IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

IN RE:	)	
	)	
AMENDMENT TO THE LOCAL RULES OF CIVIL PROCEDURE	)	**Misc. No. 2003-06**
	)	

ORDER AMENDING LOCAL RULES 7.1, 12.1 AND 56.1

It is hereby

ORDERED that due to the immediate need for an amendment to Local Rule of Civil Procedure 12.1, the attached amended rule shall be effective on April 20, 2006; it is further

ORDERED that the public and members of the bar are hereby given notice that any comments on the amendment to Local Rule 12.1, as required by 28 U.S.C. § 2071(e) shall be submitted in writing by May 8, 2006; it is further

ORDERED that the changes to Local Rules 7.1 and 56.1 proposed in this Court's March 22, 2006, Order shall become effective on April 20, 2006. Some of the suggestions and comments received pursuant to 28 U.S.C. § 2071(b) are incorporated in the new rules. The new rules are attached to this Order.

ENTER:

Dated: April 19, 2006

/s/
Raymond L. Finch
Chief Judge

Dated: April 19, 2006

/s/
Curtis V. Gomez
District Judge

ATTEST:

Wilfredo F. Morales
Clerk of the Court

By: /s/
Deputy Clerk

Effective April 20, 2006.

This Local Rule supersedes the current Rule 7.1.

Fed. R. Civ. P. 7. Pleadings Allowed; Form of Motions
Rule 7.1. Motion Practice

(a) MOTIONS SHALL BE IN WRITING. All motions, including objections to interrogatories and requests for admissions, unless made during a hearing or trial, shall be in writing.

(b) GROUNDS FOR MOTIONS. All motions shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

(c) SIGNING OF MOTIONS. Every motion shall be signed by at least one attorney of record in his/her individual name (local counsel; see LRCi 83.1(3)). The signature of an attorney constitutes a certificate by him/her that he/she has read the motion; that to the best of his/her knowledge, information and belief there are good grounds to support it; and that it is not interposed for delay.

(d) DOCUMENTS SUPPORTING MOTIONS. When allegations of facts not appearing of record are relied upon in support of a motion, all affidavits and other pertinent documents then available shall be filed before the hearing of the motion.

(e) BRIEF SUPPORTING MOTIONS. Motions shall be accompanied by a brief which shall contain a concise statement of reasons in the support of the motions and citation of authorities upon which the movant relies. No brief shall exceed twenty (20) pages without leave of Court.

(f) RESPONSE AND BRIEF. If the respondent opposes a motion, he shall file his response, including brief and such supporting documents as are then available, within ten (10) days after service of the motion. The time period for a reply shall be ten (10) days after service of the opposition brief. The time period for any response and reply to a summary judgment motion filed under Civil Rule 56 shall be as provided in LRCi 56.1. The time period for any response and reply to a motion filed under Civil Rule 12 shall be as provided in LRCi 12.1. Briefs shall contain a concise statement of reasons in opposition to the motion and a citation of authorities upon which the respondent relies. For good cause appearing therefor, a respondent may be required to file his response and supporting documents, including brief, within such shorter period of time as the court may specify, or may be given additional time upon request made to the court. Nothing herein shall prohibit a district judge or magistrate judge from ruling without a response or reply when deemed appropriate.

(g) MOTION, RESPONSE AND REPLY. Only a motion, a response in opposition, and a reply may be served on counsel and filed with

the court; further response or reply may be made only by leave of court obtained before filing (counsel will be sanctioned for violation of this limitation).

(h) SERVICE OF MOTION AND RESPONSE. The movant and respondent shall serve copies of their respective papers upon opposing counsel before they are filed with the clerk of the court, and such papers must indicate the date and method of service.

(i) REQUEST FOR ORAL ARGUMENT. Oral argument may be set on written notice therefor, or the court may, in its discretion, order oral arguments on any motion. A request for oral argument shall be separately stated by the movant or respondent at the conclusion of the motion or response.

(j) FAILURE TO FILE AND SERVE MOTION PAPERS. Upon failure of movant to file a brief in support of the motion, the court may automatically deny the motion for failure to conform to subsection(e). Upon failure of respondent to file a response and brief in opposition to the motion, the court may treat the motion as conceded and render whatever relief is asked for in the motion.

Effective April 20, 2006.

This Local Rule supersedes the current Rule 12.1.

Fed. R. Civ. P. 12. Defenses and Objections – When and How Presented – By Pleading or Motion – Motion for Judgment on Pleadings.

Rule 12.1. Dispositive Motions Pursuant to Rule 12.

The following procedures govern motions filed pursuant to Civil Rule 12.

(a) PLEADINGS TO BE SERVED AND FILED BY MOVANT.

(1) Notice and Motion. Each motion shall be accompanied by a notice of motion and brief. The movant shall serve all parties with the notice and all pleading. The movant simultaneously shall file only the notice of motion with the Clerk (with a copy for the district judge's law clerk), which extends the time for filing an answer if one has not yet been filed.

(2) Any reply from the movant is due within ten (10) days of being served with an opposition from an adverse party. One copy of each reply shall be served on all parties, with a copy of the cover letter simultaneously filed with the Clerk (with a copy for the district court law clerk).

(3) After the motion has been addressed by all parties and is ready for submission to the Court, the movant shall file a cover letter and all original papers received from all parties with the Clerk (with one copy of each for the district judge's law clerk) and shall serve copies of the cover letter and submitted papers on all parties. The cover letter shall list separately each document being filed.

(b) PLEADINGS TO BE SERVED BY RESPONDENT.
Any party adverse to a motion submitted under this rule may respond by serving a notice of response and opposition brief. An original and two copies of all opposition papers shall be served on the moving party within twenty (20) days after being served with the notice and motion (with one copy served on all other parties). The respondent simultaneously shall file only a copy of the notice of response with the Clerk (with copy to the district judge's law clerk).

(c) EXTENSIONS OF TIME.
If the opposition or reply cannot be served within the respective time period, the parties shall first make a good faith effort to negotiate a reasonable extension. Only if the parties cannot so agree, may an application be made to the district judge to whom the case has been assigned, or to the magistrate judge if it is unassigned, for an extension of time to serve the opposition or reply.

(d) EFFECT OF FAILURE TO RESPOND
If no opposition to the motion has been filed within five (5) days of the time period stated in this Rule and any extensions thereof, the movant shall certify that no response has been received and file such certification and all papers with the Clerk of Court in accordance with Section (a)(3) of this Rule.

(e) PAGE LIMIT
No brief shall exceed twenty (20) pages without leave of Court.

Effective April 20, 2006.

This Local Rule supersedes the current Rule 56.1.

Fed. R. Civ. P. 56. Summary Judgment.

Rule 56.1. Summary Judgment Motions.

The following procedures govern motions and cross-motions for summary judgment filed pursuant to Civil Rule 56.

(a) PLEADINGS TO BE SERVED AND FILED BY MOVANT.

(1) Notice and Motion. Each summary judgment motion shall be accompanied by a notice of motion, brief, affidavits and/or other supporting documentation, including a separate statement of the material facts about which the movant contends there is no genuine issue. Each fact paragraph shall be serially numbered. Each fact shall be supported by specific citation to the record. The movant shall affix to the memorandum copies of the precise portions of the record relied upon as evidence of each material fact. The movant shall serve all parties with the notice and all pleading and supporting documentation. The movant simultaneously shall file only the notice of motion with the Clerk (with a copy for the district judge's law clerk), which extends the time for filing an answer if one has not yet been filed.

(2) If the non-movant’s response has asserted additional facts, as provided in section(b), the moving party shall respond to these additional facts by serving a reply statement in the same manner and form as specified in section(b) below. Otherwise, any reply from the movant is due within ten (10) days of being served with an opposition from an adverse party. One copy of each reply shall be served on all parties, with a copy of the cover letter simultaneously filed with the Clerk (with a copy for the district court law clerk).

(3) After the motion has been addressed by all parties and is ready for submission to the Court, the movant shall file a cover letter and all original papers received from all parties with the Clerk (with one copy of each for the district judge's law clerk) and shall serve copies of the cover letter and submitted papers on all parties. The cover letter shall list separately each document being filed.

(b) PLEADINGS TO BE SERVED BY RESPONDENT.

Any party adverse to a motion submitted under this rule may respond by serving a notice of response, opposition, brief, affidavits and other supporting documentation. The non-moving party must respond to the facts upon which the movant has relied pursuant to section(a)(1) above, using the corresponding serial numbering and either (i) agreeing that the fact is undisputed; (ii) agreeing that the fact is undisputed for the purpose of ruling on the motion for summary judgment only; or (iii)

demonstrating that the fact is disputed. The non-moving party shall affix to the memorandum copies of the precise portions of the record relied upon as evidence of each material fact. Each disputed fact must be supported by specific citation to the record. In addition, the non-movant’s response may contain a concise statement of any additional facts that the non-movant contends are material and as to which the non-movant contends there exists a genuine issue to be tried. An original and two copies of all opposition papers shall be served on the moving party within twenty (20) days after being served with the notice and motion (with one copy served on all other parties). The respondent simultaneously shall file only a copy of the notice of response with the Clerk (with copy to the district judge's law clerk).

(c) EXTENSIONS OF TIME.
If the opposition or reply cannot be served within the respective time period, the parties shall first make a good faith effort to negotiate a reasonable extension. Only if the parties cannot so agree, may an application be made to the district judge to whom the case has been assigned, or to the magistrate judge if it is unassigned, for an extension of time to serve the opposition or reply.

(d) EFFECT OF FAILURE TO RESPOND

(1) If no opposition to the motion has been filed within five (5) days of the time period stated in this Rule and any extensions thereof, the movant shall certify that no response has been received and file such certification and all papers with the Clerk of Court in accordance with Section (a)(3) of this Rule.

(2) Failure to respond to a moving party’s statement of material facts, or a non-moving party’s statement of additional facts, within the time periods provided by these Rules shall indicate that the asserted facts are not disputed for the purposes of summary judgment.

(e) PAGE LIMIT
No brief shall exceed twenty (20) pages without leave of Court.