

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

IN RE: AMENDMENT OF LOCAL CIVIL
RULE 5.7 REGARDING FILING AND
SERVICE BY ELECTRONIC MEANS

Administrative Order
No. 17-RL-135

By Administrative Order entered October 2, 2017 (Administrative Order No. 17-RL-105), the Court published for comment proposed amendments to Local Civil Rules 5.7(d)(i) and (ii) and 5.7(i), governing electronic filing and service, to provide an opportunity for a *pro se* non-prisoner party to electronically file and receive electronic service, and to add clarifying language regarding an exception to LCivR 5.7(d)(ii)(D). The public comment period closed on November 1, 2017, and one comment in favor of the amendment was received. At a regular meeting of the Judges of this Court conducted on December 8, 2017, the amendments were approved. Accordingly:

IT IS ORDERED that W.D. Mich. LCivR 5.7 is hereby amended as written in the attachment to this order, effective February 1, 2018.

IT IS FURTHER ORDERED that the Clerk shall provide a copy of this Administrative Order to the Judicial Council of the Sixth Circuit, the U.S. District Court's Advisory Committee on Local Rules, the Federal Bar Association, West Michigan Chapter, the State Bar of Michigan Committee on United States Courts, and the Michigan Lawyer's Weekly. All attorneys who are registered for electronic service on the CM/ECF system

shall be given electronic notice of this rule amendment, and the official rules posted on the Court's website will be amended accordingly.

FOR THE COURT:

A handwritten signature in black ink, appearing to read "Robert Jonker". The signature is written in a cursive style with a large initial "R".

Dated: December 11, 2017

ROBERT J. JONKER
CHIEF JUDGE
UNITED STATES DISTRICT COURT

Local Civil Rule 5.7

(d) Electronic filing

(i) Mandatory Electronic Filing - All attorneys must file all pleadings and other papers permitted by the Federal Rules and the Local Rules of this Court electronically in all civil cases, subject to the exceptions set forth below. All electronically filed documents must be in PDF digital format and must be submitted in accordance with the instructions set forth in the User's Manual. ~~Pro se parties who are not members of the bar of the Court may not file pleadings or other papers electronically, but must submit them in paper form.~~

(ii) Papers that may not be filed electronically - The following documents must not be filed electronically, but must be submitted in paper form:

- (A) Documents submitted by a person who is not a registered attorney (for example, a *pro se* litigant **who is not registered under the “Pro Se E-Filing and Service Protocol,” posted by the Clerk on the Court’s Website**);
- (B) [Repealed]
- (C) Documents that are required by statute to be filed in camera, such as complaints and certain other filings submitted under the Federal False Claims Act or analogous state statutes.
- (D) Papers filed in cases that have been sealed in their entirety, **except as authorized under Local Civil Rule 83.3(c)**.
- (E) Garnishee disclosures and other documents submitted by unrepresented third parties in response to writs or other court process.

(Note: *subsequent subsections of 5.7(d) are unaffected by this proposed amendment*)

Local Civil Rule 5.7

(i) Service of electronically filed documents

- (i) Summons and initial pleading - Summons, writs and other court process may be issued in electronic form with electronically affixed signatures and seal. Service of the summons and complaint or other initial pleading, however, must be made by one of the methods allowed by Rule 4 of the Federal Rules of Civil Procedure and may not be made electronically.
- (ii) Service on registered attorneys - By registering under this rule, an attorney automatically consents to electronic service by both the Court and any opposing attorney of any electronically filed document in any civil action in which the registered attorney appears. Consequently, service of an electronically filed document upon a registered attorney is deemed complete upon the transmission of an NEF to that attorney under subsection (i)(iv) of this rule and no separate certificate of service should be filed. Traditionally filed documents and sealed documents must be served on registered attorneys by nonelectronic means of service. A proof of service must be filed.
- (iii) Service on unregistered attorneys and pro se parties - Counsel filing any pleading or other paper must serve attorneys not registered under this rule and pro se parties **not registered under the “Pro Se E-Filing and Service Protocol,” posted by the Clerk on the Court’s Website**, by nonelectronic means of service under Rule 5. A proof of service must be filed.
- (iv) Method of electronic service - At the time a document is filed either electronically or by scanning paper submissions, the Court’s system will generate an NEF, which will be transmitted by e-mail to the filer and all registered attorneys who have appeared on that case. The NEF will contain a hyperlink to the filed document. The attorney filing the document should retain a paper or digital copy of the NEF, which serves as the Court’s date-stamp and proof of filing. Except in the case of sealed documents (see Local Civil Rule 10.6(d)) and *ex parte* filings (see Local Civil Rule 10.5(a)), transmission of the NEF to the registered e-mail address constitutes service of an electronically filed document upon any registered attorney. Only service of the NEF by the Court’s system constitutes electronic service;

transmission of a document by one party to another by regular e-mail does not constitute service.

(v) [Repealed]

Pro Se E-Filing and Service Protocol (to be posted on the Court's Website)

On a case by case basis, a judge may grant the privilege of electronic filing and service to a non-prisoner *pro se* party who seeks leave of court to do so. To be considered, the *pro se* litigant must also complete and submit a Pro Se Application for Electronic Filing and Service. By registering under this protocol, the *pro se* party is confirming they meet the technical requirements, consenting to electronic service, and waiving their right to service by mail under Local Civil Rule 5.7(i)(iii). The judge may revoke permission to participate in electronic filing at any time.