

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA**

NOTICE OF PROPOSED CHANGES TO LOCAL RULES

The judges of the United States District Court for the Middle District of Georgia are proposing amendments to the court's local rules. A copy of the proposed amendments is attached to this notice and is also available at each Office of the Clerk in the Middle District of Georgia. The court is soliciting public comment on these proposed changes and asks that all comments be sent to the headquarter's office of the Clerk of Court at Post Office Box 128, Macon, Georgia 31202 or be emailed to the following email address: rulecomments@gamd.uscourts.gov. All comments must be received no later than close of business on May 22, 2015.

This 17th day of April, 2015.

s/William E. Tanner
WILLIAM E. TANNER
CLERK OF COURT

Executive Summary

The following is an executive summary of the proposed changes to the Local Rules. Reviewers of these proposed changes should not rely on the summary but should rather review the actual rules when formulating comments:

Rule 3 involves a technical amendment concerning venue within the various divisions of the court. Section 3.2 originally stated that the Clerk's Office has staffed divisional offices open at all times. The rule is being modified to make clear that staffed offices are maintained in all divisions but has eliminated the reference to those offices being open at all times. That is the only modification to that rule.

Rule 7.6 is being modified to include an exception on motions for reconsideration that are filed pursuant to Rule 59(e). This change will reduce the time period in which to file such motions from twenty-eight (28) days down to fourteen (14) days.

Rule 16.2 addresses alternative dispute resolution within the district. The court is modifying its existing rule to communicate and encourage the use of alternative dispute resolution methods and simplifying the process from the original rule.

Rule 79 is being modified by what can be referred to as a technical amendment to provide that exhibits received into evidence will be retained by the Clerk unless otherwise directed by the presiding judge. This rule is intended to clearly address the methodology to be utilized in the event sensitive exhibits are involved in litigation within the district.

A new local rule is being created and will be Number 83.1.6. This new rule concerns the appearance and practice by third year law students before this court. The court is intending to codify a rule which will not only clarify the process but hopefully encourage the

use of third year law students as interns, and with appropriate supervision, allow them to make appearances before the court.

Rule 83.2 concerning attorney discipline is being amended and in many ways this is also strictly a technical amendment. It eliminates the need for the receipt of certified copies of orders from the state when state action is taken concerning an attorney's membership in the bar or when an attorney is disciplined by the state bar. It simply provides that upon the court being notified of disciplinary action being taken, the Clerk will obtain confirmation of that action and then will provide necessary notices and due process to the attorney to alert them that if disbarred from the state, they will be disbarred from practicing in this federal court unless they can show cause otherwise.

Individuals wishing to provide the court with comments concerning these changes should do so prior to the deadline of May 22, 2015. The court greatly appreciates the participation of the bar and any other individuals wishing to make comment concerning these proposed changes.

Amendment

LOCAL RULE 3*

DIVISIONS OF THE COURT

3.1 SIX DIVISIONS. The United States District Court for the Middle District of Georgia is divided into five divisions: Macon, Columbus, Albany, Athens, and Valdosta. See attached map of district.

3.2 DIVISIONAL CLERK'S OFFICES. The Clerk maintains staffed offices in all divisions for the Middle District of Georgia. ~~Divisional Clerk's Offices are staffed and open at all times in Albany, Athens, Columbus, Macon and Valdosta.~~

3.3 DIVISION FILINGS IN PAPER. Although it is recommended that all paper pleadings in civil and criminal cases be filed in the divisional office in which the case file is maintained, such pleadings and papers may be filed in any staffed divisional clerk's office within this district. In such event, the clerk of the court shall receive and mark the pleadings and papers filed and promptly forward such pleadings and papers to the divisional office in which the case file is maintained.

3.4 VENUE IN CIVIL CASES. Plaintiff may file a civil case in the division in which the plaintiff resides, the defendant resides or the claim arose. The clerk of the court is directed to transfer to the appropriate division any civil case that is filed in a division in which neither the plaintiff or defendant resides nor the claim arose.

*New material is blue and underlined

7.6 MOTIONS FOR RECONSIDERATION. Motions for Reconsideration shall not be filed as a matter of routine practice. With the exception of motions filed pursuant to Fed. R. Civ. P 59(e), motions for reconsideration ~~Whenever a party or attorney for a party believes it is absolutely necessary to file a motion to reconsider an order or judgment, the motion~~ shall be filed ~~with the Clerk of court~~ within fourteen (14) ~~twenty-eight (28)~~ days after entry of the order. ~~or judgment.~~ Responses shall be filed not later than fourteen (14) days after service of the motion. All briefs are limited to five (5) pages. There shall be no reply brief.

Any requests for extensions of time for the filing of briefs with respect to a motion for reconsideration must be directed to the judge. The Clerk's Office is not authorized to grant any such extensions. Parties and attorneys for the parties shall not file motions to reconsider the court's denial or grant of a prior motion for reconsideration.

PROPOSED AMENDMENT TO ALTERNATIVE DISPUTE RESOLUTION PROGRAM

Replace current Local Rule 16.2 with following:

LOCAL RULE 16.2

MEDIATION ENCOURAGED

Private mediation at the expense of the parties is encouraged by the court. With the consent of all parties, the court will assist in the scheduling of mediation and the selection of a mediator. Nothing in this rule prevents the parties from scheduling mediation without the court's involvement.

Amendment

LOCAL RULE 79*

FILES AND EXHIBITS AND REMOVAL THEREOF

79.2 **EXHIBITS AND DOCUMENTS.** Unless otherwise directed by the presiding judge, all exhibits received into evidence at any trial or hearing shall be retained by the clerk who shall keep them in custody. All such exhibits, including models, diagrams, books or other exhibits other than contraband received into evidence or marked for identification in an action or proceeding shall be removed by the filing party at the expiration of the time for the filing of a Notice of Appeal, or if an appeal is filed, after the final adjudication of the action and disposition of the appeal. Said exhibits if not so removed may be destroyed or otherwise disposed of as the clerk may deem appropriate after fourteen (14) days notice to counsel.

Sensitive exhibits received in evidence, which shall include but are not limited to, drugs, articles of high monetary value, weapons or contraband of any kind may, at the discretion of the presiding judge, ~~shall~~ be entrusted to the custody of the United States Attorney or to the arresting or investigative agency of the government, who will maintain the integrity of these exhibits pending disposition of the case and for any appeal period thereafter.

*New material is blue and underlined

Amendment

LOCAL RULE 83.2*

RULES GOVERNING ATTORNEY DISCIPLINE

83.2.5 Discipline Imposed By Other Courts.

A. An attorney admitted to practice before this Court shall, upon being subjected to suspension or disbarment by a court of any state, territory, commonwealth, or possession of the United States, or upon being subject to any form of public discipline, including but not limited to suspension or disbarment, by any other court of the United States or the District of Columbia, promptly inform the Clerk of this Court of such action.

B. Upon notification from any source that an attorney admitted to practice before this Court has been disciplined by another court as described above, the Clerk shall obtain a copy of any state or federal court orders regarding the discipline. This Court may then refer the matter to the Grievance Committee for a recommendation for appropriate action, or may issue a notice directed to the attorney containing:

1. A copy of the judgment or order from the other court, and
2. An order to show cause directing that the attorney inform this Court, within thirty (30) days after service of that order upon the attorney, of any claim by the attorney predicated upon the grounds set forth in subsection E, infra, that the imposition of identical discipline by the Court would be unwarranted and the reasons therefor.

C. In the event that the discipline imposed in the other jurisdiction has been stayed there, any reciprocal disciplinary proceedings instituted or discipline imposed in this Court shall be deferred until such stay expires.

D. After consideration of the response called for by the order issued pursuant to subsection B, supra, or after expiration of the time specified in that order, the Court may impose the identical discipline or may impose any other sanction the Court may deem appropriate.

E. A final adjudication in another court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purpose of a disciplinary proceeding in this Court, unless the attorney demonstrates and the Court is satisfied that upon the face of the record upon which the discipline in another jurisdiction is predicated it clearly appears that:

1. The procedure in that other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
2. There was such an infirmity of proof establishing misconduct as to give rise to the clear conviction that this Court could not, consistent with its duty, accept as final the conclusion on that subject; or
3. The imposition of the same discipline by this Court would result in grave injustice; or
4. The misconduct established is deemed by this Court to warrant substantially different discipline.

F. This Court may at any stage ask the Grievance Committee to conduct disciplinary proceedings or to make recommendations to the Court for appropriate action in light of the imposition of professional discipline by another court.

83.2.6 Disbarment on Consent or Resignation in Other Courts.

A. Any attorney admitted to practice before this Court shall, upon being disbarred on consent or resigning from any other bar while an investigation into allegations of misconduct is pending, promptly inform the Clerk of this Court of such disbarment on consent or resignation.

B. An attorney admitted to practice before this Court who shall be disbarred on consent or resign from the bar of any other court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth, or possession of the United States while an investigation into allegations of misconduct is pending shall, upon the filing with this Court of a certified copy of the judgment or order accepting such disbarment on consent or resignation, cease to be permitted to practice before this Court and be stricken from the role of attorneys admitted to practice before this Court.

83.2.13 Duties of the Clerk.

A. Upon being informed that an attorney admitted to practice before this Court has been convicted of any crime, the Clerk of this Court shall determine whether the court in which such conviction occurred has forwarded a certificate of such conviction to this Court. If a certificate has not been so forwarded, the Clerk of this Court shall promptly obtain a certificate and file it with this Court.

~~B. — Upon being informed that an attorney admitted to practice before this Court has been subjected to discipline by another court, the Clerk of this Court shall determine whether a certified or exemplified copy of the disciplinary judgment or order has been filed with this Court, and, if not, the Clerk shall promptly obtain a certified or exemplified copy of the disciplinary judgment or order and file it with this Court.~~

B. Whenever it appears that any person who has been convicted of any crime or disbarred or suspended or censured or disbarred on consent by this Court is admitted to practice law in any other jurisdiction or before any other court, this Court shall, within fourteen (14) days of that conviction, disbarment, suspension, censure, or disbarment on consent, transmit to the disciplinary authority in such other jurisdiction, or for such other court, a certificate of the conviction or a certified or exemplified copy of the judgment or order of disbarment, suspension, censure, or disbarment on consent, as well as the last known office and residence address of the disciplined attorney.

C. The Clerk of this Court shall, likewise, promptly notify the National Discipline Bank operated by the American Bar Association of any order imposing public discipline on any attorney admitted to practice before this Court.

*New material is blue and underlined

Proposed New Rule

LOCAL RULE ____

APPEARANCE AND PRACTICE BY ELIGIBLE LAW STUDENTS

(a) **Scope of Legal Assistance.**

(1) **Notice of Appearance.** An eligible law student, as described below, acting under a supervising attorney of record, may enter an appearance in this court on behalf of any indigent person, the United States, or governmental agency in any civil or criminal case, provided that the party on whose behalf the student appears and the supervising attorney of record has consented thereto in writing. The written consent of the party (or the parties representative) and the supervising attorney of record must be filed with this court.

(2) **Pleadings, Briefs and Other Documents.** An eligible law student may assist in the drafting or preparation of complaints, motions, briefs, appendices, or other pleadings and documents and may appear in proceedings on such pleadings, provided the supervising attorney also signs and appears on the pleadings. Names of students participating in the preparation of pleadings, briefs and other documents may, however, be added to those documents.

(3) **Courtroom Proceedings.** With the permission of the presiding judge, an eligible law student may appear before this court and participate in conferences, oral argument, mediation, or the examination or cross examination of witnesses provided the supervising attorney is present in court.

(b) **Law Student Eligibility Requirements.** In order to appear before this court, the law student must:

(1) Be enrolled in a law school approved by the American Bar Association;

(2) Have completed legal studies for which the student has received 48 semester hours or 72 quarter hours of academic credit or the equivalent if the school is on some other basis;

(3) Be certified by the Dean of the law student's law school as qualified to provide the legal representation permitted by this Rule. This certification, which shall be filed with the Clerk, may be withdrawn by the Dean at any time by mailing a notice to the Clerk or by termination of this court without notice or hearing and without any showing of cause;

(4) Neither ask for nor receive any compensation or remuneration of any kind for the student's service from the party on whose behalf the student renders services, but this shall not prevent an attorney, legal aid bureau, law school public defender agency, a state, or the United States from paying compensation to the eligible law student;

(5) Certify in writing that the student has read and is familiar with the Code of Professional Responsibility of the American Bar Association, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Local Rules of this court; and any other federal rules relevant to the case on which the student is appearing; and

(6) File all of the certifications and consents necessary under this Rule with the Clerk of this court prior to the submission of pleadings, briefs or documents containing the law student's name and the law student's appearance at any court proceeding.

(c) Supervising Attorney of Record Requirements.

(1) The supervising attorney of record must be a member in good standing of the Bar of this court.

(2) With respect to the law student's appearance, the supervising attorney of record shall certify in writing to this court that he or she:

(A) Consents to the participation of the law student and agrees to supervise the law student;

(B) Assumes full responsibility for the case and for the quality of the law student's work;

(C) Will assist the student to the extent necessary; and

(D) Will appear with the student in all written and oral proceedings before this court and be prepared to supplement any written or oral statement made by the student to this court or opposing counsel.