

CONTENTS

PREFACE	xv
FEDERAL RULES OF CIVIL PROCEDURE	1
I. SCOPE OF RULES; FORM OF ACTION	1
Rule 1 Scope and Purpose	1
Rule 2 One Form of Action	1
II. COMMENCING AN ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS, AND ORDERS	1
Rule 3 Commencing an Action	1
Rule 4 Summons	1
Rule 4.1 Serving Other Process	9
Rule 5 Serving and Filing Pleadings and Other Papers	9
Rule 5.1 Constitutional Challenge to a Statute — Notice, Certification, and Intervention	11
Rule 5.2 Privacy Protection for Filings Made with the Court	12
Rule 6 Computing and Extending Time; Time for Motion Papers	14
III. PLEADINGS AND MOTIONS	15
Rule 7 Pleadings Allowed; Form of Motions and Other Papers	15
Rule 7.1 Disclosure Statement	16
Rule 8 General Rules of Pleading	16
Rule 9 Pleading Special Matters	18
Rule 10 Form of Pleadings	19
Rule 11 Signing Pleadings, Motions, and Other Papers; Representations to the Court; Sanctions	20
Rule 12 Defenses and Objections: When and How Presented; Motion for Judgment on the Pleadings; Consolidating Motions; Waiving Defenses; Pretrial Hearing	21
Rule 13 Counterclaim and Crossclaim	24
Rule 14 Third-Party Practice	25

CONTENTS

Rule 15	Amended and Supplemental Pleadings	26
Rule 16	Pretrial Conferences; Scheduling; Management	28
Rule 16	Pending Amendment to Rule 16(b)	30
Rule 16.1	Pending Amendment to add new Rule 16.1	31
IV.	PARTIES	32
Rule 17	Plaintiff and Defendant; Capacity; Public Officers	32
Rule 18	Joinder of Claims	33
Rule 19	Required Joinder of Parties	34
Rule 20	Permissive Joinder of Parties	35
Rule 21	Misjoinder and Nonjoinder of Parties	35
Rule 22	Interpleader	36
Rule 23	Class Actions	36
Rule 23.1	Derivative Actions	41
Rule 23.2	Actions Relating to Unincorporated Associations	41
Rule 24	Intervention	42
Rule 25	Substitution of Parties	42
V.	DISCLOSURES AND DISCOVERY	43
Rule 26	Duty to Disclose; General Provisions	
	Governing Discovery	43
Rule 26	Pending Amendment to Rule 26(f)	52
Rule 27	Depositions to Perpetuate Testimony	52
Rule 28	Persons Before Whom Depositions May Be Taken	54
Rule 29	Stipulations About Discovery Procedure	55
Rule 30	Depositions by Oral Examination	55
Rule 31	Depositions by Written Questions	59
Rule 32	Using Depositions in Court Proceedings	60
Rule 33	Interrogatories to Parties	62
Rule 34	Producing Documents, Electronically Stored Information, and Tangible Things, or Entering onto Land, for Inspection and Other Purposes	63
Rule 35	Physical and Mental Examinations	65
Rule 36	Requests for Admission	66
Rule 37	Failure to Make Disclosures or to Cooperate in Discovery; Sanctions	67
VI.	TRIALS	71
Rule 38	Right to a Jury Trial; Demand	71
Rule 39	Trial by Jury or by the Court	71
Rule 40	Scheduling Cases for Trial	72
Rule 41	Dismissal of Actions	72

CONTENTS

Rule 42	Consolidation; Separate Trials	73
Rule 43	Taking Testimony	73
Rule 44	Proving an Official Record	74
Rule 44.1	Determining Foreign Law	75
Rule 45	Subpoena	75
Rule 46	Objecting to a Ruling or Order	79
Rule 47	Selecting Jurors	80
Rule 48	Number of Jurors; Verdict; Polling	80
Rule 49	Special Verdict; General Verdict and Questions	80
Rule 50	Judgment as a Matter of Law in a Jury Trial; Related Motion for a New Trial; Conditional Ruling	81
Rule 51	Instructions to the Jury; Objections; Preserving a Claim of Error	82
Rule 52	Findings and Conclusions by the Court; Judgment on Partial Findings	83
Rule 53	Masters	84
VII.	JUDGMENT	87
Rule 54	Judgment; Costs	87
Rule 55	Default; Default Judgment	88
Rule 56	Summary Judgment	89
Rule 57	Declaratory Judgment	91
Rule 58	Entering Judgment	91
Rule 59	New Trial; Altering or Amending a Judgment	92
Rule 60	Relief from a Judgment or Order	93
Rule 61	Harmless Error	94
Rule 62	Stay of Proceedings to Enforce a Judgment	94
Rule 62.1	Indicative Ruling on a Motion for Relief That is Barred by a Pending Appeal	95
Rule 63	Judge's Inability to Proceed	95
VIII.	PROVISIONAL AND FINAL REMEDIES	96
Rule 64	Seizing a Person or Property	96
Rule 65	Injunctions and Restraining Orders	96
Rule 65.1	Proceedings Against a Security Provider	98
Rule 66	Receivers	98
Rule 67	Deposit into Court	98
Rule 68	Offer of Judgment	99
Rule 69	Execution	99
Rule 70	Enforcing a Judgment for a Specic Act	100
Rule 71	Enforcing Relief for or Against a Nonparty	100

CONTENTS

IX. SPECIAL PROCEEDINGS	100
Rule 71.1 Condemning Real or Personal Property	100
Rule 72 Magistrate Judges; Pretrial Order	105
Rule 73 Magistrate Judges; Trial by Consent; Appeal	106
Rule 74 [Abrogated]	106
Rule 75 [Abrogated]	106
Rule 76 [Abrogated]	106
 X. DISTRICT COURTS AND CLERKS CONDUCTING BUSINESS; ISSUING ORDERS	 106
Rule 77 Conducting Business; Clerk's Authority; Notice of an Order or Judgment	106
Rule 78 Hearing Motions; Submission on Briefs	107
Rule 79 Records Kept by the Clerk	107
Rule 80 Stenographic Transcript as Evidence	108
 XI. GENERAL PROVISIONS	 109
Rule 81 Applicability of the Rules in General; Removed Actions	109
Rule 82 Jurisdiction and Venue Unaffected	110
Rule 83 Rules by District Courts; Judge's Directives	111
Rule 84 [Abrogated]	111
Rule 85 Title	111
Rule 86 Effective Dates	111
Rule 87 Civil Rules Emergency	112
 RECENT CASE LAW	 115
Royal Canin U.S.A., Inc., v. Wullschleger	115
 USCOURTS.GOV FORMS AND STATISTICS	 129
Civil Cover Sheet	129
Form: Judgment in a Civil Action	130
Table C-2. Cases Commenced, by Basis of Jurisdiction and Nature of Suit	131
Table C-4. Cases Terminated, by Nature of Suit and Action Taken	135
Table C-5. Median Time Intervals From Filing to Disposition of Civil Cases Terminated, by District and Disposition	140
 UNITED STATES CONSTITUTION	 145
 UNITED STATES CODE (SELECTED PROVISIONS)	 163

CONTENTS

TITLE 28, JUDICIARY AND JUDICIAL PROCEDURE	163
Chapter 83 — Courts of Appeals (§§ 1291-1292)	163
Chapter 85 — District Courts; Jurisdiction (§§ 1331-1369)	165
Chapter 87 — District Courts; Venue (§§ 1390-1407)	175
Chapter 89 — District Courts; Removal of Cases From State Courts (§§ 1441-1453)	180
Chapter 99 — General Provisions (§ 1631)	187
Chapter 111 — General Provisions (§§ 1651-1658)	187
Chapter 114 — Class Actions (§§ 1711-1715)	188
Chapter 115 — Evidence; Documentary (§ 1738)	192
Chapter 123 — Fees and Costs (§§ 1914-1920)	192
Chapter 131 — Rules of Courts (§§ 2071-2077)	196
Chapter 151 — Declaratory Judgments (§§ 2201-2202)	199
Chapter 159 — Interpleader (§ 2361)	199
Chapter 161 — United States as Party Generally (§ 2401)	200
 TITLE 42, THE PUBLIC HEALTH AND WELFARE	 200
Chapter 21 — Civil Rights (§§ 1981-1988)	200
 FEDERAL RULES OF APPELLATE PROCEDURE (SELECTED RULES)	 205
 I. APPLICABILITY OF RULES	 205
Rule 1 Scope of Rules; Definition; Title	205
 II. APPEAL FROM A JUDGMENT OR ORDER OF A DISTRICT COURT	 205
Rule 3 Appeal as of Right — How Taken	205
Rule 4 Appeal as of Right — When Taken	207
Rule 5 Appeal by Permission	211
Rule 7 Bond for Costs on Appeal in a Civil Case	212
Rule 8 Stay or Injunction Pending Appeal	213
Rule 10 The Record on Appeal	214
Rule 12 Docketing the Appeal; Filing a Representation Statement; Filing the Record	216
 VI. HABEAS CORPUS; PROCEEDINGS IN FORMA PAUPERIS	 216
Rule 22 Habeas Corpus and Section 2255 Proceedings	216
 VII. GENERAL PROVISIONS	 217
Rule 28 Briefs	217

CONTENTS

Rule 29	Brief of an Amicus Curiae	219
Rule 30	Appendix to the Briefs	221
Rule 31	Serving and Filing Briefs	223
Rule 32	Form of Briefs, Appendices, and Other Papers	223
Rule 32.1	Citing Judicial Dispositions	226
Rule 33	Appeal Conferences	226
Rule 34	Oral Argument	226
Rule 35	En Banc Determination	227
Rule 36	Entry of Judgment; Notice	229
Rule 38	Frivolous Appeal — Damages and Costs	229
Rule 39	Costs	229
Rule 39	Pending Amendment to Rule 39	230
Rule 40	Panel Rehearing; En Banc Determination	232
Rule 41	Mandate: Contents; Issuance and Effective Date; Stay	233

STATE PROVISIONS REGARDING RELATION-BACK OF AMENDMENTS 235

California	235
Florida	236
Illinois	238
Massachusetts	240
New York	241
Texas	243
West Virginia	246

STATE LONG-ARM STATUTES 249

California	249
Connecticut	249
Florida	250
Illinois	252
Louisiana	254
Massachusetts	255
Nevada	256
New York	256
Ohio	258

STATE VENUE STATUTES 261

California	261
Massachusetts	265
Nevada	268
New York	271

CONTENTS

North Carolina	275
STATE SERVICE STATUTES AND RULES	279
California	279
Florida	284
New York	291
Texas	297
Virginia	298
FRCP ESSENTIALS: YOUR EXAM CHECKLIST	301

