

MANDATORY JUDICIAL NOTICE UNDER FRCivP Rule 201(d):

I. SCOPE OF RULES--ONE FORM OF ACTION

- 1. Scope of Rules [Federal Rules of Civil Procedure]

These rules govern the procedure in the United States district courts in all suits of a civil nature whether cognizable as cases at law or in equity or in admiralty, with the exceptions stated in Rule 81. They shall be construed and administered to secure the just, speedy, and inexpensive determination of every action.

It is contrary to spirit of these rules for decisions on merits to be avoided on basis of mere technicalities. *Forman v. Davis*, Mass.19632, 83 S.Ct. 227, 371 U.S. 178m 9 K,Ed2d 222, on remand 316 F.2d 254.

Court and litigants must follow these rules in same manner as they must obey a statute. *Beasley v. U.S.*, D.C.S.C.1948, 81, F.Supp. 518

Rules promulgated by the Supreme court have the force of law, unless in contravention of federal statutes. *Kuenzel v. Universal Corloading & Distributing Co.*, D.C.Pa. 1939, 29 F.Supp. 407.

These rules [F.R.Civ.P.] have the same effect as a statute and are as binding upon the court as upon counsel. *Barrezueta v. Sword S.S. Line*, D.C.N.Y.1939, 27 F.Supp. 935.

These rules have the force of law *Kowalewski v. Pennsylvania R. Co.* D.C.Del. 1957, 21 F.R.D. 244.

These rules have the same force and effect as statutory enactments of Congress. *U.S. v. Brandt*, D.C.Mont. 1948, 8 F.R.D. 163. See, also, *John R. Alley & Co. v. Federal Nat.*

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Bank of Shawnee, Shawnee county, Okl., C.C.A. Okl. 1942, 124 F.2d 995; *Winkelman v. General Motors corporation*, D.C.N.Y. 1942, 48 F. Supp. 504, affirmed 136 F.2d 905.

The congressional authority given Supreme Court to adopt these rules was limited to matters of procedure, and it was expressly provided that substantive rights should neither be abridged, enlarged nor modified. *John R. Alley & Co. v. Federal Nat. Bank of Shawnee, Shawnee County, Okl.*, C.C.A. Okl. 1942, 124 F.2d 995.

These rules do not create substantive rights. *Synanon Church v. U.S.*, D.C.D.C. 9183, 557 f.Supp. 1329.

Substantive federal rights are grounded in Federal Constitution and laws enacted by Congress and are not created by these rules or by a mere pleading of the rules. *Weiner v. Bank of King of Perussia*, D.C.Pa. 1973, 358 f.Supp. 684.

Substantive rights remain unaffected by these rules and will be enforced. *Gillson v. Vendome Petroleum Corporation*, D.C.La. 1940, 35 Supp. 815.

The federal courts are open to foreign suitors as to others, and procedural rules are not to be construed so as to impose conditions on litigants that in effect amount to a denial of jurisdiction. *Hyam v. American Export Lines*, C.A.N.Y. 1954, 213 F.2d 221.

The spirit of all these rules is to settle controversies upon their merits rather than to dismiss actions on technical grounds, to permit amendments liberally, and to avoid if possible depriving a litigant of a chance to bring his case to trial. *Fierstein v. Piper Aircraft Corp.*, D.C.Pa. 1948, 79 F.Supp. 217.

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It is not the province of a District Court to modify, revise or disregard the plain terms of a rule made for its guidance. *Walling v. West Virginia Pulp & Paper Co.*, D.C.S.C. 1942, 2 F.R.D. 416.

These rules have force and effect of statutes, and if there is conflict between procedure provided in an earlier Act of Congress, and that provided by rules, the former must yield to the latter; and all laws in conflict with such rules are of no further force and effect. *American Federation of Musicians v. Stein*, C.A.Tenn. 1954, 213 F.2d 679, certiorari denied 75 S.Ct. 108, 348 U.S. 873, 99 L.Ed. 687.

These rules acquired force of federal statutes controlling all Federal District Courts after the rules went into effect on September 16, 1938, and since that date all conflicting laws ceased to have further force. *C.J. Wieland & Son Dairy Products Co. v. Wickard*, D.C.Wis. 1945, 4 F.R.D. 250.

These rules and not state law, govern purely procedural matters in diversity cases tried in federal court. *Brookshire v. Pennsylvania R. Co.* D.C.Ohio 1953, 14 F.R.D. 154.

These rules neither enlarge nor abridge rights granted by Constitution. *Kennedy v. Rubin*, D.C.Ill. 1966, 254 F. Supp. 190.

District Courts, in administering these rules, have duty of giving full expression to clear meaning of words used without one rule nullifying another. *Westland Oil co. v. Firestone Tire & Rubber Co.*, D.C.N.D. 1943, 3 F.R.D. 55.

Local rules may be adopted by district court if they are not inconsistent with federal rules. *Mutual fund Investors, Inc. v. Putnam Management Co., Inc.*, C.A.Cal. 1977, 553 F.2d 620.

These rules were intended to be judicial economizers, applied with equitable considerations and party should not be encouraged to pick and choose among the rules in such a way as to cause delay and frustration. *Eikel v. States Marine Lines, Inc.*, C.A.Tex. 1973, 473 F.2d 959, rehearing denied 475 F.2d 1404.

These rules were designed to eliminate the evils of special pleading and they should not be brought back under the guise of pre-trial. *Padovani v. Bruchhausen*, C.A.N.Y. 1961, 293 F.2d 546.

The purpose of these rules is to afford the litigant a just, inexpensive and speedy trial of issues. *Runkle v. Nong Kimny*, c.A. 1959, 266 F.2d 689, 105 U.S. App.D.C. 285.

Spirit of these rules is that technical requirements are abolished and that judgments should be founded on facts and not on formalistic defects. *Builders Corp. of America v. U.S.*, C.A.Cal. 1958, 259 F.2d 766.

These rules were adopted to get away from legal sparring and fencing, and from surprise moves of litigants. *Meadow Gold Products Co. v. Wright*, 1960, 278 F.2d 867, 108 U.S.App.D.C. 33.

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The spirit of these rules aims to view matters in their entirety, not by separate bits, and to put an end to litigation as promptly and completely as possible. *Commercial Cable Staffs' Ass'n v. Lehman*, C.C.A.N.Y. 1939, 107 F.2d 917.