

# UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF INDIANA

Robert N. Trgovich, Clerk

[www.innd.uscourts.gov](http://www.innd.uscourts.gov)

February 19, 2019

## NOTICE

TO: THE PUBLIC AND MEMBERS OF THE PRACTICING BAR FOR THE NORTHERN DISTRICT OF INDIANA

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 Court for the Northern District of Indiana gives public notice of the following:

The Local Rules Advisory Committee for the Northern District of Indiana has recommended, and the District Court has authorized release for a period of public comment, the revision of certain Local Rules of the United States District Court for the Northern District of Indiana. The proposed Local Rules are as follows:

Local Rule 1-1  
Local Rule 3-1  
Local Rule 5-1  
Local Rule 5-2 (deleted in its entirety)  
Local Rule 7-1

Comments must be submitted on or before March 31, 2019, either on the court's website at [www.innd.uscourts.gov](http://www.innd.uscourts.gov), or in writing sent to:

Local Rules Comments  
Office of the Clerk  
204 South Main Street  
Room 304  
South Bend, Indiana 46601

Amendments are attached to this notice. Unless otherwise indicated, as seen in this Notice **redline** text is added and ~~struck~~ text is deleted.

### Reply to South Bend Office

1108 E. Ross Adair Federal Bldg. • 1300 S. Harrison Street • Fort Wayne, Indiana 46802 • (260) 423-3000 • Fax (260) 423-3007  
5400 Federal Plaza • Suite 2300 • Hammond, Indiana 46320 • (219) 852-6500 • Fax (219) 852-6509  
102 Robert A. Grant Federal Bldg. • 204 South Main Street • South Bend, Indiana 46601 • (574) 246-8000 • Fax (574) 246-8002  
214 Charles Halleck Federal Bldg. • 230 North Fourth Street • P.O. Box 1498 • Lafayette, Indiana 47902 • (765) 420-6250 • Fax (765) 420-6314

**N.D. Ind. L.R. 1-1 ~~Citation and Scope of the~~ and Modification of the Civil Rules****(a) ~~Citation.~~**

~~(1) — **Civil Rules.** The local civil rules of the United States District Court for the Northern District of Indiana may be cited as “N.D. Ind. L.R.”~~

~~(2) — **Criminal Rules.** The local criminal rules of the United States District Court for the Northern District of Indiana may be cited as “N.D. Ind. L. Cr. R.”~~

~~(3) — **Patent Rules.** The local patent rules of the United States District Court for the Northern District of Indiana may be cited as “N.D. Ind. L.P.R.”~~

~~(b) **Effective Date and Scope of Rules.** These~~ **The local civil rules**, as amended, take effect on January 19, 2016. They govern all civil and criminal cases on or after that date **pending before the district court. They also govern all criminal cases except where they are inconsistent with the local criminal rules. But** in cases pending when ~~the rules~~ **an amendment** takes effect, the court may apply the former local **civil** rules if it finds that applying ~~these rules~~ **the amendment** would not be feasible or would be unjust.

~~(c)~~ **(b) Modification or Suspension of Rules.** The court may, on its own motion or at the request of a party, suspend or modify any rule in a particular case in the interest of justice.

**N.D. Ind. L. Cr. R. 1–1 Scope and Modification of Criminal Rules**

- (a) Scope.** The local criminal rules govern all criminal cases pending before the district court. In cases pending when an amendment takes effect, the court may apply the former local criminal rules if it finds that applying the amendment would not be feasible or would be unjust.
- (b) Local Civil Rules.** The local civil rules govern all criminal cases except where they are inconsistent with the local criminal rules.
- (c) Modification.** The court may, on its own motion or at the request of a party, suspend or modify any local criminal rule in a particular case in the interest of justice.

**N.D. Ind. L.P.R. 1–1 Scope of the Patent Rules**

- (a) **Applicability.** These rules govern cases in which jurisdiction is based, in whole or in part, on 28 U.S.C. § 1338. The court may depart from these rules in exceptional circumstances.
- (b) **Citation.** ~~The patent rules may be cited as “N.D. Ind. L.P.R. \_\_\_\_\_.”~~
- (c) **Compliance.** Litigants are expected to comply with these rules. They may not circumvent them by, for example, pursuing discovery into infringement and invalidity contentions by seeking discovery responses before completion of the preliminary contentions process outlined in N.D. Ind. L.P.R. 3-1.

**N.D. Ind. L.R. 3-1 Divisional Venue**

- (a) Proper Venue.** Divisional venue is determined by applying the district venue provisions of 28 U.S.C. §§ 1391-1413 to the divisions of the Northern District of Indiana as defined in 28 U.S.C. §94(a).
- (b) Improper Venue.** On its own or the motion of a party, if the court determines a case is filed in a division without proper venue, the court may, pursuant to 28 U.S.C. § 1406:

  - (1)** dismiss the case; or
  - (2)** in the interest of justice, transfer the case by issuing an order directing the clerk to reopen the case in a proper division.
- (c) Waiver.** If a party does not interpose a timely and sufficient objection to divisional venue, the objection is waived.

**N.D. Ind. L.R. 5-1 Electronic Filing Required**

Papers must be filed, signed, **served**, and verified electronically unless excepted by the court's *CM/ECF Civil and Criminal User Manual*.

**N.D. Ind. L.R. 5-2 Electronic Service**

- ~~(a) — **Electronic Service Permitted.** Electronically filed papers may be served electronically if service is consistent with the *CM/ECF User Manual*.~~
- ~~(b) — **When Electronic Service Is Deemed Completed.** A person registered to use the court's electronic filing system is served with an electronically filed paper when a "Notice of Electronic Filing" is transmitted to that person through the court's electronic filing system.~~
- ~~(c) — **Serving Non-Registered Persons.** A person who has not registered to use the court's electronic filing system but who is entitled to service of a paper must be served according to these rules and the Federal Rules of Civil or Criminal Procedure.~~

**N.D. Ind. L.R. 7-1 Motion Practice**

- (a) **Motions Must Be Filed Separately.** Motions must be filed separately, but alternative motions may be filed in a single paper if each is named in the title following the caption.
- (b) **Brief Required for Certain Motions.** Parties must file a supporting brief with any motion under:
  - (1) Fed. R. Civ. P. 12;
  - (2) Fed. R. Civ. P. 37;
  - (3) Fed. R. Civ. P. 56; or
  - (4) Fed. R. Civ. P. 65(b).
- (c) **Rule 12 Defenses.** The court will not rule on a defense under Fed. R. Civ. P. 12 until the party who raised it files a motion and brief.
- (d) **Response- and Reply-Brief Deadlines.**
  - (1) **Summary-Judgment Motions.** Summary-judgment motions are subject to the deadlines in N.D. Ind. L.R. 56-1(b) and (c).
  - (2) **Fed. R. Civ. P. 12(b), (e), or (f) Motions.** A party must file any response brief to a motion under Fed. R. Civ. P. 12(b), (e), or (f) within 21 days after the motion is served unless that party is entitled to and first files an amended pleading as a matter of course under Fed. R. Civ. P. 15(a)(1).
  - ~~(2)~~(3) **Other Motions.**
    - (A) **Responses.** A party must file any response brief to a motion within 14 days after the motion is served.
    - (B) **Replies.** The moving party must file any reply brief within seven days after the response brief is served.
  - ~~(3)~~(4) **Extensions.** The court may extend response- and reply-brief deadlines, but only for good cause.
  - ~~(4)~~(5) **Summary Rulings.** The court may rule on a motion summarily if an opposing



party does not file a response before the deadline.

**(e) Page Limits.**

**(1) *Rule.*** Supporting and response briefs (excluding tables of contents, tables of authorities, and appendices) ordinarily must not exceed 25 pages. Reply briefs must not exceed 15 pages.

**(2) *Exception.*** The court may allow a party to file a brief exceeding these page limits for extraordinary and compelling reasons. But if the court permits a brief to exceed 25 pages, it must include:

**(A)** a table of contents with page references;

**(B)** an issue statement; and

**(C)** a table of authorities including:

**(i)** all cases (alphabetically arranged), statutes, and other authorities cited in the brief; and

**(ii)** references to where the authorities appear in the brief.

**(f) *Authority Not Available Electronically.*** A copy of any decision, statute, or regulation cited in a motion or brief must be attached to the paper if—and only if—it is not available on Westlaw or Lexis. But if a copy of a decision, statute, or regulation is only available electronically, a party must provide it to the court or another party upon request.

Local Rules Advisory Committee Comments  
Re: 2019 Amendment

A 2009 change to Fed. R. Civ. P. 15(a) permits 21 days to amend a pleading in response to 12(b), (e), and (f) motions in cases where a required responsive pleading has not yet been served. The change to Rule 15(a) encourages parties to amend the initial pleading in light of the motion, thereby mooting the Rule 12 motion. The amendment to Local Rule 7-1(d) (2) provides consistency with Fed. R. Civ. P. 15(a) by allowing 21 days to respond to Rule 12(b), (e), and (f) motions.