

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
505 THEODORE LEVIN UNITED STATES COURTHOUSE
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NOTICE OF AMENDMENTS TO LOCAL RULES

At their regular meeting on October 2, 2017, the Judges of the United States District Court for the Eastern District of Michigan approved new LR 4.1, Issuance and Service of Process, effective November 1, 2017.

Additionally, the Judges approved amendments to the following local rules effective November 1, 2017:

- LR 16.5, Case Evaluation
- LCrR 32.1, Guideline Sentencing

Pursuant to Fed. R. Civ. P. 83, the proposed new rule and amendments were previously published for comment.

[Additions are indicated by underline, and deletions by strikethrough.]

LR 4.1 Issuance and Service of Process

(a) Issuance of process. A party requesting the issuance of any process or who initiates a proceeding in which the issuance of process is required by statute, rule, or order must prepare all required forms. Where necessary, the party must present the process to the Clerk for signature and sealing.

(b) Service of Process. Subject to subsection (c) of this rule, unless the plaintiff requests otherwise, the Clerk must arrange for service of the summons and complaint by the United States Marshal for a plaintiff authorized to proceed in forma pauperis under 28 U.S.C. § 1915 or as a seaman under 28 U.S.C. § 1916. A request for that assistance is not necessary.

(c) Represented parties. If an attorney represents a plaintiff authorized to proceed in forma pauperis under 28 U.S.C. § 1915, or as a seaman under 28 U.S.C. § 1916, that attorney is deemed specially appointed by the Court and must arrange for service of the summons and complaint.

Comment: This rule implements Federal Rule of Civil Procedure 4(c)(3). When a plaintiff who qualifies for pauper status is represented by an attorney, the attorney must arrange for service of process, but may seek assistance for service from the United States Marshal at government expense.

LR 16.5 Case Evaluation

(a) Case Evaluation Under Mich. Ct. R. 2.403. The court may refer a case to case evaluation under Michigan Court Rule 2.403, as amended from time to time, with or without the parties' consent, and applies to civil cases that the court selects for case evaluation, subject to the provisions of this rule. The court may not enforce the sanctions provisions of that rule unless the parties consent to be bound by those provisions before the referral is made, but only if the parties consent to be bound by that rule, including the sanctions provisions. The court may approve other procedures different from those in Mich. Ct. R. 2.403.

* * *

LCrR 32.1 Guideline Sentencing

(a) Not less than 35 days before the sentencing date, the probation officer must disclose the presentence investigation report, excluding the probation officer's recommendation, to the *pro se* defendant or to defense counsel and government counsel. The presentence report is disclosed under 18 U.S.C. § 3552(d):

- (1) when it is physically or electronically delivered, or
- (2) three days after it is mailed.

(b) Within 14 days after disclosure, the *pro se* defendant or counsel for the defendant and counsel for the Government shall communicate to the probation officer and to each other any objections to any material information, sentencing classifications, sentencing guideline ranges, and policy statements which are contained in, or omitted from, the report. Such communication shall be in

writing and shall be signed by the defendant or counsel for the defendant or counsel for the Government, or in another manner as the Court directs. Any response to an objection shall be in writing and submitted directly to the probation officer, with copies furnished to all parties.

* * *

(i) ~~Nothing within this LCrR requires the disclosure of any portion of the presentence report that is not permitted under Fed. R. Crim. P. 32. The presentence report, any objections thereto, and any correspondence between counsel and a probation officer concerning any such objections shall be maintained in confidence and shall not be disclosed to any person other than the defendant, counsel for the defendant, counsel for the Government, other persons assisting counsel in the discharge of their professional responsibility representing the client, the probation officer, the Court, and the United States Sentencing Commission without a prior order of the Court authorizing such disclosure.~~

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COMMENT: LCrR 32.1(g) requires service on the probation officer of a copy of any document submitted to the Court under LCrR 32.1.

LCrR 32.1(a) provides that disclosure is "under 18 U.S.C. § 3552(d)." The statute requires disclosure "at least ten days prior to the date set for sentencing, unless this minimum period is waived by the defendant." The 35-day requirement of Fed R Crim P 32(e)(2) supersedes the statutory ten-day requirement.

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October 12, 2017