UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

IN THE MATTER OF THE LOCAL RULES FOR THE WESTERN DISTRICT OF WASHINGTON

O R D E R

For good cause therefor appearing, IT IS ORDERED that the Local Rules of this court are amended as follows:

FILED IN THE UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON NORTHERN DIVISION
SEP 10 1962
HAROLD W. ANDERSON, CLERK
J.W.E. #21
G.O.B. #731

CIVIL RULES

Rule 7. Appearance by Attorney

The following subparagraph is added to Rule 7:

(a) No attorney shall withdraw his appearance in any cause except by leave of court after notice served on his client and opposing counsel.

Rule 8. Motion Days

(b) When there has been an adverse appearance, a written notice of motion shall be necessary, unless otherwise provided by rule or court order. Such notice of motion shall be served upon the adverse party, or his attorney, at such time before the hearin as is provided for in Rule 6(d) of the Federal Rules of Civil Procedure, unless the court or one of the judges thereof shall, for good cause by special order, prescribe a shorter time. Such motion will be heard, unless the court otherwise directs, on the second Monday after the notice of such motion is filed.

(c) Subparagraph (c) is deleted and abolished.

Rule 9. Motions, Civil and Criminal--List of Citations

(c) Each party opposing the motion shall serve upon the adverse party and file with the clerk, not later than 4:30 o'clock P.M. on the Wednesday immediately preceding the Monday appointed for the hearing as provided by Rule 8(b) herein, a brief written statement of reasons in opposition to the motion and a list of citations of authorities on which he relies. If the motion requires the consideration of facts not appearing of record, he shall also serve and file copies of all documentary evidence or photographs which he intends to submit in opposition to the motion in addition to the affidavits required or permitted by the Federal Rules of Civil Procedure.

(e) The following is substituted for existing subparagraph (e):

GPO 16—60279-1

If the statement required by subsection (b) is not filed such failure may be considered by the court as an admission that the motion is without merit, and if the opposing party does not file the statement required by subsection (c) the court may consider such failure as a confession of the motion.

Former subparagraph (e) is now designated subparagraph (f).

IT IS FURTHER ORDERED that the following Rules be adopted:

Rule 19. Discovery--Motions, Objections and Answers

(a) The court will not entertain any motion or objection with respect to Rules 26, 27, 30, 31, 33, 34, 35 or 36, F.R.C.P., unless it affirmatively appears that counsel have met and conferred with respect thereto. Counsel for the moving or objecting party shall arrange such a conference. If the court finds that counsel for any party, upon whom a motion or objection in respect to matters covered by such Rules is served, willfully refuses to meet and confer, or having met, willfully refuses or fails to confer in good faith, the court may take action as stated in Rule 21 of these Rules.

(b) In answering any interrogatory submitted by any party pursuant to Rule 33, F.R.C.P., or any request for admission submitted pursuant to Rule 36, F.R.C.P., the responding party shall first set forth the interrogatory or request and then state the answer thereto.

Rule 20A. Pretrial - Mandatory Procedure

(1) Requirements. At least one pretrial conference, pursuant to Rule 16, F.R.C.P., shall be held in every civil case unless the court orders otherwise.

(2) Notice. The parties shall be given at least 30 days notice of the pretrial conference.

(3) Participants. The pretrial conference shall be attended by the attorneys representing all parties, and where compliance with Rule No. 20B has been directed by the court, by the attorneys

GPO 16—20995-1

who will actually try the case. The attorneys shall familiarize themselves with the pretrial rules and come to the conference with prior authority from their clients to enter into stipulations with reference to the facts and issues in the case and to accomplish the purposes of Rule 16, F.R.C.P., to simplify the issues, expedite the trial and save expense to litigants. In this connection, counsel are referred to 3 Moore's Federal Practice, Pars. 16.01 to 16.21; Vol. 1A Barron & Holtzoff, Federal Practice an d Procedure, Secs. 471-473; the articles appearing at 17 F.R.D. 437 and 23 F.R.D. 129, and where Rule No. 20B has been invoked, the Handbook of Recommended Procedures for the Trial of Protracted Cases, approved by the Judicial Conference of the United States, and set forth in 25 F.R.D. 351.

(4) Discovery Procedures. Unless otherwise ordered by the court, it is contemplated that all parties will exhaust the discovery procedures provided for in Rules 26 through 37, F.R.C.P., prior to the pretrial conference.

(5) Pretrial Conference. At the pretrial conference the court will consider:

(a) The pleadings, papers and exhibits then on file, including all required stipulations, statements and memoranda.

(b) All matters referred to in Rule 16, F.R.C.P., which may be applicable to the case.

(c) All motions and related matters then pending.

(d) Any other matters which may be presented relative to parties, process, pleading or proof, with a view to simplifying the issues and bringing about a just, speedy and inexpensive determination of the case.

(e) Requirements with respect to trial briefs.

(f) Requirements with respect to requests for jury instructions.

(g) The possibility of compromise settlement, but nothing

GPO 16—29995-1

with respect thereto shall be incorporated in the pretrial order and any discussion with respect to settlement shall be entirely without prejudice and may not be referred to during the trial of the case or in any arguments or motions.

(6) Additional Pretrial Conferences. If necessary or advisable, the court may adjourn the pretrial conference from time to time or may order an additional pretrial conference.

(7) Continuance of Pretrial Conference. A pretrial conference shall be continued at the request of counsel only upon good cause shown.

(8) Form of Pretrial Order.

(a) The following form of pretrial order shall be used, insofar as possible, in the trial of all cases except those involving land condemnation:

(Pretrial Order Form attached as Exhibit 1)

(b) The following form of pretrial order shall be used, insofar as possible, in land condemnation cases:

(Land Condemnation Pretrial Order Form attached as Exhibit 2)

(c) The parties shall make every effort to agree on the form of the pretrial order, but if they cannot do so, each party shall present a memorandum incorporating, insofar as applicable, all of the provisions of the suggested form.

Rule 20B. Pretrial - Additional Procedures.

It is suggested that the parties consider the additional pretrial procedure outlined below but it is not mandatory that they do so unless ordered by the court.

(1) Conference of Attorneys. Not later than fifteen (15) days in advance of the pretrial conference, the attorneys shall meet at a mutually convenient time and place and -

(a) Exchange written lists of the names and addresses of all witnesses (except rebuttal witnesses) who will be called by either party. The original of each witness list shall be presented

GPO 16—29895-2

to the court at the time of the pretrial conference. All witnesses listed who are subject to subpoena shall be produced at the trial unless good cause is shown for their absence.

(b) Exchange statements containing a concise recital (in the same form as counsel would prepare Findings of Fact in an action tried to the court), in chronological order if practicable, of all material facts which such party expects will be established upon the trial, separately designating each fact in numerical or alphabetical sequence, and describing in parenthesis following each statement of fact (1) the method by which such party expects the fact to be established (i.e., by evidence, stipulation, admission, judicial notice or legal presumption) and (2) the manner or source of proof (the name of the witness and/or documentary evidence), but nothing herein shall be deemed to compel pretrial disclosure of evidence to be used for impeachment. Only such material points which counsel proposes to establish by the testimony of each witness need be disclosed, but the wilful failure to disclose a material point may render evidence on that point from that witness inadmissible at the trial.

(c) Exhibit to each other all documents and things embraced within Rule 34, F.R.C.P., other than those to be used for impeachment, intended to be offered at the trial by each party represented.

(d) If the court determines that any party has willfully failed to reveal the name of a witness or reveal an exhibit, the court may, in addition to, or in lieu of, the sanctions and penalties stated in Rule 21, direct that the testimony of such witness and/or such exhibit shall be inadmissible at the trial.

(e) Ascertain (1) which facts are to be admitted by all or any of the parties for the purposes of the trial, (2) which facts though unadmitted are, as counsel are presently advised, not expected to be contested at the trial, and (3) which issues of fact the respective parties intend to litigate upon the trial.

GPO 16—29995-2

(f) Fully discuss and explore the possibility of compromise settlement.

(2) Preparation for Conference of Attorneys. Each attorney shall c ompletely familiarize himself with all aspects of the case in advance of the conference of attorneys and be prepared to enter into stipulations with reference to as many facts and issues and exhibits as possible.

(3) Arrangement of Conference of Attorneys. It shall be the duty of counsel for the plaintiff to arrange for the conference of attorneys. In the absence of an agreement between counsel to the contrary, the conference shall be held in the pretrial conference room of the court before whom the action is pending.

(4) Marking of Exhibits. Not later than two (2) days in advance of the pretrial conference each party appearing shall arrange with the Clerk for marking for identification, in the sequence proposed to be offered, all documents and things intended to be offered by such party as exhibits at the trial. Any exhibit intended to be used solely for purposes of impeachment shall be sealed in an envelope (or other covering) and marked by the Clerk for identification. Thereafter, any such exhibit shall be received in evidence solely for purposes of impeachment.

Rule No. 21. Penalties and Sanctions.

In the sound discretion of the court, one or more of the following sanctions or penalties may be imposed for failure to comply with the rules herein prescribed, or with any rule or order of the court:

(a) Dismissal or Default. Failure of counsel for any party to appear before the court at pretrial conference or to complete the necessary preparations therefor, or to meet and confer as provided by these Rules, or to be prepared for trial when assigned, may be considered an abandonment or failure to prosecute or defend diligently, and judgment may be entered against the defaulting party either with respect to a specific issue or on the entire case.

GPO 16—29995-2

(b) Imposition of Costs on Attorneys. If counsel fails to comply with any of the Federal Rules of Civil Procedure, these Rules or orders of the court, and the court finds that the sanctions stated in the preceding subparagraph are either inadequate or unjust to the parties in light of the facts or circumstances, he may, in addition to, or in lieu of, such sanctions, assess reasonable costs directly against counsel whose action has obstructed the effective administration of the court's business under 28 U.S.C. 1927, or otherwise.

IT IS FURTHER ORDERED that Rules 10(b) and 36 be amended as follows:

Rule 10(b) C ourt will convene at 9:30 A.M.

Rule 36. Filing--Trial--Place of.

All papers pertaining to criminal or civil cases in the Northern Division shall be filed in the Clerk's office at Seattle. All papers pertaining to criminal or civil cases in the Southern Division shall be filed in the Clerk's office at Tacoma.

Unless the Court otherwise directs, civil actions of a local nature where the property concerned is situated in either the counties of Whatcom, San Juan or Skagit; civil actions where the venue depends upon the place of residence or inhabitancy of a party and such residence or inhabitancy is in either of the counties of Whatcom, San Juan or Skagit; and civil actions removed to the District Court from a State court sitting in either of the counties of Whatcom, San Juan or Skagit, shall be tried at Bellingham.

As to some other situations concerning the particular Division in which actions should be filed, see Secs. 1391, 1392 and 1393, Title 28 U.S.C.

Unless otherwise provided by law, theCourt or any Judge thereof may by order at any time transfer any files from one Clerk's office to another in the District, and may by order direct or permit any paper or papers to be filed in any such office. See also Sec. 1404, Title 28 U.S.C.

In proceedings relating to Admiralty or Bankruptcy, filings

shall be made in the Clerk's office as provided by the Admiralty and Bankruptcy rules, respectively.

Except as above provided, criminal cases and civil actions will be tried in the Court House in the city where the papers are on file.

IT IS FURTHER ORDERED that Rule 49(b) is amended as follows:

Rule 49(b) After final judgment and after the time for appeal and motion for new trial has passed, or upon the filing of a stipulation waiving and abandoning the right to appeal, and to a new trial, the Clerk is authorized, without further order of the Court, to return all exhibits, depositions and transcripts of testimony or proceedings in civil and admiralty cases to the respective parties or their counsel.

ADMIRALTY RULES

The local Civil Rules of this Court shall apply to proceedings in Admiralty as far as the same are applicable and consistent with the Supreme Court Admiralty Rules and except as otherwise prescribed by statute.

IT IS ORDERED that Rule 3 be amended as follows:

Rule 3. Filings.

All papers required or permitted to be filed shall be filed in the clerk's office at Seattle as to proceedings in the Northern Division, and at Tacoma as to proceedings in the Southern Division. The Court or a Judge thereof may at any time order a transfer of the files or any part thereof from the Clerk's office in Seattle to the Clerk's office in Tacoma, or vice versa, and may by order

GPO 16—20995-1

direct or permit any papers or files to be filed or docketed in either office.

IT IS FURTHER ORDERED that Rules 25 and 25A of the Local Admiralty Rules are abolished.

The provisions of this order shall become effective on the 1st day of October, 1962.

DATED this 10th day of September, 1962.

William J. Lindberg
United States District Judge

Rea H. Boadt
United States District Judge

[illegible]
United States District Judge

GPO 16—20995-2