

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED
JUN 16 2021

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

Voting: Chief Judge Howell, Judges Kollar-Kotelly, Boasberg, A.B. Jackson, Contreras, K.B. Jackson, Chutkan, Moss, Mehta, Kelly, McFadden, Hogan, Friedman, Walton, Bates and Leon.

ORDER

It is the 16th day of June 2021 ordered that effective immediately, the underlisted sections of the Local Rules are amended as follows, with the Clerk of Court being authorized to make technical and conforming changes as necessary.

[New language is underlined; old language is stricken]

LCvR 7

MOTIONS

(a) STATEMENT OF POINTS AND AUTHORITIES.

Each motion shall include or be accompanied by a statement of the specific points of law and authority that support the motion, including where appropriate a concise statement of facts. If a table of cases is provided, counsel shall place asterisks in the margin to the left of those cases or authorities on which counsel chiefly relies.

(b) OPPOSING POINTS AND AUTHORITIES.

Within 14 days of the date of service or at such other time as the Court may direct, an opposing party shall serve and file a memorandum of points and authorities in opposition to the motion. If such a memorandum is not filed within the prescribed time, the Court may treat the motion as conceded.

(c) PROPOSED ORDER.

Each motion and opposition shall be accompanied by a proposed order.

(d) REPLY MEMORANDUM.

Within seven days after service of the memorandum in opposition the moving party may serve and file a reply memorandum.

(e) PAGE LIMITATIONS.

A memorandum of points and authorities in support of or in opposition to a motion shall not exceed 45 pages and a reply memorandum shall not exceed 25 pages, without prior approval of the Court. Documents that fail to comply with this provision shall not be filed by the Clerk.

(f) ORAL HEARINGS.

A party may in a motion or opposition request an oral hearing, but its allowance shall be

(f) ORAL HEARINGS.

A party may in a motion or opposition request an oral hearing, but its allowance shall be within the discretion of the Court. If at the time of the hearing the moving party fails to appear, the Court may treat the motion as withdrawn; if the opposing party fails to appear, the Court may treat the motion as conceded.

(g) ~~VACATING OF DEFAULT MOTIONS TO VACATE DEFAULT; VERIFIED ANSWER.~~

(g)

~~Upon the granting of~~ A a motion to vacate an entry of default, or a judgment by default, or both, ~~the movant shall have 14 days within which to answer or otherwise respond to the complaint. shall be accompanied by a verified answer presenting a defense sufficient to bar the claim in whole or in part.~~

(h) MOTIONS FOR SUMMARY JUDGMENT.

- (1) Each motion for summary judgment shall be accompanied by a statement of material facts as to which the moving party contends there is no genuine issue, which shall include references to the parts of the record relied on to support the statement. An opposition to such a motion shall be accompanied by a separate concise statement of genuine issues setting forth all material facts as to which it is contended there exists a genuine issue necessary to be litigated, which shall include references to the parts of the record relied on to support the statement. Each such motion and opposition must also contain or be accompanied by a memorandum of points and authorities and proposed order as required by LCvR 7(a), (b) and (c). In determining a motion for summary judgment, the Court may assume that facts identified by the moving party in its statement of material facts are admitted, unless such a fact is controverted in the statement of genuine issues filed in opposition to the motion.
- (2) Paragraph (1) shall not apply to cases in which judicial review is based solely on the administrative record. In such cases, motions for summary judgment and oppositions thereto shall include a statement of facts with references to the administrative record.

(i) MOTION TO AMEND PLEADINGS.

A motion for leave to file an amended pleading shall be accompanied by an original of the proposed pleading as amended. The amended pleading shall be deemed to have been filed and served by mail on the date on which the order granting the motion is entered.

(j) MOTION TO INTERVENE.

A motion to intervene as a party pursuant to Fed. R. Civ. P. 24(c), Procedure, shall be accompanied by an original of the pleading setting forth the claim or defense for which intervention is sought. The pleading shall be deemed to have been filed and served by mail on the date on which the order granting the motion is entered.

(k) NAMES OF PERSONS TO BE SERVED WITH PROPOSED ORDERS, JUDGMENTS AND STIPULATIONS.

Each proposed order, judgment and stipulation shall have appended to it or endorsed upon it a list of the names and addresses of all attorneys entitled to be notified of its entry. If a party is not represented by an attorney, the name and address of the party shall be included.

(l) TIME FOR FILING DISPOSITIVE MOTIONS.

A dispositive motion in a civil action shall be filed sufficiently in advance of the pretrial conference that it may be fully briefed and ruled on before the conference.

(m) DUTY TO CONFER ON NONDISPOSITIVE MOTIONS.

Before filing any non-dispositive motion in a civil action, counsel shall discuss the anticipated motion with opposing counsel in a good-faith effort to determine whether there is any opposition to the relief sought and, if there is, to narrow the areas of disagreement. The duty to confer also applies to non-incarcerated parties appearing *pro se*. A party shall include in its motion a statement that the required discussion occurred, and a statement as to whether the motion is opposed.

(n) MOTIONS INVOLVING JUDICIAL REVIEW OF ADMINISTRATIVE AGENCY ACTIONS.

- (1) In cases involving the judicial review of administrative agency actions, unless otherwise ordered by the Court, the agency must file a certified list of the contents of the administrative record with the Court within 30 days following service of the answer to the complaint or simultaneously with the filing of a dispositive motion, whichever occurs first. Thereafter, counsel shall provide the Court with an appendix containing copies of those portions of the administrative record that are cited or otherwise relied upon in any memorandum in support of or in opposition to any dispositive motion. Counsel shall not burden the appendix with excess material from the administrative record that does not relate to the issues raised in the motion or opposition. Unless so requested by the Court, the entire administrative record shall not be filed with the Court.
- (2) The appendix shall be prepared jointly by the parties and filed within 14 days following the final memorandum on the subject motion. The parties are encouraged to agree on the contents of the appendix which shall be filed by plaintiff. In the absence of an agreement, the plaintiff must serve on all other parties an initial designation and provide all other parties the opportunity to designate additional portions of the administrative record. Plaintiff shall include all parts of the record designated by all parties in the appendix.
- (3) In appropriate cases, the parties may request the option to submit separate appendices to be filed with any memorandum in support of, or in opposition to, the dispositive motion.

COMMENT TO LCvR 7(h): This provision recognizes that in cases where review is based on an administrative record the Court is not called upon to determine whether there is a genuine issue of material fact, but rather to test the agency action against the administrative record. As a result, the normal summary judgment procedures requiring the filing of a statement of undisputed material facts is not applicable.

COMMENT TO LCvR 7(m): The changes to this rule are designed to bring non-incarcerated pro se litigants within the scope of the duty to confer on nondispositive

motions, so as to extend the benefits of the rule to cases in which such litigants are parties.

COMMENT TO LCvR 7(n): *This rule is intended to assist the Court in cases involving a voluminous record (e.g., environmental impact statements) by providing the Court with copies of relevant portions of the record relied upon in any dispositive motion. This rule is patterned after Local Rule 17 and Local Rule 30 of the D.C. Circuit and Rule 30 of the Federal Rules of Appellate Procedure. Pages in the appendix should retain the original pagination from the administrative record.*

(o) BRIEF OF AN AMICUS CURIAE.

- (1) The United States or its officer or agency or a state may file an *amicus curiae* brief without the consent of the parties or leave of Court. Any other *amicus curiae* may file a brief only upon leave of Court, which may be granted after the submission of a motion for leave to file or upon the Court's own initiative.
- (2) A motion for leave to file an *amicus* brief shall concisely state the nature of the movant's interest: identify the party or parties supported, if any; and set forth the reasons why an *amicus* brief is desirable, why the movant's position is not adequately represented by a party, and why the matters asserted are relevant to the disposition of the case. The motion shall state the position of each party as to the filing of such a brief and be accompanied by a proposed order. The motion shall be filed in a timely manner such that it does not unduly delay the Court's ability to rule on any pending matter. Any party may file an opposition to a motion for leave to file an *amicus* brief, concisely stating the reasons for such opposition, within 14 days after service of the motion or as ordered by the Court. There shall be no further briefing unless otherwise ordered by the Court.
- (3) The *amicus* brief shall be filed within such time as the Court may allow.
- (4) Unless otherwise ordered by the Court, a brief filed by an *amicus curiae* shall conform to the requirements of LCvR 5.4 and may not exceed 25 pages.
- (5) An *amicus* brief shall comply with the requirements set forth in FRAP 29(a)(4).
- (6) An *amicus curiae* may participate in oral argument only with the court's permission.

FOR THE COURT:



Beryl A. Howell
Chief Judge