

FBA WDWA Local Rules Committee - Proposed Amendments to Local Civil Rules
FINAL 12/13/19

Rules Subject to Proposed Revision	
LCR 3	Commencement and Assignment of Action
LCR 5(f)	Serving and Filing Pleadings and Other Papers
LCR 6	Computing and Extending Time
LCR 7	Form and Scheduling of Motions
LCR 7.1	Corporate Disclosure Statement
LCR 11	Signed Filings; Sanctions
LCR 16	Pretrial Conferences; Scheduling; Management
LCR 16.1	Form of Pretrial Order
LCR 26	Duty to Disclose; General Provisions Governing Discovery
LCR 83.2	Attorney Appearance and Withdrawal

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LCR 3 COMMENCEMENT AND ASSIGNMENT OF ACTIONS	
<p>(a) Civil Cover Sheet Required</p> <p>Every civil action shall be accompanied by a Civil Cover Sheet, Form JS-44 revised. All civil actions in which jurisdiction is invoked in whole or in part under 28 U.S.C. § 1338 (regarding patents, copyrights and trademarks) shall be accompanied by the required notice to the Patent and Trademark Office, Form AO 120, in patent and trademark matters, and by the required notice, Form AO 121, in copyright matters. These forms are available on the court’s website and on the U.S. Courts website at www.uscourts.gov.</p>	<p>(a) Civil Cover Sheet Required</p> <p>Every civil action, <u>except civil actions filed by persons in state or federal custody challenging conviction, sentence, or conditions of confinement</u>, shall be accompanied by a Civil Cover Sheet, Form JS-44 revised. All civil actions in which jurisdiction is invoked in whole or in part under 28 U.S.C. § 1338 (regarding patents, copyrights and trademarks) shall be accompanied by the required notice to the Patent and Trademark Office, Form AO 120, in patent and trademark matters, and by the required notice, Form AO 121, in copyright matters. These forms are available on the court’s website and on the U.S. Courts website at www.uscourts.gov.</p>

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LCR 5(f) SERVING AND FILING PLEADINGS AND OTHER PAPERS	
<p>(f) Proof of Service</p> <p>Proof of service of all filings 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. Parties should not file a separate proof of service document unless it is necessary. 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 any party.</p>	<p>(f) Proof of Service</p> <p><u>No certificate of service is required when a paper is served on a represented party by filing it with the ECF system, or on an unrepresented party that has signed up to participate in the ECF system. Whenever p</u>Proof of service <u>of all filing_ is</u> required or permitted <u>to be served, other than those for which a method of proof is prescribed in the Federal Rules of Civil Procedure, it</u> shall be made by a certificate or acknowledgment of service on the document itself. Parties should not file a separate proof of service document unless it is necessary. Failure to make the proof of service required by <u>this subdivision</u><u>Fed. R. Civ. P. 5(d)(1)(B)</u> 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 any party.</p>

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LCR 6 COMPUTING AND EXTENDING TIME	
<p>(a) Computing Time</p> <p>When the Local Rules or a court order permits a party to act within a period of time stated in days or a longer unit of time and the last day of the period is a Saturday, Sunday, or legal holiday, the time period continues to run until the following day that is not a Saturday, Sunday, or legal holiday. If an order of the court sets a specific calendar date by which a party must act, the date is not extended even if it falls on a Saturday, Sunday, or legal holiday unless otherwise ordered by the court. If access to the electronic filing system is not available due to failure of the court’s filing system(s) for a period longer than two hours, or any period after 5pm, or if the courthouse is closed for unanticipated reasons, filing deadlines are extended to the next business day. If the closure results in a party having additional time to file a response to a motion, then the deadline for the party filing a reply shall be extended by the same number of days.</p>	<p>(a) Computing Time</p> <p>When the Local Rules or a court order permits a party to act within a period of time stated in days or a longer unit of time and the last day of the period is a Saturday, Sunday, or legal holiday, the time period continues to run until the following day that is not a Saturday, Sunday, or legal holiday. <u>“Following day” is determined by counting only forward in time.</u> If an order of the court sets a specific calendar date by which a party must act, the date is not extended even if it falls on a Saturday, Sunday, or legal holiday unless otherwise ordered by the court. If access to the electronic filing system is not available due to failure of the court’s filing system(s) for a period longer than two hours, or any period after 5pm, or if the courthouse is closed for unanticipated reasons, filing deadlines are extended to the next business day. If the closure results in a party having additional time to file a response to a motion, then the deadline for the party filing a reply shall be extended by the same number of days.</p>

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LCR 7(d) FORM AND SCHEDULING OF MOTIONS	
<p>(d) Noting Dates for Motions and Briefing Schedules</p> <p>Unless otherwise provided by rule or court order, motions shall be noted for consideration as follows:</p> <p>(1) <i>Same Day Motions.</i> Stipulated motions (see LCR 10(g)), motions to file over-length motions or briefs (see LCR 7(f)), motions for reconsideration (see LCR 7(h)), joint submissions pursuant to the optional procedure established in LCR 37(a)(2), motions to appoint a mediator (LCR 39.1(c)(3)), motions for default (see LCR 55(a)), requests for the clerk to enter default judgment (see LCR 55(b)(1)), ex parte motions, motions for the court to enter default judgment where the opposing party has not appeared (see LCR 55(b)(2)), motions to recuse (see LCR 3(f)), and motions for a temporary restraining order (“TRO”) (see LCR 65) shall be noted for consideration for the day they are filed.</p>	<p>(d) Noting Dates for Motions and Briefing Schedules</p> <p>Unless otherwise provided by rule or court order, motions shall be noted for consideration as follows:</p> <p>(1) <i>Same Day Motions.</i> Stipulated, <u>joint or unopposed</u> motions (see <u>for example</u> LCR 10(g)), motions to file over-length motions or briefs (see LCR 7(f)), motions for reconsideration (see LCR 7(h)), joint submissions pursuant to the optional procedure established in LCR 37(a)(2), motions to appoint a mediator (LCR 39.1(c)(3)), motions for default (see LCR 55(a)), requests for the clerk to enter default judgment (see LCR 55(b)(1)), ex parte motions, motions for the court to enter default judgment where the opposing party has not appeared (see LCR 55(b)(2)), motions to recuse (see LCR 3(f)), and motions for a temporary restraining order (“TRO”) (see LCR 65) shall be noted for consideration for the day they are filed.</p>

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LCR 7.1 CORPORATE DISCLOSURE STATEMENT	
<p>(a) Who Must File; Contents</p> <p>Any nongovernmental party, other than an individual or sole proprietorship, must file a corporate disclosure statement identifying:</p> <ol style="list-style-type: none"> (1) any parent corporation and any publicly held corporation owning more than 10% of its stock; (2) any member or owner in a joint venture or limited liability corporation (LLC); (3) all partners in a partnership or limited liability partnership (LLP); or (4) any corporate member, if the party is any other unincorporated association <p>If there is no parent, shareholder, member, or partner to list in response to items (1) through (4), a corporate disclosure statement must still be filed stating that no such entity exists.</p> <p>(b) Diversity Cases</p> <p>In diversity actions, for any person or entity identified in (a)(2)-(4) above must also list in the corporate disclosure statement those states in which the party, owners, partners, or members are citizens.</p>	<p>(a) Who Must File; Contents</p> <p>Any nongovernmental party, <u>or any nongovernmental corporation that seeks to intervene</u>, other than an individual or sole proprietorship, must file a corporate disclosure statement identifying:</p> <ol style="list-style-type: none"> (1) any parent corporation and any publicly held corporation owning more than 10% of its stock; (2) any member or owner in a joint venture or limited liability corporation (LLC); (3) all partners in a partnership or limited liability partnership (LLP); or (4) any corporate member, if the party is any other unincorporated association <p>If there is no parent, shareholder, member, or partner to list in response to items (1) through (4), a corporate disclosure statement must still be filed stating that no such entity exists.</p> <p>(b) Diversity Cases</p> <p>In diversity actions, for any person or entity identified in (a)(2)-(4) above must also list in the corporate disclosure statement those states in which the party, owners, partners, or members are citizens.</p>

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LCR 11 SIGNED FILINGS; SANCTIONS	
<p>(a) Signature</p> <p>A document signed electronically (by either a digital signature or by using the “s/ Name” convention) has the same force and effect as if the person had affixed a signature to a paper copy of the document, unless an original document is otherwise required. If an original document is required to be filed with the court, any required signature thereto must also be original. Electronic signatures must be in conformance with this district’s Electronic Filing Procedures for Civil and Criminal Cases.</p>	<p>(a) Signature</p> <p>A document signed electronically (by either a digital signature or by <u>an attorney</u> using the “s/ Name” convention) has the same force and effect as if the person had affixed a signature to a paper copy of the document, unless an original document is otherwise required. If an original document is required to be filed with the court, any required signature thereto must also be original. Electronic signatures must be in conformance with this district’s Electronic Filing Procedures for Civil and Criminal Cases.</p>

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LCR 16 TITLE	
<p>(b) Scheduling Order; Exemption of Certain Types of Cases ***</p> <p>(5) <i>Dispositive Motions.</i> Not later than the deadline to file dispositive motions, unless otherwise ordered by the court, parties shall file all motions to dismiss, motions for summary judgment and other dispositive motions, together with supporting papers.</p> <p>(5) <i>Modifying a Schedule.</i> The parties are bound by the dates specified in the scheduling order. A schedule may be modified only for good cause and with the judge’s consent. Mere failure to complete discovery within the time allowed does not constitute good cause for an extension or continuance.</p> <p>(6) <i>Exemption of Certain Types of Cases.</i> The court exempts certain types of cases from the requirements of this local rule and of Fed. R. Civ. P. 16(b), including: any case exempt from the initial disclosure requirements under Fed. R. Civ. P. 26, proceedings upon a defendant’s default, bankruptcy proceedings before this court, condemnation cases, forfeiture actions, and cases filed as miscellaneous matters before this court.</p>	<p>(b) Scheduling Order; Exemption of Certain Types of Cases ***</p> <p>(5) <i>Dispositive Motions.</i> Not later than the deadline to file dispositive motions, unless otherwise ordered by the court, parties shall file all motions to dismiss, motions for summary judgment and other dispositive motions, together with supporting papers.</p> <p>(56) <i>Modifying a Schedule.</i> The parties are bound by the dates specified in the scheduling order. A schedule may be modified only for good cause and with the judge’s consent. Mere failure to complete discovery within the time allowed does not constitute good cause for an extension or continuance.</p> <p>(67) <i>Exemption of Certain Types of Cases.</i> The court exempts certain types of cases from the requirements of this local rule and of Fed. R. Civ. P. 16(b), including: any case exempt from the initial disclosure requirements under Fed. R. Civ. P. 26, proceedings upon a defendant’s default, bankruptcy proceedings before this court, condemnation cases, forfeiture actions, and cases filed as miscellaneous matters before this court.</p>

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LCR 16.1 FORM OF PRETRIAL ORDER																																																																	
<p>EXHIBITS Identify each exhibit with a number, which becomes the number for the exhibit at the trial and appears on the exhibit tag.</p> <p>(a) Admissibility stipulated: Plaintiff's Exhibits #__Photo of port side of ship. (Examples) #__Photo of crane motor. #__Photo of crane. Defendant's Exhibits #__Weather report. (Examples) #__Log book. #__X-ray of plaintiff's foot. #__X-ray of wrist.</p> <p>(b) Authenticity stipulated, admissibility disputed: Plaintiff's Exhibits #__Inventory Report. (Examples) Defendant's Exhibits #__Photograph. (Examples)</p> <p>(c) Authenticity and admissibility disputed: Plaintiff's Exhibits #__Accountant's report. (Examples) Defendant's Exhibits #__Ship's log. (Examples)</p>	<p>EXHIBITS Identify each exhibit with a number, which becomes the number for the exhibit at the trial and appears on the exhibit tag <u>with the following information in table format:-</u></p> <table border="1" style="width: 100%; border-collapse: collapse; margin-bottom: 10px;"> <thead> <tr> <th colspan="6" style="text-align: center; padding: 2px;"><u>Plaintiff's Exhibits</u></th> </tr> <tr> <th style="text-align: center; padding: 2px;"><u>Ex .#</u></th> <th style="text-align: center; padding: 2px;"><u>Description</u></th> <th style="text-align: center; padding: 2px;"><u>Authenticity</u></th> <th style="text-align: center; padding: 2px;"><u>Admissibility</u></th> <th style="text-align: center; padding: 2px;"><u>Objection</u></th> <th style="text-align: center; padding: 2px;"><u>Admitted</u></th> </tr> </thead> <tbody> <tr> <td style="text-align: center; padding: 2px;">#</td> <td style="padding: 2px;"><u>Photo of port side of ship</u></td> <td style="text-align: center; padding: 2px;"><u>Stipulated</u></td> <td style="text-align: center; padding: 2px;"><u>Disputed</u></td> <td style="padding: 2px;"><u>402; F</u></td> <td style="padding: 2px;"></td> </tr> <tr> <td style="text-align: center; padding: 2px;">#</td> <td style="padding: 2px;"><u>Photo of crane motor</u></td> <td style="padding: 2px;"></td> <td style="padding: 2px;"></td> <td style="padding: 2px;"></td> <td style="padding: 2px;"></td> </tr> <tr> <td style="text-align: center; padding: 2px;">#</td> <td style="padding: 2px;"><u>Photo of crane</u></td> <td style="padding: 2px;"></td> <td style="padding: 2px;"></td> <td style="padding: 2px;"></td> <td style="padding: 2px;"></td> </tr> </tbody> </table> <table border="1" style="width: 100%; border-collapse: collapse; margin-bottom: 10px;"> <thead> <tr> <th colspan="6" style="text-align: center; padding: 2px;"><u>Defendant's Exhibits</u></th> </tr> <tr> <th style="text-align: center; padding: 2px;"><u>Ex .#</u></th> <th style="text-align: center; padding: 2px;"><u>Description</u></th> <th style="text-align: center; padding: 2px;"><u>Authenticity</u></th> <th style="text-align: center; padding: 2px;"><u>Admissibility</u></th> <th style="text-align: center; padding: 2px;"><u>Objection</u></th> <th style="text-align: center; padding: 2px;"><u>Admitted</u></th> </tr> </thead> <tbody> <tr> <td style="text-align: center; padding: 2px;">#</td> <td style="padding: 2px;"><u>X-ray of plaintiff's foot</u></td> <td style="text-align: center; padding: 2px;"><u>Stipulated</u></td> <td style="text-align: center; padding: 2px;"><u>Stipulated</u></td> <td style="padding: 2px;"></td> <td style="padding: 2px;"></td> </tr> <tr> <td style="text-align: center; padding: 2px;">#</td> <td style="padding: 2px;"><u>Weather Report</u></td> <td style="text-align: center; padding: 2px;"><u>Stipulated</u></td> <td style="text-align: center; padding: 2px;"><u>Disputed</u></td> <td style="padding: 2px;"><u>402</u></td> <td style="padding: 2px;"></td> </tr> <tr> <td style="text-align: center; padding: 2px;">#</td> <td style="padding: 2px;"><u>Log book</u></td> <td style="padding: 2px;"></td> <td style="padding: 2px;"></td> <td style="padding: 2px;"></td> <td style="padding: 2px;"></td> </tr> </tbody> </table> <p><u>The Parties' Objection Code:</u></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="text-align: center; padding: 2px;"><u>E</u></td> <td style="padding: 2px;"><u>Exhibit is objectionable because it constitutes attempted expert testimony from a person who was not designated as an expert (Fed. R. Civ. P. 26)</u></td> </tr> <tr> <td style="text-align: center; padding: 2px;"><u>F</u></td> <td style="padding: 2px;"><u>Lack of foundation</u></td> </tr> </tbody> </table>	<u>Plaintiff's Exhibits</u>						<u>Ex .#</u>	<u>Description</u>	<u>Authenticity</u>	<u>Admissibility</u>	<u>Objection</u>	<u>Admitted</u>	#	<u>Photo of port side of ship</u>	<u>Stipulated</u>	<u>Disputed</u>	<u>402; F</u>		#	<u>Photo of crane motor</u>					#	<u>Photo of crane</u>					<u>Defendant's Exhibits</u>						<u>Ex .#</u>	<u>Description</u>	<u>Authenticity</u>	<u>Admissibility</u>	<u>Objection</u>	<u>Admitted</u>	#	<u>X-ray of plaintiff's foot</u>	<u>Stipulated</u>	<u>Stipulated</u>			#	<u>Weather Report</u>	<u>Stipulated</u>	<u>Disputed</u>	<u>402</u>		#	<u>Log book</u>					<u>E</u>	<u>Exhibit is objectionable because it constitutes attempted expert testimony from a person who was not designated as an expert (Fed. R. Civ. P. 26)</u>	<u>F</u>	<u>Lack of foundation</u>
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**LCR 16.1
FORM OF PRETRIAL ORDER**

<u>MIL</u>	<u>Subject of Motion in Limine</u>
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In the Authenticity and Admissibility columns, indicate “Stipulated” or “Disputed”. If “Disputed”, identify the objection in the Objection column. An objection based on a Fed. R. Evid. should reference the rule number; additional objections should be referenced by a code that the parties include with the exhibit list. The “Admitted” column is for use by the Court.

(a) — Admissibility stipulated:

Plaintiff’s Exhibits

#__Photo of port side of ship. (Examples)

#__Photo of crane motor.

#__Photo of crane.

Defendant’s Exhibits

#__Weather report. (Examples)

#__Log book.

#__X ray of plaintiff’s foot.

#__X ray of wrist.

(b) — Authenticity stipulated, admissibility disputed:

Plaintiff’s Exhibits

#__Inventory Report. (Examples)

Defendant’s Exhibits

#__Photograph. (Examples)

(c) — Authenticity and admissibility disputed:

Plaintiff’s Exhibits

#__Accountant’s report. (Examples)

Defendant’s Exhibits

#__Ship’s log. (Examples)

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LCR 16.1 FORM OF PRETRIAL ORDER	
(No party is required to list any exhibit which is listed by another party, or any exhibit to be used for impeachment only. See LCR 16 for further explanation of numbering of exhibits).	(No party is required to list any exhibit which is listed by another party, or any exhibit to be used for impeachment only. See LCR 16 for further explanation of numbering of exhibits).

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LCR 26 DUTY TO DISCLOSE; GENERAL PROVISIONS GOVERNING DISCOVERY	
<p>(f) Conference of the Parties; Planning for Discovery</p> <p>****</p> <p>(1) Prior to the initial status conference with the court, if any, or prior to submitting their joint status report, counsel and any pro se parties shall meet and discuss, and address in their joint status report if the court orders one, the topics set forth in Fed. R. Civ. P. 26(f) and the following issues:</p> <p>****</p> <p>(I) whether the case will involve the preservation and production of Electronically Stored Information (“ESI”) and, if so:</p> <p style="padding-left: 40px;">(i) the nature, location, and scope of discoverable ESI; and</p> <p style="padding-left: 40px;">(ii) whether the parties agree to adopt the Model Agreement Regarding Discovery of Electronically Stored Information in Civil Litigation (the “Model ESI Agreement,” which can be found under “Forms” on the court’s website) or a modified version thereof;</p>	<p>(f) Conference of the Parties; Planning for Discovery</p> <p>****</p> <p>(1) Prior to the initial status conference with the court, if any, or prior to submitting their joint status report, counsel and any pro se parties shall meet and discuss, and address in their joint status report if the court orders one, the topics set forth in Fed. R. Civ. P. 26(f) and the following issues:</p> <p>****</p> <p>(I) whether the case will involve the preservation and production of Electronically Stored Information (“ESI”) and, if so:</p> <p style="padding-left: 40px;">(i) the nature, location, and scope of discoverable ESI; and</p> <p style="padding-left: 40px;">(ii) whether the parties agree to adopt the Model Agreement Regarding Discovery of Electronically Stored Information in Civil Litigation (the “Model ESI Agreement,” which can be found under “Forms” on the court’s website) or a modified version thereof, <u>and the timing for filing the agreement;</u></p>

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LCR 83.2 ATTORNEY APPEARANCE AND WITHDRAWAL	
<p>(a) Entry of Appearance</p> <p>....</p> <p>(b) Withdrawal of Attorneys</p> <p>....</p>	<p>(a) Entry of Appearance</p> <p>....</p> <p>(b) Withdrawal of Attorneys</p> <p>....</p> <p><u>(c) Notices of Unavailability.</u> <u>Notices of unavailability are not required. Such notices, if filed, do not alter dates set by the Court or civil rules. The Court expects the parties to confer about significant periods of unavailability. This rule does not preclude an attorney from requesting relief from a deadline due to a scheduling difficulty. See LCR 7(j).</u></p>