

LOCAL RULE 23.1

CLASS ACTIONS

Caption and Class Action Allegations. In any case sought to be maintained as a class action:

- (1) The complaint shall bear the caption "Complaint - Class Action" next to, or under, the style of the case.
- (2) The complaint shall contain a separate paragraph captioned "Class Action Allegations" which shall set forth, inter alia:
 - (a) A reference to the portion or portions of Fed.R.Civ.P. 23 under which it is claimed that the suit is properly maintainable as a class action; and
 - (b) Allegations in support of this claim, including, but not necessarily limited to:
 - (i) the size (in numbers) or approximate size and definition of the alleged and proposed class;
 - (ii) the basis upon which the plaintiff claims (a) to be an adequate representative of the class, or (b) if the class is composed of defendants, the basis upon which plaintiff claims that the named defendant (or defendants) is an adequate representative of the class;
 - (iii) the specific questions of law and fact claimed to be common to any class alleged; and
 - (iv) in actions claimed to be maintainable as class actions under Fed.R.Civ.P. 23(b)(3), allegations in support of the findings required by that subdivision.
- (3) The deadline for filing a motion for class certification will be set in the Final Scheduling Order (see Local Rule 26.1(13)). The motion shall particularize the facts believed to warrant class or subclass certification and indicate if those facts have been established by stipulations, admissions, or discovery. If a hearing is believed necessary, the motion shall so state. The other parties shall respond to said motion within fourteen (14) days specifically admitting or denying the facts alleged and setting forth any additional or contrary facts believed pertinent to the class

action determinations required. Such responses shall also state whether a hearing is believed necessary. Both the motion and responses shall be accompanied by a memorandum of law covering all issues relating to class certification. In ruling upon such a motion, the Court may allow the action to be so maintained, strike the class action allegations, or postpone the determination pending further discovery or other preliminary proceedings. Whenever possible, where it is held that the determination should be postponed, a date will be fixed by the Court for renewal of the motion.

Failure to move for class determination and certification by the deadline set in the Final Scheduling Order shall constitute and signify an intentional abandonment and waiver of all class action allegations contained in the complaint and same shall proceed as an individual, non-class action thereafter and shall be transferred by the Clerk from the Class Action Docket to the regular civil docket. If any motion for class determination or certification is filed after the deadline provided in the Final Scheduling Order, it shall not have the effect of reinstating the class allegations unless and until it is acted upon favorably by the Court upon a finding of excusable neglect and good cause.

- (4) The foregoing provisions shall apply, with appropriate adaptations, to any counterclaim or cross-claim alleged to be brought for or against a class.

Adopted and effective May 1, 1980

Amended and effective May 1, 2002

Amended November 10, 2009