

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS**

**GENERAL ORDER AMENDING LOCAL RULES**

It is hereby ORDERED that the following amendments to the local rules, having been approved by the judges of this court, are adopted for implementation subject to a reasonable period for public notice and comment, as determined by the Clerk.<sup>1</sup> See 28 U.S.C. § 2071(b).

**SECTION I: CIVIL RULES**

**LOCAL RULE CV-5 Service and Filing of Pleadings and Other Documents**

- (a) **Electronic Filing Required.** Except as expressly provided or in exceptional circumstances preventing a Filing User from filing electronically, all documents filed with the court shall be electronically filed in compliance with the following procedures.

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(4) **File Size Limitations.** No single electronic file, whether containing a document or an attachment, may exceed ~~fifty~~yeen megabytes in size. Documents or attachments in excess of ~~fifty~~yeen megabytes must be divided into multiple files and accurately described to the court. *See* Local Rule CV-7 (page requirements for motions and responses).

**COMMENT:** The CM/ECF file size capacity has increased to 50MB. Local Rule CV-5(a)(4) is amended accordingly.

**LOCAL RULE CV-10 Form of Pleadings**

- (d) **Deficient Pleadings/Documents.** The clerk shall monitor filed documents for compliance with the federal and local rules as to format and form. If ~~the~~a document ~~sought to be filed~~ is identified as deficient as to form, the clerk shall enter a notice on the docket that identifies the perceived deficiency. immediately notify counsel, who should~~The filing party will~~ be given a reasonable opportunity, preferably within one day, to cure the perceived def~~ect~~iciency. If the perceived def~~ect~~iciency is not cured in a timely fashion, the clerk shall refer the matter to the appropriate assigned district or magistrate judge ~~for a ruling as to whether the documents should be made part of the record.~~

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<sup>1</sup> New language appears in underlined text, and deleted language appears in strikeout text.

**COMMENT:** Local Rule CV-10(d) is amended to clarify and make uniform the clerk’s handling of filed documents that may not comply with federal or local rules as to format or form. First, the amendment recognizes that the clerk can only monitor filed documents, not those sought to be filed. Second, the amendment provides for a uniform method of notice to all parties when a perceived deficiency is identified by a docket entry, not just notice to the filing party. Thereafter, the filing party has an opportunity to cure the deficiency with a corrected filing or through discussions of the perceived deficiency with the clerk. Finally, if the deficiency is not cured, the clerk may refer the matter to the assigned judge, who may take whatever further action, if any, that the judge deems appropriate. This recognizes the requirements of Fed. R. Civ. P. 5(d)(4) and Fed. R. Crim. P. 49(b)(5) that the clerk “must not refuse to file a paper solely because it is not in the form prescribed by these rules or by a local rule or practice.”

## **LOCAL RULE CV-11 Signing of Pleadings, Motions, and Other Documents**

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(g) **Use of Technology by *Pro Se* Litigants.** Litigants remain responsible for the accuracy and quality of legal documents produced with the assistance of technology (e.g., ChatGPT, Google Bard, Bing AI Chat, or generative artificial intelligence services). Litigants are cautioned that certain technologies may produce factually or legally inaccurate content. If a litigant chooses to employ technology, the litigant continues to be bound by the requirements of Fed. R. Civ. P. 11 and must review and verify any computer-generated content to ensure that it complies with all such standards. See also Local Rule AT-3(m).

**COMMENT:** Recent advancements in technology have provided *pro se* litigants access to tools that may be employed in preparing legal documents or pleadings. However, often the product of those tools may be factually or legally inaccurate. Local Rule CV-11 is amended to add new subsection (g) to alert *pro se* litigants to this risk. The rule also alerts litigants that they remain bound by the certification requirements of Fed. R. Civ. P. 11 when employing such tools to verify all content meets those standards. A similar rule, Local Rule AT-3(m), is added to the standards of practice to be observed by attorneys.

## **LOCAL RULE CV-77 District Courts and Clerks**

**Notice of Orders, Judgments, and Other Filings.** The clerk may serve and give notice of orders, judgments, and other filings ~~as provided in Fed. R. Civ. P. 5(b) by e-mail in lieu of service and notice by conventional mail to any person who has signed a filed pleading or document and provided an e-mail address with his/her pleadings as specified in Local Rule CV-11(b)(1)(E). Any other attorney who wishes to receive notice of judicial orders, judgments, and other filings must file a notice of appearance of counsel with the court.~~

~~By providing the court with an e-mail address, the party submitting the pleadings is deemed to have consented to receive service and notice of judicial orders and judgments from the clerk by~~

~~e-mail. Lead attorneys who wish to be excluded from receiving judicial notices by e-mail may do so by filing a motion with the court; non-lead attorneys who wish to be excluded from e-mail noticing may do so by filing a notice with the court.~~

~~Notice of judicial orders, judgments, and other filings is complete when the clerk obtains electronic confirmation of the receipt of the transmission. Notice by e-mail by the clerk that occurs after 5:00 p.m. on any day is deemed effective as of the following day.~~

**COMMENT:** Local Rule CV-77 is amended to simplify and remove subject matter duplicative of Fed. R. Civ. P. 5(b) and CV-5(a)(2).

## **SECTION II: CRIMINAL RULES**

### **LOCAL RULE CR-16.1 Pretrial Discovery Conference**

Following the discovery conference required by Fed. R. Crim. P. 16.1, the attorney for the government and the defendant's attorney shall notify the Court of the time agreed upon for any disclosures required by Fed. R. Crim P. 16(a)(1)(G)(i) and 16(b)(1)(C)(i), or of the parties' respective positions if no agreement was reached.

**COMMENT:** In the 2022 amendments to Fed. R. Crim. P. 16, language was added instructing that the deadline for expert disclosures should be set by local rule or order in each case. Fed. R. Civ. P. 16(a)(1)(G)(ii) and 16(b)(1)(C)(i). New Local Rule CR-16.1 is adopted to address this rule change. Because the circumstances of a given case may impact the appropriate disclosure deadlines for both the government and the defendant, a uniform disclosure date is difficult. Instead, new CR-16.1 directs the parties to attempt to agree on the appropriate deadline in each case as part of the discovery conference required by Fed. R. Civ. P. 16.1(a), and, thereafter, notify the Court of the agreed upon time or of the parties' respective positions, consistent with the requests already authorized by Fed. R. Civ. P. 16.1(b). It is envisioned that this notice will enable the Court to then set the time for disclosure as part of its case scheduling order in view of the parties agreed or respective positions, thus, meeting the requirements of amended Fed. R. Crim. P. 16.

## **SECTION III: ATTORNEYS**

### **LOCAL RULE AT-3 Standards of Practice to be Observed by Attorneys**

Attorneys who appear in civil and criminal cases in this court shall comply with the following standards of practice in this district:


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(m) If the lawyer, in the exercise of his or her professional legal judgment, believes that the client is best served by the use of technology (e.g., ChatGPT, Google Bard, Bing AI Chat, or generative artificial intelligence services), then the lawyer is cautioned that certain technologies may produce factually or legally inaccurate content and should never replace the lawyer’s most important asset – the exercise of independent legal judgment. If a lawyer chooses to employ technology in representing a client, the lawyer continues to be bound by the requirements of Federal Rule of Civil Procedure 11, Local Rule AT-3, and all other applicable standards of practice and must review and verify any computer-generated content to ensure that it complies with all such standards.

**COMMENT:** Recent advancements in technology have provided the legal profession with many useful tools for daily practice. Ultimately, however, the most valuable benefit a lawyer provides to a client is the lawyer’s independent judgment as informed by education, professional experiences, and participation in the legal and professional community in which the lawyer practices. Although technology can be helpful, it is never a replacement for abstract thought and problem solving. Local Rule AT-3 is amended to add new subsection (m) to remind lawyers of their continuing duties under applicable rules of practice despite any choice to employ technological tools in the course of providing legal services.

**So Ordered this**

**Oct 30, 2023**

  
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RODNEY GILSTRAP  
Chief Judge