

Proposed Amendments to EDVA Local Civil Rule 7(C)

New material is underlined. Deleted material is struck through.

LOCAL CIVIL RULE 7

PLEADINGS – MOTIONS – CONTINUANCES – ORDERS

(A) **Grounds and Relief to be Stated:** All motions shall state with particularity the grounds therefor and shall set forth the relief or order sought.

(B) **Address and Telephone Number of Attorney and *Pro Se* Litigants:** All pleadings and motions shall include the attorney's office address and telephone number. All pleadings filed by non-prisoner litigants proceeding *pro se* shall contain an address where notice can be served on such person and a telephone number where such person can be reached or a message left. All pleadings filed by prisoners proceeding *pro se* shall contain an address where notice can be served on such person.

(C) **Personal Identifiers:**

~~(1) In compliance with the policy of the Judicial Conference of the United States, parties shall not include, or shall partially redact where inclusion is necessary, the following personal identifiers in any pleading, document or exhibit (other than trial transcripts and trial exhibits) filed with the Court, unless otherwise ordered by the Court:~~

~~(a) Social Security Numbers. If an individual's social security number must be included, only the last four digits of that number should be used.~~

~~(b) Names of Minor Children. If the involvement of a minor child must be mentioned, only the initials of that child should be used.~~

~~(c) Dates of Birth. If an individual's date of birth must be included in a pleading, only the year should be used.~~

~~(d) Financial Account Numbers. If financial account numbers of individuals in their personal capacities are relevant, only the last four digits of these numbers should be used.~~

~~(e) Home Addresses. If a home address must be included, only the city and state should be listed, except that a party appearing *pro se* shall comply with section (B).~~

~~(2) If it is necessary to include a personal identifier in a pleading (e.g., in cases challenging the Social Security Administration's determination of benefits or disability) or order, a redacted pleading or order shall be publicly filed and~~

~~(a) an unredacted version of the pleading shall be tendered for filing under seal in accord with Local Civil Rule 5(B) and the party shall cite the E-Government Act of 2002 as authority in support of the sealing; or~~

~~(b) a reference list shall be tendered for filing under seal in accord with Local Civil Rule 5(B) and the party shall cite the E-Government Act of 2002 as authority in support of the sealing. The reference list shall contain the complete personal identifier(s) and the corresponding redacted identifier(s) used in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal identifier. The reference list may be amended as of right. Redaction of personal identifiers is governed by Fed.R.Civ.P. 5.2 unless the Court directs otherwise. In all actions for benefits under the Social Security Act, the government shall file the administrative record under seal in paper form, the Court having found that such administrative records are by nature confidential and that applicants' privacy interests outweigh any public interest in disclosure; but this provision does not preclude a motion to unseal in any such action.~~

(32) The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk will not review each pleading for compliance with this Local Rule. Counsel and the parties are cautioned that failure to redact these personal identifiers may subject them to sanctions.

(D) Use of Forms: Motions and interrogatories on printed forms, multigraphed, mimeographed, or in any manner reproduced by machine process, other than a typewriter, computer, or word processor, shall not be permitted unless the attorney filing same has deleted all extraneous matter and certifies that he or she has carefully reviewed the remaining portions and in good faith believes that the contents are pertinent to the case.

(E) Return Date: Except as otherwise provided by an order of the Court or by these Local Rules, all motions shall be made returnable to the time obtained from and scheduled by the Court for a hearing thereon. The moving party shall be responsible to set the motion for hearing or to arrange with opposing counsel for submission of the motion without oral argument. Unless otherwise ordered, a motion shall be deemed withdrawn if the movant does not set it for hearing (or arrange to submit it without a hearing) within thirty (30) days after the date on which the motion is filed. The non-moving party also may arrange for a hearing. Before endeavoring to secure an appointment for a hearing on any motion, it shall be incumbent upon the counsel desiring such hearing to meet and confer in person or by telephone with his or her opposing counsel in a good-faith effort to narrow the area of disagreement. In the absence of any agreement, such conference shall be held in the office of the attorney nearest the Court in the division in which the action is pending. In any division that has a regularly scheduled motions day, the motion should be noticed for the first permissible motions day.

(F) Briefs Required:

(1) All motions, unless otherwise directed by the Court and except as noted herein below in subsection 7(F)(2), shall be accompanied by a written brief setting forth

a concise statement of the facts and supporting reasons, along with a citation of the authorities upon which the movant relies. Unless otherwise directed by the Court, the opposing party shall file a responsive brief and such supporting documents as are appropriate, within eleven (11) days after service and the moving party may file a rebuttal brief within three (3) days after the service of the opposing party's reply brief. No further briefs or written communications may be filed without first obtaining leave of Court.

(2) Briefs need not accompany motions for: (a) a more definite statement; (b) an extension of time to respond to pleadings, unless the time has already expired; and (c) a default judgment.

(3) All briefs, including footnotes, shall be written in 12 point Roman style or 10 pitch Courier style with one inch margins. Except for good cause shown in advance of filing, opening and responsive briefs, exclusive of affidavits and supporting documentation, shall not exceed thirty (30) 8-1/2 inch x 11 inch pages double-spaced and rebuttal briefs shall not exceed twenty (20) such pages.

(G) Continuances: Motions for continuances of a trial or hearing date shall not be granted by the mere agreement of counsel. No continuance will be granted other than for good cause and upon such terms as the Court may impose.

(H) Filing of Pleadings: After the filing of the complaint, all pleadings, motions, briefs, and filings of any kind must be timely filed with the Clerk's Office of the division in which the case is pending.

(I) Extensions: Any requests for an extension of time relating to motions must be in writing and, in general, will be looked upon with disfavor.

(J) Determination of Motions Without Oral Hearing: In accordance with Fed. R. Civ. P. 78, the Court may rule upon motions without an oral hearing.

(K) Motions Against *Pro Se* Parties: It shall be the obligation of counsel for any party who files any dispositive or partially dispositive motion addressed to a party who is appearing in the action without counsel to attach to or include at the foot of the motion a warning consistent with the requirements of *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975). The warning shall state that:

(1) The *pro se* party is entitled to file a response opposing the motion and that any such response must be filed within twenty (20) days of the date on which the dispositive or partially dispositive motion is filed; and

(2) The Court could dismiss the action on the basis of the moving party's papers if the *pro se* party does not file a response; and

(3) The *pro se* party must identify all facts stated by the moving party with which the *pro se* party disagrees and must set forth the *pro se* party's version of the facts by offering affidavits (written statements signed before a notary public and under oath) or by filing

sworn statements (bearing a certificate that it is signed under penalty of perjury); and

(4) The *pro se* party is also entitled to file a legal brief in opposition to the one filed by the moving party.

(L) Court Orders – Objections Noted: Whenever counsel shall endorse an order and note with such endorsement any objection to the order, unless the grounds of such objection have been previously stated in the record, or unless the grounds are set forth in writing at the time and as a part of the endorsement, or a request made to the Court for a hearing, it will be assumed the objection is without effect and waived.

Proposed Amendments to EDVA Local Criminal Rule 47(C)

New material is underlined. Deleted material is struck through.

LOCAL CRIMINAL RULE 47

PLEADINGS – MOTIONS – CONTINUANCES – ORDERS

(A) **Grounds and Relief to be Stated:** All motions shall state with particularity the grounds therefor and shall set forth the relief or order sought.

(B) **Address and Telephone Number of Attorney And *Pro Se* Litigants:** All pleadings and motions shall include the attorney's office address and telephone number. All pleadings filed by non-prisoner litigants proceeding *pro se* shall contain an address where notice can be served on such person and a telephone number where such person can be reached or a message left. All pleadings filed by prisoners proceeding *pro se* shall contain an address where notice can be served on such person.

(C) **Personal Identifiers:**

~~(1) In compliance with the policy of the Judicial Conference of the United States, parties shall not include, or shall partially redact where inclusion is necessary, the following personal identifiers in any pleading, document or exhibit (other than trial transcripts and trial exhibits) filed with the Court, unless otherwise ordered by the Court.~~

~~(a) Social Security Numbers. If an individual's social security number must be included, only the last four digits of that number should be used.~~

~~(b) Names of Minor Children. If the involvement of a minor child must be mentioned, only the initials of that child should be used.~~

~~(c) Dates of Birth. If an individual's date of birth must be included in a pleading, only the year should be used.~~

~~(d) Financial Account Numbers. If financial account numbers of individuals in their personal capacities are relevant, only the last four digits of these numbers should be used.~~

~~(e) Home Addresses. If a home address must be included, only the city and state should be listed, except that a party appearing *pro se* shall comply with section (B).~~

~~(2) If it is necessary to include a personal identifier in a pleading or order not covered by Local Criminal Rule 49(B), a redacted pleading or order shall be publicly filed and~~

~~(a) an unredacted version of the pleading shall be tendered for filing under seal in accord with Local Criminal Rule 49(C) and the party shall cite the E-Government Act of 2002 as authority in support of the sealing; or~~

~~(b) a reference list shall be tendered for filing under seal in accord with Local Criminal Rule 49(C) and the party shall cite the E-Government Act of 2002 as authority in support of the sealing. The reference list shall contain the complete personal identifier(s) and the corresponding redacted identifier(s) used in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal identifier. The reference list may be amended as of right. Redaction of personal identifiers is governed by Fed.R.Crim.P. 49.1 unless the Court directs otherwise.~~

(32) The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk will not review each pleading for compliance with this Local Rule. Counsel and the parties are cautioned that failure to redact these personal identifiers may subject them to sanctions.

(D) Use of Forms: Motions and interrogatories on printed forms, multigraphed, mimeographed, or in any manner reproduced by machine process, other than a typewriter, computer, or word processor, shall not be permitted unless the attorney filing same has deleted all extraneous matter and certifies that he or she has carefully reviewed the remaining portions and in good faith believes that the contents are pertinent to the case.

(E) Return Date: Except as otherwise provided by an order of the Court or by these Local Rules, all motions shall be made returnable to the time obtained from and scheduled by the Court for a hearing thereon. The moving party shall be responsible to set the motion for hearing or to arrange with opposing counsel for submission of the motion without oral argument. Unless otherwise ordered, a motion shall be deemed withdrawn if the movant does not set it for hearing (or arrange to submit it without a hearing) within thirty (30) days after the date on which the motion is filed. The non-moving party also may arrange for a hearing. Before endeavoring to secure an appointment for a hearing on any motion, it shall be incumbent upon the counsel desiring such hearing to meet and confer in person or by telephone with his or her opposing counsel in a good-faith effort to narrow the area of disagreement. In the absence of any agreement, such conference shall be held in the office of the attorney nearest the Court in the division in which the action is pending. In any division which has a regularly scheduled motions day, the motion should be noticed for the first permissible motions day.

(F) Briefs Required:

(1) All motions, unless otherwise directed by the Court and except as noted hereinbelow in Local Criminal Rule 47(E)(2), shall be accompanied by a written brief setting forth a concise statement of the facts and supporting reasons, along with a citation of the authorities upon which the movant relies. Unless otherwise directed by the Court, the opposing party shall file a responsive brief and such supporting documents as are appropriate, within eleven (11) days after service and the moving party may file a rebuttal brief within three (3) days after the service of the opposing party's reply brief.

No further briefs or written communications may be filed without first obtaining leave of Court.

(2) A motion for an extension of time to respond to pleadings need not be accompanied by a brief, unless the time has already expired.

(3) All briefs, including footnotes, shall be written in 12 point Roman style or 10 pitch Courier style with one inch margins. Except for good cause shown in advance of filing, opening and responsive briefs, exclusive of affidavits and supporting documentation, shall not exceed thirty (30) 8-1/2 inch x 11 inch pages double-spaced and rebuttal briefs shall not exceed twenty (20) such pages.

(G) Continuances: Motions for continuances of a trial or hearing date shall not be granted by the mere agreement of counsel. No continuance will be granted other than for good cause and upon such terms as the Court may impose.

(H) Filing of Pleadings: All pleadings, motions, briefs, and filings of any kind must be timely filed with the Clerk's Office of the division in which the case is pending.

(I) Extensions: Any requests for an extension of time relating to motions must be in writing and, in general, will be looked upon with disfavor.

(J) Determination of Motions Without Oral Hearing: The Court may rule upon motions without an oral hearing.