

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**IN RE: Amendment of Local Civil Rules** :  
: **ORDER**

The Court being vested with authority pursuant to 28 U.S.C. § 2071 & Rule 83 of the Federal Rules of Civil Procedure to make and amend local rules; proposed amendments to Local Civil Rules having been submitted to the Lawyers Advisory Committee and the public for comment; all comments received having been duly considered, and the proposed amendments having been approved by the Board of Judges;

The current Local Civil Rule 7.1 has been repealed in its entirety, including Appendix N governing dispositive and complex motions, in order to conform to the Court’s Electronic Case Filing Procedures. The “Appendix N” designation is reserved for future use. Additionally, Local Civil Rule 78.1 has been amended. These rule changes are not intended to reduce the frequency of oral argument on motions. Rather, new Rule 7.1(b)(4) clarifies and provides uniformity for the process of requesting and obtaining oral argument where at least one party desires it. The Court neither intends nor expects that the changes in Rules 7.1 and 78.1 will alter the practice of any judicial officer in determining, either if requested or sua sponte, whether to hold oral argument on any motion brought before him or her.

It is on this 24<sup>th</sup> day of February, 2005, ORDERED that Local Civil Rules are amended to read:

## Civ. RULE 7.1 APPLICATION AND MOTION PRACTICE

### (a) No Pre filing Applications

No applications will be entertained by a Judge or Magistrate Judge in any action until the action has been filed, allocated and assigned.

### (b) All Motions

(1) Unless a Judge or Magistrate Judge advises the attorneys otherwise, all motions, regardless of their complexity and the relief sought, shall be presented and defended in the manner set forth in L. Civ. R. 7.1.

(2) The Notice of Motion and all papers in support of or in opposition to the motion, including briefs, must be filed with the Clerk.

(3) Motions filed electronically by ECF Registered Users shall also comply with the Policies and Procedures that govern Electronic Case Filing for the District of New Jersey.

(4) Pursuant to Rule 78 of the Federal Rules of Civil Procedure, a motion will be decided on the papers submitted unless a party requests oral argument and the request is granted by the Judge or Magistrate Judge. Any request for oral argument shall be clearly marked on the front page of a brief or other document filed by the party making such request. In the absence of a request for oral argument, the Court, sua sponte, may direct that oral argument be held.

### (c) Motion Dates

(1) All applications, other than applications under L.Civ.R. 65.1, by notice of motion or otherwise, shall be made returnable before the Judge or Magistrate Judge to whom the case has been assigned on the first motion day which is at least 24 days after the date of filing.

(2) If a motion is noticed for any day other than a regular motion day, unless such day has been fixed by the Court, the Clerk shall list the disposition of the motion for the next regular motion

day and notify all parties of the change in date. The regular motion days for the three vicinages are set forth in L.Civ.R. 78.1.

(d) Filing Motion Papers

(1) No application will be heard unless the moving papers and a brief, prepared in accordance with L.Civ.R. 7.2, and proof or acknowledgment of service on all other parties, are filed with the Clerk at least 24 days prior to the noticed motion date. The brief shall be a separate document for submission to the Court, and shall note the motion date on the cover page.

(2) The brief and papers in opposition to a motion, specifying the motion date on the cover page, with proof or acknowledgment of service thereof on all other parties, must be filed with the Clerk at least 14 days prior to the original motion date, unless the Court otherwise orders, or an automatic extension is obtained pursuant to L.Civ.R. 7.1(d)(5).

(3) If the moving party chooses to file papers in reply, those papers including a reply brief specifying the motion date on the cover page, with proof or acknowledgment of service thereof on all other parties, must be filed with the Clerk within seven calendar days after service of the opposition papers.

(4) In lieu of filing any brief pursuant to L.Civ.R. 7.1(d)(1), (2) or (3), a party may file a statement that no brief is necessary and the reasons therefor.

(5) The time within which to file papers, including the brief, in opposition to a dispositive motion may be extended once by the party opposing the motion for a period not to exceed 14 days. Such extension does not require the consent of the adversary, the Court, or the Clerk. To obtain the automatic extension a party must file with the Clerk, and serve upon all other parties, a letter invoking the provisions of this rule before the date on which opposition papers would otherwise be due under L. Civ. R. 7.1(d)(2). That letter shall set forth the new motion date, which

shall be the next available motion date following the originally noticed date. No other extension of the time limits provided in L.Civ.R. 7.1(d)(2) and (3) shall be permitted without an Order of the Court, and any application for such an extension shall advise the Court whether other parties have or have not consented to such request.

(6) No sur-replies are permitted without permission of the Judge or Magistrate Judge to whom the case is assigned.

(7) The Court may reject any brief or other paper not filed within the time specified.

(e) Preparation of Order

All filed motions shall have annexed thereto a proposed order. If the proposed order does not adequately reflect the Court's ruling, the prevailing party, if directed by the Court, shall submit an order within five calendar days of the ruling on the motion on notice to all other parties.

Unless the Court otherwise directs, if no specific objection to that order with reasons therefor is received within seven calendar days of its receipt by the Court, the order may be signed. If such an objection is made, the matter may be listed for hearing at the discretion of the Court.

(f) Motions Regarding Additional Pleadings

Upon filing of a motion for leave to file an amended complaint or answer, a complaint in intervention, or other pleading requiring leave of Court, the moving party shall attach to the motion a copy of the proposed pleading or amendments and retain the original until the Court has ruled. If leave to file is granted, the moving party shall file the original forthwith.

(g) Courtesy Copies

In addition to the filing of all papers, including briefs, in support of or in opposition to a motion, the filer must submit forthwith to the Judge's or Magistrate Judge's chambers one courtesy copy of each filed paper or brief in paper form, unless otherwise directed by the judicial officer. These

documents shall be clearly marked as courtesy copies.

(h) Cross-Motion

A cross-motion related to the subject matter of the original motion may be filed by the party opposing the motion together with that party's opposition papers and may be noticed for disposition on the same date as the original motion, as long as the opposition papers are timely filed. Upon the request of the original moving party, the Court may enlarge the time for filing a brief and/or papers in opposition to the cross-motion and adjourn the original motion date. The provisions of L.Civ.R. 7.1(d)(5) apply to dispositive cross-motions.

(i) Motions for Reconsideration

A motion for reconsideration shall be served and filed within 10 business days after the entry of the order or judgment on the original motion by the Judge or Magistrate Judge. A brief setting forth concisely the matter or controlling decisions which the party believes the Judge or Magistrate Judge has overlooked shall be filed with the Notice of Motion. Unless the Court directs otherwise, any party opposing a motion for reconsideration shall file and serve a brief in opposition within seven business days after service of the moving party's Notice of Motion and Brief. No oral argument shall be heard unless the Judge or Magistrate Judge grants the motion and specifically directs that the matter shall be argued orally.

Civ. RULE 78.1 MOTION DAYS

Except during vacation periods of the Court, the regular motion days are: Camden, the first and third Friday of each month; Newark, the second and fourth Monday of each month; Trenton, the first and third Monday of each month. If oral argument is to be heard, the Court will designate the date and time. Whenever a regular motion day falls on a holiday, the motion day becomes

the following non-holiday except in Camden where it will become the preceding non-holiday.

It is FURTHER ORDERED these amendments are effective this date.

FOR THE COURT:

s/ John W. Bissell  
JOHN W. BISSELL  
Chief Judge