

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

GENERAL ORDER AMENDING LOCAL RULES

It is hereby ORDERED that the following amendment to the local rules, having been approved by the judges of this court, is adopted for immediate implementation:¹

1. LOCAL RULE CV-3 Commencement of Action

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- (b) **Page Limitation for ~~Case Commencement Documents Filed by Pro Se Prisoners and Pro Se Non Prisoners~~.** Absent permission obtained from the presiding judge, all ~~case commencement documents and motions~~ filed by pro se prisoners and pro se non-prisoners are limited to twenty (20) pages, including attachments.

2. LOCAL RULE CV-7 Motions Practice

- (a) **Generally.** All motions, unless made during a hearing or trial, shall be in writing, filed as a separate document, conform to the requirements of Local Rules CV-5 and CV-10, and shall be accompanied by a separate proposed order for the judge's signature. The proposed order shall be endorsed with the style and number of the cause and shall not include a date or signature block. Motions, responses, replies and proposed orders, if filed electronically, shall be submitted in "searchable PDF" format. All other documents, including attachments and exhibits should be in "searchable PDF" form wherever possible.

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- (h) **"Meet and Confer" Requirement.** The "meet and confer" motions practice requirement imposed by this rule has two components, a substantive and a procedural component.

The substantive component requires, at a minimum, a personal conference, by telephone or

¹New language appears in underlined text; deleted language appears in ~~strikeout~~ text.

in person, between an attorney for the movant and an attorney for the non-movant. In any discovery-related motion, the substantive component requires, at a minimum, a personal conference, by telephone or in person, between the lead trial counsel and any local counsel for the movant and the lead trial counsel and any local counsel for the non-movant.

In the personal conference, the participants must give each other the opportunity to express his or her views concerning the disputes. The participants must also compare views and have a discussion in an attempt to resolve their differing views before coming to court. Such discussion requires a sincere effort in which the participants present the merits of their respective positions and meaningfully assess the relative strengths of each position.

In discovery-related matters, the discussion shall consider, among other things: (1) whether and to what extent the requested material would be admissible in a trial or is reasonably calculated to lead to the discovery of admissible evidence; (2) the burden and costs imposed on the responding party; (3) the possibility of cost-shifting or sharing; and (4) the expectations of the court in ensuring that parties fully cooperate in discovery of relevant information.

Except as otherwise provided by this rule, a request for court intervention is not appropriate until the participants have met and conferred, in good faith, and concluded, in good faith, that the discussions have conclusively ended in an impasse, leaving an open issue for the court to resolve. Good faith requires honesty in one's purpose to discuss meaningfully the dispute, freedom from intention to defraud or abuse the discovery process, and faithfulness to one's obligation to secure information without court intervention. Correspondence, e-mails, and facsimile transmissions do not constitute compliance with the substantive component and are not evidence of good faith. Such materials, however, may be used to show bad faith of the author.

An unreasonable failure to meet and confer violates Local Rule AT-3 and is grounds for disciplinary action. A party may file an opposed motion without the required conference only when the non-movant has acted in bad faith by failing to meet and confer.

The procedural requirement of the “meet and confer” rule is one of certification. It appears in section (i) of this rule, entitled “Certificates of Conference.”

(i) **Certificates of Conference.** Except as specified below, all motions must be accompanied by a “certificate of conference” at the end of the motion following the certificate of service.. The certificate must state (1) that counsel has ~~conferred with opposing counsel in a good faith attempt to resolve the matter without court intervention~~ complied with the meet and confer requirement in Local Rule CV-7(h), and (2) whether the motion is opposed or unopposed. Opposed motions shall include a statement in the Certificate of Conference, signed by the movant’s attorney, that the personal conference or conferences required by this rule have been conducted or were attempted, the date and manner of such conference(s) or attempts, the names of the participants in the conference(s), an explanation of why no agreement could be reached, and a statement that discussions have conclusively ended in an impasse, leaving an open issue for the court to resolve. In discovery-related motions, the Certificate of Conference shall be signed by the lead trial counsel and any local counsel. In situations involving an unreasonable failure to meet and confer, the movant shall set forth in the Certificate of Conference the facts believed to constitute bad faith.

Neither the “meet and confer” nor the certificates of conference requirements are not required with applicable to pro se litigants (prisoner or non-prisoner), or with to the following motions:

- (1) to dismiss;
- (2) for judgment on the pleadings;
- (3) for summary judgment;
- (4) motions *in limine*;
- (5) for judgment as a matter of law;
- (6) for judgment of acquittal in a criminal case;
- (7) motions to suppress in criminal cases;
- (8) for new trial; and
- (9) any motion captioned as “joint”, “agreed ” or “unopposed.”

- (j) **Motions for Leave to File.** With the exception of motions to exceed page limitations, motions for leave to file a document must be accompanied by the document sought to be filed. The motion and the document should be filed separately. If the motion for leave to file is granted, the ~~movant shall immediately re-file the permitted document in the court's CM/ECF database~~ the document will be deemed to have been filed as of the original date of its filing. If the motion is denied, the previously filed document will be stricken.
- (k) **Motions for Leave to Exceed Page Limitations.** A document that exceeds a page limitation established by these rules ~~must be accompanied by a motion for leave to exceed the page limitation.~~ should be filed as follows: file the overlength motion, then separately file a motion for leave to exceed the page limitation. If the court denies the motion for leave to exceed page limitations, the portion of the document and attachments cited only therein that exceeds the page limitation will not be considered by the court, unless otherwise ordered. The time for filing any responsive documents shall run from the date of the order on the motion for leave to exceed page limitations.

Signed this 19 day of March, 2008.

FOR THE COURT:


THAD HEARTFIELD
Chief Judge