

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

1 IN THE MATTER OF THE)
2 LOCAL RULES FOR THE)
3 WESTERN DISTRICT OF)
4 WASHINGTON)

O R D E R

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

CIVIL RULES

Rule 7. Appearance by Attorney

The following subparagraph is added to Rule 7:

(b) 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 hearing
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):

FILED IN THE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
NORTHERN DIVISION
7
SEP 10 1962
HAROLD W. ANDERSON, CLERK
J.W. Z
G.C. B. #21
R 731

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

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

7 IT IS FURTHER ORDERED that the following Rules be adopted:

8 Rule 19. Discovery--Motions, Objections and Answers

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

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

24 Rule 20A. Pretrial - Mandatory Procedure

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

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

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

1 who will actually try the case. The attorneys shall familiarize
2 themselves with the pretrial rules and come to the conference
3 with prior authority from their clients to enter into stipulations
4 with reference to the facts and issues in the case and to accom-
5 plish the purposes of Rule 16, F.R.C.P., to simplify the issues,
6 expedite the trial and save expense to litigants. In this
7 connection, counsel are referred to 3 Moore's Federal Practice,
8 Pars. 16.01 to 16.21; Vol. 1A Barron & Holtzoff, Federal Practice
9 and Procedure, Secs. 471-473; the articles appearing at 17 F.R.D.
10 437 and 23 F.R.D. 129, and where Rule No. 20B has been invoked,
11 the Handbook of Recommended Procedures for the Trial of Protracted
12 Cases, approved by the Judicial Conference of the United States,
13 and set forth in 25 F.R.D. 351.

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

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

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

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

24 (c) All motions and related matters then pending.

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

29 (e) Requirements with respect to trial briefs.

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

32 (g) The possibility of compromise settlement, but nothing

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

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

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

11 (8) Form of Pretrial Order.

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

15 (Pretrial Order Form attached as Exhibit 1)

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

18 (Land Condemnation Pretrial Order Form attached as Exhibit 2)

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

23 Rule 20B. Pretrial - Additional Procedures.

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

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

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

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

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

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

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

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

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

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

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

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

22 Rule No. 21. Penalties and Sanctions.

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

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

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

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

12 Rule 10(b) Court will convene at 9:30 A.M.

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

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

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

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

29 Unless otherwise provided by law, the Court or any Judge
30 thereof may by order at any time transfer any files from one
31 Clerk's office to another in the District, and may by order direct
32 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

1
2 shall be made in the Clerk's office as provided by the Admiralty
3 and Bankruptcy rules, respectively.

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

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

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

16 ADMIRALTY RULES

17
18 The local Civil Rules of this Court shall apply to proceedings
19 in Admiralty as far as the same are applicable and consistent with
20 the Supreme Court Admiralty Rules and except as otherwise prescribed
21 by statute.

22 IT IS ORDERED that Rule 3 be amended as follows:

23 Rule 3. Filings.

24 All papers required or permitted to be filed shall be filed
25 in the clerk's office at Seattle as to proceedings in the Northern
26 Division, and at Tacoma as to proceedings in the Southern Division.
27 The Court or a Judge thereof may at any time order a transfer of
28 the files or any part thereof from the Clerk's office in Seattle
29 to the Clerk's office in Tacoma, or vice versa, and may by order
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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. Ludlow
United States District Judge
Heath R. Reed
United States District Judge
W. J. Zuk
United States District Judge