

**NOTICE OF PROPOSED REVISION TO LR 3.1, 5.4, 5.5, 7.1, and 83.6,
PLUS NOTICE OF LCrR 49.3, 49.4, 18.1, 12.1 and 57.6
OF THE JOINT LOCAL RULES
OF THE FEDERAL DISTRICT COURTS IN KENTUCKY**

NOTICE is hereby given that the Joint Local Rules Commission has forwarded to the Judges of the United States District Courts for the Eastern and Western Districts of Kentucky a revised LR 3.1, 5.4, 5.5, 7.1, and 83.6 of the Joint Local Rules of Civil Practice and a revised LCrR 49.3, 49.4, 18.1, 12.1 and 57.6 of the Local Rules of Criminal Practice for the federal courts in Kentucky. The Judges of the United States District Courts in Kentucky will be considering the following proposed Joint General Order for adoption after publication of this Notice in the Kentucky Bench & Bar. On or before February 15, 2009, the bar and public are invited to submit comments and/or suggestions, in writing, with respect to the proposed revision of the Joint Local Rules to either of the United States District Court Clerk's Offices or to Douglas L. McSwain, Chair of the Joint Local Rules Commission, at the law firm of Sturgill, Turner, Barker & Moloney, PLLC, 333 West Vine Street, Suite 1400, Lexington, KY 40507.

IN THE UNITED STATES DISTRICT COURT
FOR THE
EASTERN AND WESTERN DISTRICTS OF KENTUCKY

JOINT GENERAL ORDER NO. _____ - E.D. Ky.
JOINT GENERAL ORDER NO. _____ - W.D. Ky.

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Pursuant to LR 83.14 of the Joint Local Rules of the Eastern and Western Districts of Kentucky, and pursuant to the authority granted by Rule 83, F.R.Civ.P., and upon recommendation of the Joint Local Rules Commission, the Judges of the Eastern and Western Districts hereby ORDER that the following amendments be made to the Joint Local Rule:

(changes are noted in bold and underline)

1. In LR 5.4, the word “may” changes to “shall” to read as follows:

Documents **shall** be filed, signed and verified by electronic means to the extent and in the manner authorized by General Order **05-03** of the Court. A document filed by electronic means in compliance with this Local Rule constitutes a written document for the purposes of applying these Local Rules and the Federal Rules of Civil Procedure. The General Orders of the Court referenced herein may be obtained from the Clerk’s office on the following websites:

WDKY-<http://www.kywd.uscourts.gov/>;
EDKY- <http://www.kyed.uscourts.gov/>;

2. In LR 5.5, the word “may” changes to “shall” to read as follows:

Documents **shall** be served through the court’s transmission facilities by electronic means to the extent and in the manner authorized by General Order **05-03** of the Court. Transmission of the Notice of Electronic Filing (NEF) constitutes service of the filed document upon each party in the case who is registered as an electronic case filing user with the Clerk. Any other party or parties shall be served documents according to these Local Rules and the Federal Rules of Civil Procedure.

3. In LCrR 49.3, the word “may” changes to “shall” to read as follows:

Documents **shall** be filed, signed and verified by electronic means to the extent and in the manner authorized by General Order **05-03** of the Court. A document filed by electronic means in compliance with this Local Rule constitutes a written document for the purposes of applying these Local Rules and the Federal Rules of Criminal Procedure. The General Orders of the Court referenced herein may be obtained from the Clerk’s office on the following websites:

WDKY-<http://www.kywd.uscourts.gov/>;

EDKY- <http://www.kyed.uscourts.gov/>;

4. In LCrR 49.4, the word “may” changes to “shall” to read as follows:

Documents **shall** be served through the court’s transmission facilities by electronic means to the extent and in the manner authorized by General Order **05-03** of the Court. Transmission of the Notice of Electronic Filing (NEF) constitutes service of the filed document upon each party in the case who is registered as an electronic case filing user with the Clerk. Any other party or parties shall be served documents according to these Local Rules and the Federal Rules of Criminal Procedure.

5. In LR 3.1, Jury Divisions is changed to read as follows:

(a) **United States District Court for the Eastern District of Kentucky.** The United States District Court for the Eastern District of Kentucky is divided into the following jury divisions **with juries drawn from the counties within each docket:**

(1) **Northern. The Northern Division is divided into two dockets:**

(A) **Ashland.** The following counties are in the Ashland **Docket:** Boyd, Carter, Elliott, Greenup, Lawrence, Lewis, Morgan, and Rowan.

(B) **Covington.** The following counties are in the Covington **Docket:** Boone, Bracken, Campbell, Gallatin, Grant, Kenton, Mason, Pendleton, and Robertson.

(2) **Central. The Central Division is divided into two dockets:**

(A) **Frankfort.** The following counties are in the Frankfort **Docket:** Anderson, Carroll, Franklin, Henry, Owen, Shelby and Trimble.

(B) Lexington. The following counties are in the Lexington **Docket:** Bath, Bourbon, Boyle, Breathitt, Clark, Estill, Fayette, Fleming, Garrard, Harrison, Jessamine, Lee, Lincoln, Madison, Menifee, Mercer, Montgomery, Nicholas, Powell, Scott, Wolfe, and Woodford.

(3) **Southern. The Southern Division is divided into two dockets:**

(A) London. The following counties are in the London **Docket:** Bell, Clay, Harlan, Jackson, Knox, Laurel, Leslie, McCreary, Owsley, Perry, Pulaski, Rockcastle, Wayne, and Whitley.

(B) Pikeville. The following counties are in the Pikeville **Docket:** Floyd, Johnson, Knott, Letcher, Magoffin, Martin, and Pike.

6. In LCrR 18.1, Jury Divisions is changed to read as follows:

(b) **United States District Court for the Eastern District of Kentucky.** The United States District Court for the Eastern District of Kentucky is divided into the following jury divisions **with juries drawn from the counties within each docket:**

(1) **Northern. The Northern Division is divided into two dockets:**

(A) Ashland. The following counties are in the Ashland **Docket:** Boyd, Carter, Elliott, Greenup, Lawrence, Lewis, Morgan, and Rowan.

(B) Covington. The following counties are in the Covington **Docket:** Boone, Bracken, Campbell, Gallatin, Grant, Kenton, Mason, Pendleton, and Robertson.

(2) **Central. The Central Division is divided into two dockets:**

(A) Frankfort. The following counties are in the Frankfort **Docket:** Anderson, Carroll, Franklin, Henry, Owen, Shelby and Trimble.

(B) Lexington. The following counties are in the Lexington **Docket:** Bath, Bourbon, Boyle, Breathitt, Clark, Estill, Fayette, Fleming, Garrard, Harrison, Jessamine, Lee, Lincoln, Madison, Menifee, Mercer, Montgomery,

Nicholas, Powell, Scott, Wolfe, and Woodford.

(3) **Southern. The Southern Division is divided into two dockets:**

(A) **London.** The following counties are in the London **Docket:** Bell, Clay, Harlan, Jackson, Knox, Laurel, Leslie, McCreary, Owsley, Perry, Pulaski, Rockcastle, Wayne, and Whitley.

(B) **Pikeville.** The following counties are in the Pikeville **Docket:** Floyd, Johnson, Knott, Letcher, Magoffin, Martin, and Pike.

7. In LR 7.1, subsection (c) is changed to read as follows:

(c) **Time for Filing Memoranda in Response and Reply.** A party opposing a motion must file a response memorandum within fifteen (15) days of service of the motion. **Failure to timely respond to a motion may be grounds for granting the motion.** A party may file a reply memorandum within eleven (11) days of service of the response. When you request an extension of time to file a memorandum, please do so by agreed order or state whether other parties consent.

8. In LCR 12.1, subsection (d) is changed to read as follows:

(d) **Time for Filing Memoranda in Response and Reply** A party opposing a motion must file a response memorandum within eleven (11) days of service of the motion. **Failure to timely respond to a motion may be grounds for granting the motion.** A party may file a reply memorandum within eleven (11) days of service of the response.

9. In LR 83.6, the word “Substitution” is inserted and a new subsection (c) is added to read as follows:

SUBSTITUTION OR WITHDRAWAL OF ATTORNEY OF RECORD

Unless a compelling reason exists, an attorney of record is not permitted to withdraw within twenty-one (21) days of trial or a hearing on any motion for judgment or dismissal. At any other time, an attorney of record may withdraw from a case only under the following circumstances:

- a) The attorney files a motion, his or her client consents in writing, and another attorney enters his or her appearance; or

- b) The attorney files a motion, certifies the motion was served on the client, makes a showing of good cause, and the Court consents to the withdrawal on whatever terms the Court chooses to impose.
- c) **In cases where an attorney seeks to be substituted for another as attorney of record, and both attorneys are within the same partnership or other legal professional association, a notice of substitution must be filed signed by the withdrawing attorney and the substitute attorney with an affirmative representation stating that the substitution is made with the client's consent; the notice may, but need not be, signed by the client.**

10. In LCrR 57.6, the word "Substitution" is inserted and a new subsection (c) is added to read as follows:

SUBSTITUTION OR WITHDRAWAL OF ATTORNEY OF RECORD

Unless a compelling reason exists, an attorney of record is not permitted to withdraw within twenty-one (21) days of trial or a hearing on any motion for judgment or dismissal. At any other time, an attorney of record may withdraw from a case only under the following circumstances:

- a) The attorney files a motion, his or her client consents in writing, and another attorney enters his or her appearance; or
- b) The attorney files a motion, certifies the motion was served on the client, makes a showing of good cause, and the Court consents to the withdrawal on whatever terms the Court chooses to impose.
- c) **In cases where an attorney seeks to be substituted for another as attorney of record, and both attorneys are within the same partnership or other legal professional association, a notice of substitution must be filed signed by the withdrawing attorney and the substitute attorney with an affirmative representation stating that the substitution is made with the client's consent; the notice may, but need not be, signed by the client.**

The changes reflected in this Joint General Order shall be incorporated into the Courts' Joint Local Rules published on the Courts' respective websites. Copies of this Order shall be made available to the various publishing companies that publish the Joint Local Rules of the Eastern and Western Districts of Kentucky and to the public upon request. The changes noted in this Order shall take effect upon entry of this Order.

IT IS SO ORDERED:

Hon. Jennifer B. Coffman, Chief Judge
U.S. District Court
Eastern District of Kentucky

Hon. Thomas B. Russell, Chief Judge
U.S. District Court
Western District of Kentucky

Hon. Karen K. Caldwell, Judge

Hon. John G. Heyburn, II, Judge

Hon. Danny C. Reeves, Judge

Hon. Charles R. Simpson, III, Judge

Hon. David L. Bunning, Judge

Hon. Joseph H. McKinley, Jr., Judge

Hon. Gregory F. Van Tatenhove, Judge

Hon. Amul R. Thapar, Judge