

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LOCAL RULES as of [December 1, 2020]<sup>1</sup>**

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<sup>1</sup> These rules include amendments through General Order [20-17], which was filed on [November 9, 2020].

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**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LOCAL RULES**

**SECTION I: CIVIL RULES**

**LOCAL RULE CV-1 Scope and Purpose of Rules**

- (a) The rules of procedure in any proceeding in this court are those prescribed by the laws of the United States, the Federal Rules of Civil Procedure, these local rules, and any orders entered by the court. These local rules shall be construed as consistent with Acts of Congress and rules of practice and procedure prescribed by the Supreme Court of the United States and the United States Court of Appeals for the Fifth Circuit.
- (b) **Admiralty Rules.** The Supplemental Rules for Certain Admiralty and Maritime Claims, as adopted by the Supreme Court of the United States, shall govern all admiralty and maritime actions in this court.
- (c) **Patent Rules.** The “Rules of Practice for Patent Cases before the Eastern District of Texas” shall apply to all civil actions filed in or transferred to this court which allege infringement of a utility patent in a complaint, counterclaim, cross-claim, or third party claim, or which seek a declaratory judgment that a utility patent is not infringed, is invalid, or is unenforceable. Judges may opt out of this rule by entering an order.

**LOCAL RULE CV-3 Commencement of Action**

- (a) **Habeas Corpus and 28 U.S.C. § 2255 Motions.** The clerk may require that petitions for a writ of habeas corpus and motions filed pursuant to 28 U.S.C. § 2255 be filed on a set of standardized forms approved by this court and supplied, upon request, by the clerk without cost to the petitioner. Petitioners who do not proceed *in forma pauperis* must pay a \$5.00 filing fee. *See* 28 U.S.C. § 1914(a). There is no filing fee for Section 2255 motions filed by prisoners in federal custody.
- (b) **Page Limitation for Petitions for a Writ of Habeas Corpus and 28 U.S.C. § 2255 Motions.** Absent leave of court, 28 U.S.C. §§ 2241 and 2254 habeas corpus petitions and 28 U.S.C. § 2255 motions and the initial responsive pleadings thereto, shall not exceed thirty pages in non-death penalty cases, and one hundred pages in death penalty cases, excluding attachments. Replies and sur-replies, along with all other motions and responses thereto, shall not exceed fifteen pages in length in non-death penalty cases and thirty pages in length in death penalty cases, excluding attachments. Documents that exceed ten pages in length must include a table of contents and table of authorities, with page references. Tables and certificates of service and conference are not counted against the applicable page limit.
- (c) **Motions for Stay of Execution.** A motion for stay of execution filed on behalf of a petitioner challenging a sentence of death must be filed at least seven days before the petitioner’s scheduled execution date or recite good cause for any late filing.

- (d) **Page Limitations in Civil Rights Lawsuits.** Absent leave of court, complaints and the initial responsive pleadings thereto filed in civil rights proceedings shall not exceed thirty pages, excluding attachments. Documents that exceed ten pages in length must include a table of contents and table of authorities, with page references. Tables and certificates of service and conference shall not counted against the applicable page limit.

#### **LOCAL RULE CV-4 Complaint, Summons, and Return**

- (a) At the commencement of the action, counsel shall prepare and file the civil cover sheet, Form JS 44, along with the complaint. When filing a patent, trademark, or copyright case, counsel is also responsible for electronically filing an AO Form 120 or 121 using the event Notice of Filing of Patent/Trademark Form (AO 120) or Notice of Filing of Copyright Form (AO 121).

If service of summons is not waived, the plaintiff must prepare and submit a summons to the clerk for each defendant to be served with a copy of the complaint. The clerk is required to collect the filing fee authorized by federal statute before accepting a complaint for filing.

- (b) **Electronic Filing of Complaints.** Attorneys must electronically file a civil complaint upon opening a civil case in CM/ECF.
- (c) On the complaint, all litigants shall type or print all party names contained in the case caption with the accurate capitalization and spacing for each party (e.g., Martha vanDerkloot, James De Borne). This procedure seeks to ensure that accurate computer party name searches can later be performed.
- (d) Service of civil process shall not be executed by the United States Marshal except for government initiated process, extraordinary writ, or when ordered to do so by a judge. The party requesting service is responsible for preparing all process forms to be supplied by the clerk. When process is to be served by the United States Marshal, the party seeking service shall complete the required U.S. Marshal Form 285.

#### **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.
- (1) **Exemptions from Electronic Filing Requirement.** The following are exempted from the requirement of electronic filing:
- (A) In a criminal case, the charging documents, including the complaint, information, indictment, and any superseding indictment; affidavits in support of search and arrest warrants, pen registers, trap and trace requests, wiretaps, and other related documentation; and *ex parte* documents filed in connection with ongoing criminal investigations;

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