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CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In Re: LOCAL CIVIL RULES GOVERNING DISCOVERY AND PRETRIAL PROCEDURE	ORDER ADOPTING AMENDMENTS TO LOCAL CIVIL RULES CR 5 AND CR 26 THROUGH 37, INCLUSIVE

Pursuant to 28 U.S.C. § 2071, and to Rule 83 of the Federal Rules of Civil Procedure ("Fed. R. Civ. P."), it is hereby ORDERED, that local civil rules CR 5 and CR 26 through 37, inclusive, are amended as set forth in the attachment to this Order.

These amendments shall be effective as of 12:01 a.m. on December 1, 2000. The amendments are required, in light of amendments to the Federal Rules of Civil Procedure which take effect that day. The federal and local rules as amended will apply in full to all cases filed with this court, or removed to this court from state court, on or after December 1, 2000. The balance of this order defines the applicability of the amended rules to cases filed in this court, or removed to this court from state court, prior to December 1, 2000.

While this order specifically addresses the applicability of certain rules, it does not discuss all of the rules. All parties remain responsible for familiarity with the federal and local rules, as amended.

ORDER

The following provisions of the federal and local rules shall NOT apply to civil cases filed in this court, or removed to this court from state court, prior to December 1, 2000, unless otherwise ordered by the court in a specific case:

(1) Delay of Commencement of Discovery. Fed. R. Civ. P. 26(d).

(2) Meeting of Parties and Preparation of Discovery Plan. Fed. R. Civ. P. 26(f).

(3) Initial Disclosures, as required by Fed. R. Civ. P. 26(a)(1).

The following provisions of the federal and local rules shall apply as provided below to civil cases filed in this court, or removed to this court from state court, prior to December 1, 2000, unless otherwise ordered by the court in a specific case:

(4) Expert Witness Disclosures. If, prior to December 1, 2000, a party has made the disclosures required by Local Rule CR 26(a)(2) then in effect, the party need not make the disclosures required by Fed. R. Civ. P. 26(a)(2).

(5) Number of Depositions. Fed. R. Civ. P. 30(a). No party may take more than ten depositions on or after December 1, 2000, without specific authorization from the court. Depositions taken prior to December 1, 2000 shall not be counted against the limitation in the rule, unless the court otherwise orders.

(6) Number of Interrogatories. Fed. R. Civ. P. 33(a). Without specific authorization from the court, no party may propound more than 25 interrogatories, including all discrete subparts, on or after December 1, 2000. In addition, in a civil case filed in this court or removed to this court from state court prior to December 1, 2000, no party may propound at any time more than 35 interrogatories, including all discrete subparts.

ORDER

Except as set forth in this Order, or as ordered by the court in a specific case, the rules as amended effective December 1, 2000, shall apply IN FULL to civil cases filed in this court, or removed to this court from state court, prior to that date. The following are examples of provisions of the federal and local rules that apply to such cases:

(7) Scope of Discovery. Fed. R. Civ. P. 26(b).

(8) Limit on Length of Depositions: One Day of Seven Hours. Fed. R. Civ. P. 30(d).

(9) Procedure for Introduction of Depositions into Evidence. Local Rule CR 32(e).

(10) Meaning of Requirement that Parties "Confer" Before Bringing a Discovery Motion. Local Rule CR 37(a).

(11) Sanctions for Failure to Disclose. Fed. R. Civ. P. 37(c)(1).

(12) Filing of Discovery Materials. Fed. R. Civ. P. 5(d) and 30(f).

DATED this 16 day of November, 2000.

John C. Coughenour
Chief United States District Judge

United States District Judge

United States District Judge

United States District Judge

United States District Judge

United States District Judge

United States District Judge

The following sets forth in full the revised texts of local rules CR 5 and CR 26 through 37, as amended effective December 1, 2000.

CR5

SERVING AND FILING PLEADINGS AND OTHER PAPERS

(a) Service

(1) Wherever the court has made an ex parte order, the party obtaining it shall serve a copy thereof, and of the papers upon which it was based, within two days thereafter, upon each adverse party who has appeared in the cause and is affected thereby; except that an order to show cause shall be served within the time fixed by the order.

(2) When filing complaints and cover sheets, briefs, memoranda of authorities, forms of pretrial orders (or memoranda pertaining thereto), suggested questions for voir dire examination of the jury, proposed findings of fact and conclusions of law, and motions (including affidavits and exhibits in support of motions), a party shall also provide the clerk a duplicate copy for the court. The originals and copies of all such papers must indicate in the upper right-hand corner the name of the district judge or magistrate judge to whom the copies are to be delivered.

Unless the court otherwise directs, the parties shall not provide duplicate copies of state court records in prisoner cases, or of the administrative record in social security cases.

(b) Manner of Service

Service of all papers requiring service under these rules may be made in the manner specified in Rule 5(b) of the Federal Rules of Civil Procedure. If a paper is served by FAX, a hard copy of the original shall be served by other means within one calendar day thereafter.

(c) Reserved

Reserved

(e) Place of Filing and Trial

(1) All civil cases in which all defendants reside, or in which the claim arose, in the counties of Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Kitsap, Lewis, Mason, Pacific, Pierce, Skamania, Thurston and Wahkiakum, shall be filed at Tacoma. The same criteria as set out above shall be used to determine the place of filing of cases removed from state courts.

(2) Once a case has been filed in a particular city, the case files will be maintained there. When a case is assigned for all purposes to a judge residing in a city other than the place of filing, the files will be maintained at the city in this district where that judge maintains an office, during the pendency of the action. For convenience, all papers related to a case should be presented for filing in the city where the case file is being maintained.

(f) Proof of Service

Proof of service of all papers required or permitted to be served, other than those for which a method of proof is prescribed in the Federal Rules of Civil Procedure, shall be made by a certificate or acknowledgment of service on the document itself, or by a separate filing. Failure to make the proof of service required by this subdivision does not affect the validity of the service and the court may at any time allow the proof of service to be amended or supplied unless it clearly appears that to do so would result in material prejudice to the substantial rights of any party.

[The "Introductory Statement to Local Rules CR 26 to 37," which was adopted by the court in 1994, appears in some published versions of the rules, but not in others. That Introductory Statement is DELETED in its entirety, as part of the present amendments]

CR26

GENERAL PROVISIONS GOVERNING DISCOVERY DUTY OF DISCLOSURE

Required Disclosures; Methods to Discover Additional Matter

(1) **Reserved**

(2) **Reserved**

(3) **Pretrial Disclosures.**

Unless otherwise directed by the court, the disclosures listed in Fed. R. Civ. P. 26(a)(3) shall be made in the manner and in accordance with the schedule prescribed in CR 16. A party shall state any objections to exhibits in the manner prescribed in that rule. Objections not so disclosed, other than objections under Rules 402 and 403 of the Federal Rules of Evidence, shall be deemed waived unless excused by the court for good cause shown.

(4) **Reserved**

Reserved

(c) Reserved

Reserved

(e) Reserved

(f) Reserved

Reserved

CR27

DEPOSITIONS BEFORE ACTION OR PENDING APPEAL

Reserved

CR28

PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN

Reserved

CR29

STIPULATIONS REGARDING DISCOVERY PROCEDURE

Reserved

CR 30

DEPOSITIONS UPON ORAL EXAMINATION

Reserved

CR31

DEPOSITIONS UPON WRITTEN QUESTIONS

Reserved

CR32

USE OF DEPOSITIONS IN COURT PROCEEDINGS

(a) Reserved

(b) Reserved

(c) Reserved

Reserved

(e) Offering Portions of Depositions

If a party intends to offer a deposition instead of live testimony at trial, the party shall provide to all other parties a transcript of the deposition with the relevant portions highlighted. Other parties may offer other portions of the deposition by highlighting them. The parties shall submit to the court, along with the proposed pretrial order, a single copy of the deposition transcript, setting forth all designated testimony, and indicating any objections and responses to objections in the margin. A failure to designate an objection in this manner shall constitute a waiver, even if the objection was previously stated at the deposition. A party shall enter all highlighting of testimony, all objections, and all responses to objections in a single color, used only by that party. After the court has ruled on the objections, the deposition will be filed as part of the record.

CR 33

INTERROGATORIES TO PARTIES

Reserved

CR34

PRODUCTION OF DOCUMENTS AND THINGS AND ENTRY UPON LAND FOR INSPECTION AND OTHER PURPOSES

Reserved

CR35

PHYSICAL AND MENTAL EXAMINATION OF PERSONS

Reserved

CR36

REQUESTS FOR ADMISSION

Reserved

CR37

FAILURE TO MAKE DISCLOSURE OR COOPERATE IN DISCOVERY; SANCTIONS

(a) A good faith effort to confer with a party or person not making a disclosure or discovery requires a face-to-face meeting or a telephonic conference. If the court finds that counsel for any party, or a party proceeding pro se, willfully refuses to confer, fails to confer in good faith, or fails to respond on a timely basis to a request to confer, the court may take action as stated in GR 3 of these rules.

(b) **Reserved**

(c) **Reserved**

(d) **Reserved**

Reserved

(f) **Reserved**

Reserved

November 16, 2000

To: Counsel and Parties in Cases Pending
December 1, 2000

From: Bruce Rifkin, District Court Executive

Re: Amendments to Federal and Local Rules Governing Civil Cases

Significant amendments to Federal Rules of Civil Procedure ("Fed. R. Civ. P.") 5 and 26 through 37, and to local civil rules CR 5 and CR 26 through 37, inclusive, are effective December 1, 2000. The changes to the local rules, and the order adopting those changes, are available in the Clerk's Office in Seattle and Tacoma, and on the court's web site, www.wawd.uscourts.gov. Changes to the Federal Rules are available from various published and on-line sources.

The court's Order Adopting Amendments, entered November 16, 2000, specifies the extent to which the amended rules apply to cases which were filed with the court, or removed to the court from state court, prior to December 1, 2000 ("pending cases"). All counsel and pro se parties in pending cases are responsible for reviewing that order and the rules as amended. The following summary, while not controlling over the language of the order, is intended to be of assistance to the counsel and parties in pending cases.

The following provisions do NOT apply to pending cases, unless otherwise ordered by the court in a specific case:

(1) Delay of Commencement of Discovery. Fed. R. Civ. P. 26(d).

(2) Meeting of Parties and Preparation of Discovery Plan. Fed. R. Civ. P. 26(f).

(3) Initial Disclosures, as required by Fed. R. Civ. P. 26(a)(1).

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Scope of Discovery ed R. C 26(b)(1)

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(Meaning of Requirement that Parties "Confer" Before Bringing a Discovery Motion Local R R).

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Filing of Discovery Materials ed R C d) and 30(f).