

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
Office of the Clerk  
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Raleigh, North Carolina 27611**

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**MEMORANDUM**

TO: Counsel of Record

FROM: David W. Daniel, Clerk

DATE: December 15, 2000

RE: Amendments to Federal Rules of Civil Procedure and Local Rules,  
E.D.N.C. Effective December 1, 2000

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On December 1, 2000, the Judges of this Court entered a standing order regarding the effect of the recent Amendments to the Federal Rules of Civil Procedure on the Local Rules and practice in this district. The following is a brief synopsis of the Court's order:

**1. Local Rule Changes:**

a. Rule 3.08: **Discovery Materials Not to Be Filed Unless Ordered or Needed** By adding the following language (in bold). **Pursuant to F.R.Civ.P. 5(b)**, discovery materials, including but not limited to disclosures and objections required under F.R.Civ.P. **26(a)(1) and (2)**, depositions upon oral examination and interrogatories, request for documents, notices to take depositions, expert witness designations, expert witness reports, requests for admissions, and answers and responses thereto, are not to be filed unless by order of the Court or for use in the proceedings. All such papers must be served on other counsel or parties entitled to service of papers filed with the clerk. The party taking a deposition or obtaining any material through discovery is responsible for its preservation and delivery to the Court if needed or so ordered.

b. Rule 23.07: **Exemption from Rule 26(a)(1), F.R.Civ.P.** -- Rescinded

c. Rule 24.02: **Preparation by Counsel for Final Pre-Trial Conference**  
By deleting the language "To the extent this local rule is in conflict with F.R.Civ.P. 26(a)(3) this rule shall take precedence."

d. Rule 24.04: **Conduct of the Final Pre-Trial Conference**  
By deleting the language "(e) To the extent this local rule is in conflict with F.R.Civ.P. 26(a)(3) this rule shall take precedence."

e. Rule 29.00: **Exemptions from Discovery Provisions** -- Rescinded

## 2. **Applicability of Federal Rules of Civil Procedure**

a. In all cases filed in this Court or removed to this Court on or after December 1, 2000, the Federal Rules of Civil Procedure, as amended, shall apply in full.

b. In actions filed in this Court or removed to this Court prior to December 1, 2000, Fed. R.Civ.P. 26(d) will not apply. Therefore, all parties may propound discovery at any time after an action has been filed.

c. In actions filed in this Court or removed to this Court prior to December 1, 2000 in which a Request for Discovery Plan has been issued by the Clerk of Court, the parties are not required to make the mandatory initial disclosures required under F.R. Civ. P. 26(a)(1). Moreover, the parties should follow the deadlines set forth in the Court's Request for Discovery Plan, not those set forth in Federal Rule of Civil Procedure 26. All other amended Federal Rules shall apply.

d. Except as ordered by the Court in a specific case, all other portions of the Federal Rules, as amended effective December 1, 2000, shall apply to civil actions filed or removed to this Court prior to December 1, 2000, including the provisions regarding scope of discovery (F.R.Civ.P. 26(b)), limit on length of discovery (F.R.Civ.P. 30(d)), and sanctions for failure to disclose (F.R.Civ.P. 37(c)(1)).