of course or upon a motion to amend, must reproduce the entire pleading as amended. The proposed amended pleading must be submitted at the time of filing the motion to amend.

~~In addition, unless the moving party is a pro se prisoner, any motion to amend a pleading must be accompanied by a version of the proposed amended pleading that shows—through redlining, underlining, strikeouts, or other similarly effective methods—how the proposed amended pleading differs from the operative pleading; provided, however, pro se litigants will be exempted from this requirement.~~

(b) Filing of Amended or Supplemental Pleading. The granting of a motion under Rule 15(a)(2) or (d) does not constitute the filing of the amended or supplemental pleading. Unless the court orders otherwise, the moving party must file and serve a complete clean copy of the amended or supplemental pleading within ten days of the order granting the motion.

RELATED AUTHORITY

Fed. R. Civ. P. 15(a)~~;~~(d)

Proposed District Local Rule Civ 54.4 (Civil)

SOCIAL SECURITY FEE MOTIONS UNDER 42 U.S.C. §§ 406(b) AND 1383(d)(2)

(a) A motion for attorney fees under 42 U.S.C. §§ 406(b) or 1383(d)(2) must be filed within thirty (30) days of counsel's receipt of the last Notice of Award necessary to calculate the total amount of retroactive benefits.

(b) The motion must be accompanied by a certificate of service attesting that the motion has been served on the claimant.

(c) The claimant and/or the defendant may file a response brief within twenty-one (21) days after receipt of the motion. Claimant's counsel may submit a reply brief within fourteen (14) days of any response brief.

Related Authority

42 U.S.C. §§ 406(b) and 1383(d)(2)

Advisory Committee Notes

The procedures set forth in this rule apply to motions for attorney fees brought under 42 U.S.C. §§ 406(b) or 1383(d)(2), which allow an attorney to request fees from a social security claimant's past-due benefits. This rule does not apply to motions for fees under the Equal Access to Justice Act, which are governed by 28 U.S.C. § 2412(d).

Civil Local Rule 73.1 will be amended in part as follows:

ASSIGNMENT OF CIVIL CASES
TO A MAGISTRATE JUDGE
UPON THE CONSENT OF THE PARTIES

A civil case may be conditionally assigned to a magistrate judge or reassigned from a district judge to a magistrate judge under 28 U.S.C. § 636(c) for any and all proceedings in a jury or non-jury matter, including pretrial, trial, and post-trial motions, and ordering the entry of judgment. Before a magistrate judge can exercise jurisdiction over a civil case, all parties must sign a written consent to proceed before the magistrate judge.

(a) **Notice.** The Clerk of Court will notify the parties in all civil cases that they may consent to have a Magistrate Judge conduct ~~any or~~ all proceedings in the case and order the entry of a final judgment, as follows:

- 1) Habeas corpus cases: At the time the action is conditionally filed, the Clerk of Court will send a Notice of Assignment to a United States Magistrate Judge ~~("Notice of Assignment") and with a Declination of eConsent to proceed form~~ ("Notice of Assignment") to the petitioner and to the Idaho Attorney General, or such other attorney as may be appropriate, on behalf of all named respondents.
- 2) Non-habeas corpus prisoner and in forma pauperis civil cases: The Clerk of Court will send either a Notice of Assignment or a Notice of Availability of a United States Magistrate Judge and Consent Form ("Notice of Availability") ~~and a consent to proceed form~~ to each party remaining after the screening order is completed and a presiding judge is designated for the case.
- 3) All other civil cases: The Clerk of Court will send either a Notice of Assignment or a Notice of Availability ~~and a consent to proceed form~~ to each party.
- 4) If parties are added to the case after all existing parties have consented to proceed before a Magistrate Judge, the Clerk of Court will send a Notice of Assignment ~~and a consent to proceed form~~ to each new party upon appearance of the party added.

(b) **Return of Consent and Declination of Consent Forms, Voluntariness, and Confidentiality.**

- 1) Consent Forms: When a case is initially assigned to a District Judge, Any party, or any attorney on behalf of a party, consenting to proceed before a United States Magistrate Judge ~~must~~should return the signed consent ~~to proceed~~ form to the Clerk of Court by e-mailing it in .pdf format to the following address:

consents@id.uscourts.gov (or by mail if a pro se litigant does not have electronic mail capabilities). The Clerk of Court will keep custody of all consent ~~to proceed~~ forms under seal until it is determined whether all parties have consented to proceed before a Magistrate Judge. If not all parties consent, any consent forms emailed to the Clerk of Court will remain sealed, and the case will remain with a District Judge. If all parties ~~to an action so~~ consent, the Clerk of Court will file and docket the consent ~~to proceed~~ forms, and the case will ~~continue before, or will be~~ reassigned to, a Magistrate Judge. Parties are free to withhold their consent without adverse consequences, and the Clerk of Court will take reasonable steps to ensure ~~voluntariness and~~ confidentiality of consents ~~and requests for~~ ~~reassignment.~~

- 2) Declination of Consent Forms: When a case is initially assigned to a Magistrate Judge, each party will be deemed to have knowingly and voluntarily consented to proceed before the assigned Magistrate Judge **UNLESS** a party emailed a declination of consent form to the Clerk of Court. Any party, or any attorney on behalf of a party, declining consent to proceed before a United States Magistrate Judge must return the signed declination of consent form to the Clerk of Court by e-mailing it in .pdf format to the following address: consents@id.uscourts.gov (or by mail if a pro se litigant does not have electronic mail capabilities). If any party emails a declination of consent form to the Clerk of Court, the form will remain sealed, and the Clerk of Court will reassign the case to a District Judge. Parties are free to email a declination of consent form without adverse consequences, and the Clerk of Court will take reasonable steps to ensure confidentiality.

RELATED AUTHORITY

General Order No. ###
General Order No. 422
General Order No. 324
28 U.S.C. § 636

Civil Local Rule 83.1(d) will be amended in part as follows:

COURTHOUSE ACCESS

(a) **Publicity.** Courthouse supporting personnel, including, among others, clerks and deputies, law clerks, messengers, and court reporters, must not disclose to any person information relating to any pending criminal or civil proceeding that is not part of the public records of the Court without specific authorization of the Court, nor may any such personnel discuss the merits or personalities involved in any such proceeding with any members of the public. Deputies and employees of the United States Marshal's Service coming into possession of confidential information obtained from the Court must not disclose such information unless necessary for official law enforcement purposes.

(b) **Confidentiality.** All courthouse support personnel are specifically prohibited from divulging information concerning arguments and hearings held in chambers or otherwise outside the presence of the public.

(c) **Conduct of Proceedings in a Widely Publicized or Sensational Case.**

1) In a widely publicized or sensational case likely to receive massive publicity, the Court, on its own motion, or on motion of either party, may issue a special order governing such matters as extrajudicial statements by lawyers, parties, witnesses, jurors, and Court officials likely to interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matter which the Court may deem appropriate for inclusion in such an order.

2) Nothing in this rule or in any other criminal rule of this Court is intended to restrict the media's right to full pretrial coverage of news pursuant to the First Amendment to the United States Constitution.

(d) ~~Photographs, Broadcasts, Videotapes, and Tape Recordings Prohibited~~ Broadcasting, Recording, and Photographing proceedings.

1) Except as provided, Aall forms, means, and manner of taking photographs, tape recordings, videotaping, broadcasting, or televising are prohibited in a United States courtroom or its environs during the course of, or in connection with, any judicial proceedings whether the Court is actually in session or not. This rule must does not prohibit recordings by a court reporter or staff electronic recorder. No court reporter, staff electronic recorder, or any other person may use or permit to be used any part of any recording of a court proceeding on, or in connection with, any radio, videotape, or television broadcast of any kind. ~~The Court may permit photographs of exhibits or use of videotapes or tape recordings under the supervision of counsel.~~

2) A judge may, however, permit (A) the use of electronic or photographic means for the presentation of evidence or the perpetuation of a record, and (B) the broadcasting, televising,

recording, or photographing of investiture, ceremonial, naturalization proceedings, or for other purposes.

3) Upon request, the presiding judge may, in his or her discretion, allow remote audio access to any member of the public in any non-trial proceeding that does not involve witness testimony. Those granted remote access are subject to the recording and broadcasting limitations outlined in subsection (1).

(e) **Wireless Portable Devices.** Because of the increased reliance on wireless devices, portable wireless communication devices such as cell phones, smart phones (including Androids, BlackBerrys and iPhones), PDAs and laptops (including iPads) such devices will be allowed in the courtroom so long as they do not either disrupt Court proceedings or pose a security threat. Cell phone calls cannot be either made from or answered in the courtroom. All such devices must be either turned off or set to the silent or vibrate mode. However, if a particular device is incompatible with existing technological architecture in a certain courtroom, (e.g. causes a microphone to buzz when an incoming call is received, despite being in the silent or vibrate mode), the owner will be asked to remove it from the courtroom or take some other action. Using any wireless device for surreptitious communication or unauthorized filming, photographing, recording or transmitting of either court proceedings, images of jurors, witnesses or undercover agents is strictly prohibited. The foregoing restrictions also apply to all jurors. Furthermore, jurors may not use cell phones during deliberations nor use wireless devices with internet access to research issues or access court files during the course of the trial.

(f) For purposes of this rule, *environs* means:

1) In Boise, Idaho, the fifth and sixth floor of the Federal Building and United States Courthouse located at 550 West Fort Street, including the corridor area adjacent to the courtroom doors;

2) In Pocatello, Idaho, that portion of the first and second floors of the Federal Building and Courthouse at 804 East Sherman Street assigned for Court use, including the corridor area adjacent to the courtroom doors; and

3) In Coeur d'Alene, Idaho, the first and third floors of the Federal Building and Courthouse located at 6450 N. Mineral Dr. assigned for court use, including the corridor adjacent to the courtroom doors.

Related Authority

45 F.R.D. 391 (1969)

51 F.R.D. 135 (1971)

87 F.R.D. 519 (1980)

Judicial Conference of the United States Courts (September 2023) Remote Access Policy
Judicial Council of the Ninth Circuit (March 2024) Policy on Remote Public Access
