

Emanuel Law Outline
Civil Procedure Keyed to Yeazell's Sixth Edition

Summary of Changes to the Federal Rules of Civil Procedure

Amendments to the Federal Rules of Civil Procedure between 2005 and December 2007 made stylistic changes to Rules 1-86 and illustrative forms to improve clarity. Most of the stylistic changes had no effect on original Rule numbering and meaning, but some of the stylistic changes resulted in renumbering.

In addition, substantive changes were made to Rules 4, 5.1, 9, 11, 14, 16, 26, 30, 31, 33, 34, 37, 40, 45, 50, 71.1, and 78, and new Rule 5.2 was added.

This chart summarizes those changes. Column 1 lists the Rule number, column 2, the nature of the change, column 3, the effect of the change, and column 4, the affected ELO section, if one was affected.

See <http://www.uscourts.gov/rules/archive.htm#proposed0805> for more information about proposed rule changes and changes approved by the Supreme Court.

How to use this chart: Whenever you come across a reference to a Federal Rule of Civil Procedure in the Emanuel Law Outline, refer to this chart to determine if the number of the old Rule has changed or if there has been a change in the meaning of the Rule.

| Rule | Nature of Amendment | Effect of Amendment¹ | Emanuel Law Outline sections affected (KEY: Chapter.Section.Subsection) |
|-------------|--|---|--|
| 1 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 2 | Stylistic only. | Original Rule numbering and meaning unchanged. | 10.I.E |
| 3 | Stylistic only. | Original Rule numbering and meaning unchanged. | 5.IV.C |
| 4 | Substantive amendment deletes original 4(k)(1)(C); original 4(k)(1)(D) becomes new 4(k)(1)(C). | The former provision describing service on interpleader claimants is deleted as redundant in light of the general provision in (k)(1)(C) recognizing personal jurisdiction authorized by a federal statute. | 2.IV.E.3.b.ii(b) and (c); |

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|-------------|---|--|--|
| 5 | <p>Stylistic changes resulted in some renumbering.</p> <p>Substantive amendment changes Rule 5.1 to require a party that files a pleading, motion, or other paper questioning the constitutionality of a federal or state statute to file a notice of the question and serve it on the U.S. Attorney General or state attorney general. Substantive amendment creates new Rule 5.2.</p> | <p>Original Rule 5(e) was renumbered, and is now Rule 5(d)(2)-(4).</p> <p>Modification to Rule 5.1 replaces the final three sentences of Rule 24(c) and aims to ensure that the attorney general is notified of constitutional challenges and has an opportunity to exercise the statutory right under 28 U.S.C. 2403 to intervene as early as possible in the litigation. It goes beyond the requirements of 2403 and the former Rule 24(c) by requiring notice and certification of a constitutional challenge to a statute, not only those affecting public interest.</p> <p>New Rule 5.2 provides for the protection of privacy for filings made with the court.</p> | None. |
| 6 | Stylistic changes resulted in some renumbering. | <p>Original Rule 6(d) renumbered, and is now Rule 6(c).</p> <p>Original Rule 6(e) renumbered, and is now Rule 6(d).</p> | 10.I.B |
| 7 | Stylistic changes resulted deletion of original Rule. | Original Rule 7(c) deleted. | 7.IV.A |
| 8 | Stylistic changes resulted in some renumbering. | <p>Original Rule 8(d) renumbered, and is now Rule 8(b)(6).</p> <p>Original Rule 8(e) renumbered, and is now Rule 8(d).</p> <p>Original Rule 8(f) renumbered, and is now 8(e).</p> | <p>7.IV.B.3.a</p> <p>7.III.D.2</p> <p>7.III.D.2, 7.IV.B.3.c</p> |

| Rule | Nature of Amendment | Effect of Amendment¹ | Emanuel Law Outline sections affected (KEY: Chapter.Section.Subsection) |
|-------------|---|---|--|
| 9 | Substantive amendment deletes original 9(h)(2); original 9(h)(3) becomes new 9(h)(2) | Rule 15 governs pleading amendments of its own force. The former redundant statement that Rule 15 governs an amendment that adds or withdraws a Rule 9(h) designation as an admiralty or maritime claim is deleted. The elimination of paragraph (2) means that "(3)" will be redesignated as "(2)" in Style Rule 9(h). | None. |
| 10 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 11 | Substantive amendment changes Rule 11(a) by adding email address to list of information that must be included on pleadings. | Acknowledges the usefulness of providing email address, but including it does not indicate consent to filing or service by email. | 7.VII.A.3 |
| 12 | Stylistic changes resulted in some renumbering. | Original Rules 12(b)(final sentence) and 12(c)(final sentence) are now Rule 12(d). Original 12(d) is now 12(i). | 7.IV, 7.VI9.II.B, 9.III.A.2, 9.V, 13.I.D.2 |
| 13 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 14 | Substantive amendment changes Rule 14(b) by substituting the word "claim" for the word "counterclaim." | The change places the plaintiff on equal footing with the defendant in making third-party claims, whether the claim against the plaintiff is asserted as a counterclaim or as another form of claim. The limit imposed by the former reference to "counterclaim" is deleted. | None. |
| 15 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |

| Rule | Nature of Amendment | Effect of Amendment¹ | Emanuel Law Outline sections affected (KEY: Chapter.Section.Subsection) |
|-------------|---|---|--|
| 16 | Stylistic changes resulted in some renumbering. Substantive amendment to Rule 16(c)(1) changes the method by which absent parties must be available from telephone to any other means. | Original Rule 16(d) renumbered, and is now Rule 16(e). Original Rule 16(e) renumbered, and is now 16(d). When a party or its representative is not present, it is enough to be reasonably available by any suitable means, whether telephone or other communication device. | 6.IV.C |
| 17 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 18 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 19 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 20 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 21 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 22 | Stylistic changes resulted in some renumbering. | Original Rule 22(1) renumbered, and is now Rule 22(a). Original Rule 22(1)(final sentence) and 22(2) renumbered, and are now Rule 22(b). | 14.II.F |
| 23 | Stylistic changes resulted in some renumbering. | Original Rule 23.1 renumbered, and is now 23.1(a)-(c). | 15.V |
| 24 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 25 | Stylistic changes resulted in some renumbering. | Original Rule 25(d)(2) renumbered, and is now represented by Rule 17(d). | None. |

| Rule | Nature of Amendment | Effect of Amendment¹ | Emanuel Law Outline sections affected (KEY: Chapter.Section.Subsection) |
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| 26 | <p>Stylistic changes resulted in some renumbering.</p> <p>Substantive amendments to Rule 26(g)(1) adds "telephone number and e-mail address" to list of information required to accompany signature on discovery materials.</p> | <p>Original Rule 26(a)(5) was deleted.</p> <p>As with Rule 11's signature on a pleading, written motion, or other paper, disclosure and discovery signatures should include not only a postal address, but also a telephone number and e-mail address. A signer who lacks one or more of those addresses need not supply a nonexistent item.</p> | 8.VII.A |
| 27 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 28 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 29 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 30 | <p>Stylistic changes resulted in some renumbering.</p> <p>Substantive amendment to Rule 30(b)(3)(A) deletes "that was taken nonstenographically" qualification from the end of the paragraph. Also, 30(b)(6) adds "or other entity" to the paragraph listing the entities that may be named as deponent.</p> | <p>Original Rule 30(d)(1) renumbered, and is now included in the second and third sentence of Rule 30(c)(2).</p> <p>The right to arrange a deposition transcription should be open to any party, regardless of the means of recording and regardless of who noticed the deposition. With respect to paragraph (6), "other entity" is added to the list of organizations that may be named as deponent to ensure that the deposition process can be used to reach information known or reasonably available to an organization no matter what abstract fictive concept is used to describe the organization.</p> | 8.IV.C.3.d |

| Rule | Nature of Amendment | Effect of Amendment¹ | Emanuel Law Outline sections affected (KEY: Chapter.Section.Subsection) |
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| 31 | Substantive amendment to Rule 31(c) adds notice of completion of a deposition is added as a requirement to the notice of filing of the deposition. | The party who noticed a deposition on written questions must notify all other parties when the deposition is completed, so that they may make use of the deposition. | None. |
| 32 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 33 | Stylistic changes resulted deletion of original Rule. | Original Rule 33(a)(part of the first sentence) renumbered, and is now included in Rule 33(b)(1). Original Rule 33(c)(part of first sentence, second paragraph) renumbered, and is now part of Rule 33(a)(2). | 8.IV.D |
| 34 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 35 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 36 | Substantive amendment to Rule 36(b) deletes "Subject to Rule 16(d) and (e)" from the subsection, and changes the second sentence to read: "The court may permit withdrawal or amendment of an admission that has not been incorporated in a pretrial order if doing so would promote the presentation of the merits of the action. . . ." | An admission that has been incorporated in a pretrial order can be withdrawn or amended only under Rule 16(d) or (e). The standard of Rule 36(b) applies to other Rule 36 amendments. | None. |
| 37 | Stylistic changes resulted in deletion of original Rule. | Original Rule 37(g) renumbered, and is now Rule 37(e). | 8.IV.D, 8.IV.E |
| 38 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 39 | Stylistic only. | Original Rule numbering and | None. |

| Rule | Nature of Amendment | Effect of Amendment¹ | Emanuel Law Outline sections affected (KEY: Chapter.Section.Subsection) |
|-------------|---|---|--|
| | | meaning unchanged. | |
| 40 | Substantive amendment deletes from the rule "without request--or a party's request with notice to the other parties" in the first sentence. | The best methods for scheduling trials depend on local conditions. It is useful to ensure that each district adopts an explicit rule for scheduling trials. It is not useful to limit or dictate the provisions of local rules. | None. |
| 41 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 42 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 43 | Stylistic changes resulted in some renumbering. | Original Rule 43(d) renumbered, and is now Rule 43(b). Original Rule 43(e) renumbered, and is now Rule 43(c). Original Rule 43(f) renumbered, and is now Rule 43(d). | None. |
| 44 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 45 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 46 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 47 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 48 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 49 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 50 | Stylistic changes resulted in some renumbering. | Original Rule 50(c)(2) renumbered, and is now Rule 50(d). Original Rule 50(d) renumbered, and is now Rule 50(e). | 9.V.A.2, 11.II, 11.III.C.3, 12.III.B |
| 51 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 52 | Stylistic changes resulted in some renumbering. | Original Rule 52(b)(final sentence) renumbered, and is now Rule 52(a)(5). | None. |

| Rule | Nature of Amendment | Effect of Amendment¹ | Emanuel Law Outline sections affected (KEY: Chapter.Section.Subsection) |
|-------------|---|--|--|
| 53 | Stylistic changes resulted in some renumbering. | Original Rule 53(d) renumbered, and is now Rule 53(c)(1)(C). Original Rule 53(e) renumbered, and is now Rule 53(d). Original Rule 53(f) renumbered, and is now Rule 53(e). Original Rule 53(g) renumbered, and is now Rule 53(f). Original Rule 53(h) renumbered, and is now Rule 53(g). Original Rule 53(i) renumbered, and is now Rule 53(h). | None. |
| 54 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 55 | Stylistic changes resulted in some renumbering. | Original Rule 55(d) was deleted. Original Rule 55(e) renumbered, and is now Rule 55(d). | 9.II |
| 56 | Stylistic changes resulted in some renumbering. | Original Rule 56(c)(final sentence) is now part of Rule 56(d)(2). | 9.V |
| 57 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 58 | Stylistic changes resulted in some renumbering. | Original Rule 58(a)(2) renumbered, and is now Rule 58(b). Original Rule 58(b) renumbered, and is now Rule 58(c). Original Rule 58(c) renumbered, and is now Rule 58(e). | 11.II.A.3 |
| 59 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |

| Rule | Nature of Amendment | Effect of Amendment¹ | Emanuel Law Outline sections affected (KEY: Chapter.Section.Subsection) |
|-------------|---|--|--|
| 60 | Stylistic changes resulted in some renumbering. | Original Rule 60(b)(second sentence) is now part of Rule 60(c). Original Rule 60(b)(third sentence) is now part of Rule 60(d). Original Rule 60(b)(fourth sentence) is now part of Rule 60(e). | 9.II.D, 11.III.A, 13.V.A |
| 61 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 62 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 63 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 64 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 65 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 66 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 67 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 68 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 69 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 70 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |

| Rule | Nature of Amendment | Effect of Amendment¹ | Emanuel Law Outline sections affected (KEY: Chapter.Section.Subsection) |
|-------------|--|---|--|
| 71 | Substantive amendment to Rule 71.1(d)(2)(A) adds "(vii) that a defendant who does not serve an answer may file a notice of appearance." Substantive amendment to Rule 71.1(d)(2)(B) "telephone number, and electronic-mail address" to the notice of conclusion of property condemnation proceedings. | Rule 71.1(e) allows a defendant to appear without answering. Form 28 includes information about this right in the Rule 71.1(d)(2) notice. It is useful to confirm this practice in the rule. The information that identifies the attorney is changed to include telephone number and electronic-mail address, in line with similar amendments to Rules 11(a) and 26(g)(1). | None. |
| 72 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 73 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 74 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 75 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 76 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 77 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 78 | Substantive amendment deletes last sentence of Rule. | Rule 16 has superseded any need for the provision in former Rule 78 for orders for the advancement, conduct, and hearing of actions. | None. |
| 79 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 80 | Stylistic changes resulted in some renumbering. | Original Rule 80(c) renumbered, and is now Rule 80. | None. |
| 81 | Stylistic changes resulted in some renumbering. | Original Rule 81(e) renumbered, and is now Rule 81(d). Original Rule 81(f) was deleted. | None. |
| 82 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |

| Rule | Nature of Amendment | Effect of Amendment¹ | Emanuel Law Outline sections affected (KEY: Chapter.Section.Subsection) |
|-------------|----------------------------|--|--|
| 83 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 84 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 85 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |
| 86 | Stylistic only. | Original Rule numbering and meaning unchanged. | None. |

¹For more information, see Proposed Amendment Committee Notes at http://www.uscourts.gov/rules/Prelim_draft_proposed_pt2.pdf.

In addition, a comparison chart listing stylistic changes only for original and restyled Rule numbers can be found at http://www.uscourts.gov/rules/supct1106/Current_and_Restyled_Rules_Comparison_Chart.pdf.