

REDLINED:

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) 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.

(2) The responsibility for redacting 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:** Abrogated.

(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 Unless otherwise ordered, a motion shall be deemed withdrawn if the movant does not set it for hearing (or arrange to submit it without a hearing) within thirty (30) days after the date on which the motion is filed.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. The hearing date of motions for summary judgment is also governed by Local Civil Rule 56.

(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 response brief and such supporting documents as are appropriate, within fourteen (14) calendar days after service and the moving party may file a reply brief within six (6) calendar days after the service of the opposing party's response brief. The fourteen (14) and six (6) calendar day periods for response and reply briefs shall apply without regard to, and are not expanded by, the mode of service used for those briefs, notwithstanding the provisions of Fed. R. Civ. P. 6(d). No further briefs or written communications may be filed without first obtaining leave of Court.

(2) Unless the court directs otherwise, 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 one (21) 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.

JUSTIFICATION FOR THE AMENDMENTS TO LOCAL CIVIL RULE 7

Local Civil Rule 7(K) requires that opposing counsel must give notice to *pro se* litigants when filing a dispositive motion. This “warning [must be] consistent with the requirements of *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975),” which requires *pro se* litigants be informed: (1) about the litigant’s right to respond in opposition and the deadline for doing so; (2) that failure to respond could result in dismissal of the case; (3) about contesting facts asserted by the moving party and methods for doing so; and (4) about the litigant’s right to file a legal brief in opposition. The rule only specifies that these warnings must be given by opposing counsel, not warnings issued by the Court.

In *Milla v. Brown*, 109 F.4th 222, 225–27 (4th Cir. 2024), the United States Court of Appeals for the Fourth Circuit questioned whether the requirements of Local Civil Rule 7(K) comply with *Roseboro* and Circuit precedent. Specifically, the Fourth Circuit stated that “[t]he court must provide this notice in a manner that is ‘sufficiently clear to be understood by a Pro se litigant and calculated to appraise him of what is required under Rule 56.’” *Id.* (citing *Davis v. Zahradnick*, 600 F.2d 458, 460 (4th Cir. 1979) (emphasis added)). The Fourth Circuit “reserve[d] the question of whether [Local Civil Rule 7(K)] complies with *Roseboro*.” *Id.* at 234.

To alleviate the risk of confusion that may result from a *pro se* litigant receiving separate and possibly different warnings from the Court and opposing counsel the Court recommends that Local Civil Rule 7(K) be deleted.

PROPOSED NEW RULE:

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