



## *"Reform in Law" Awarded for First Plain-Language Rewrite of Federal Civil Court Rules in 70 Years*

### **FOR IMMEDIATE RELEASE**

May 5, 2007

Contact: Harold Whitford

Telephone: 917-376-8900

Faxsimile: 516-625-3011

---

**New York, New York:** The Burton Awards has named the project to clarify the Federal Rules of Civil Procedure, used in federal trial courts, as the winner of its 2007 "Reform in Law" award. The awards program is run in association with the Library of Congress and the Law Library of Congress, and the ceremony will be held at the Library of Congress, in Washington, D.C., on June 4.

The newly rewritten rules are the product of an intensive four-year effort by federal judges, practicing lawyers, law professors, and a drafting consultant. The new rules were approved by the Supreme Court of the United States and sent to Congress on April 30. They are scheduled to take effect on December 1, 2007.

The awards will be given to three recipients: the Advisory Committee on Civil Rules, which carried out the project; to the Standing Committee on Rules of the Judicial Conference of the United States, which supervised the project and two earlier projects to rewrite the Federal Criminal and Appellate Rules; and to Professor Joseph Kimble from Thomas Cooley Law School, who served as the drafting consultant.

The civil rules—more than 300 pages as approved by the Supreme Court—were originally written in 1937 and have never been completely rewritten since then. The rules govern the procedure in all federal trial courts (U.S. District Courts); are relied on daily by countless judges and lawyers; serve as models for state courts; are studied by law students in a year-long course; and have produced many volumes of commentary.

The difference between the old and the new rules is striking. Here, for example, is an old rule:

“When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements.”

Here’s the new version:

“If a party makes alternative statements, the pleading is sufficient if any one of them is sufficient.”

The new rules will have great practical and symbolic importance. On the practical side, judges, lawyers, and law students will find them much easier to learn and use: they are shorter, clearer, plainer, more internally consistent, and much better organized and formatted. At the same time,

they will help put to rest the mistaken notion that laws and rules must be written in the archaic, inflated, verbose, and convoluted style that has come to be known as legalese.

According to Judge Rosenthal, chair of the Advisory Committee, “Our goal was to make the rules clearer, more readable, and more consistent—without changing the substantive meaning. We think we have achieved that goal and are honored to receive this award.”

\* \* \* \* \*

#### The Advisory Committee on Civil Rules

U.S. District Judge Lee Rosenthal, chair; U.S. Circuit Judges Jose Cabranes and Paul Kelly; U.S. District Judges Richard Kyle, H. Brent McKnight, Thomas Russell, and Shira Scheindlin; U.S. Magistrate Judge Christopher Hagy; Justice Nathan Hecht (Texas); Assistant Attorney General Peter Keisler (Department of Justice); Dean John Jeffries (University of Virginia); attorneys Frank Cicero, Daniel Girard, Robert Heim, Andrew Scherffius, and Chilton Varner; Professor Myles Lynk (Arizona State University); Professor Edward Cooper, reporter; Professors Thomas Rowe (Duke University) and Richard Marcus (University of California, Hastings) consultants; attorney Joseph Spaniol and Professor Joseph Kimble (Thomas Cooley Law School), style consultants. The chair of the Standing Committee on Rules of the Judicial Conference of the United States is U.S. District Chief Judge David Levi. The Standing Committee’s Style Subcommittee consists of U.S. District Judge Garvan Murtha, chair; U.S. District Judge Thomas Thrash; and Dean Mary Kay Kane (University of California, Hastings).

#### Judge Lee H. Rosenthal

Judge Rosenthal is a United States District Court Judge, Southern District of Texas, Houston, Texas. She was appointed to this position in 1992. Judge Rosenthal serves as the chair of the Federal Judicial Conference Advisory Committee for Federal Rules of Civil Procedure. She was selected to the committee of the Civil Rules Committee by Chief Justice Rehnquist in 1996. She chaired the Class Actions Subcommittee and, in October 2003, became Committee Chair. Judge Rosenthal is also a member of the Board of Editors for the Manual for Complex Litigation, published by the Federal Judicial Center, and a member of the American Law Institute, for which she serves as an advisor for the Aggregate Litigation Project and Transnational Civil Procedure Rules Project. She is also an Observer to The Sedona Conference® Working Group on Electronic Document Retention and Production (WG1). Judge Rosenthal was selected as the trial judge of the year by the Texas Association of Civil Trial and Appellate Specialists in 2000 and again in 2006. Before her appointment to the federal judiciary, she practiced with Baker & Botts in Houston, Texas from 1978 to 1992, becoming a partner in 1985.

#### Professor Joseph Kimble

Joseph Kimble has taught legal writing for 25 years at Thomas Cooley Law School. He has lectured throughout the United States and abroad and recently published the book *Lifting the Fog of Legalese: Essays on Plain Language*. He is the editor in chief of *The Scribes Journal of Legal Writing*, the longtime editor of the "Plain Language" column in the *Michigan Bar Journal*, the past president of the international organization Clarity, a founding director of the Center for Plain Language, and the drafting consultant on all federal court rules.

## Burton Awards

The Burton Awards is funded by the Burton Foundation which is a not for profit, academic effort. It is devoted to recognizing and rewarding significant achievement in the legal profession. Since its inception in 1999 the organization has focused primarily on the refinement and enrichment of legal writing. The founder of the program is William C. Burton, a partner in the international law firm of D'Amato & Lynch and both a former New York State Assistant Attorney General, and Assistant Special Prosecutor. He is the author of the authoritative reference book, BURTON'S LEGAL THESAURUS, (McGraw-Hill) which now celebrates over 25 years since its first publication.

## Library of Congress

This prominent institution is one of the most celebrated and distinguished libraries in the world. It was established on April 24, 1800 and since that time has grown to become one of the largest repositories ever collected. The Library of Congress functions as both a national library and as the research arm of the United States Congress. It contains more than 30 million catalogued books and more than 58 million manuscripts.

## Law Library of Congress

The mission of the Law Library of Congress is to serve the United States Congress as a legislative library providing foreign law analysis, research, and reference. This service extends to the executive and judicial branches of the U.S. government and as its remaining resources allow to the public. The Law Library of Congress is the world's most comprehensive source of legal information and center for research in foreign, international and comparative law.

## **Additional Examples from the Civil Rules**

### **Old:**

There shall be one form of action to be known as "civil action".

### **New:**

There is one form of action — the civil action.

### **Old:**

When an order is made in favor of a person who is not a party to the action, that person may enforce obedience to the order by the same process as if a party; and, when obedience to an order may be lawfully enforced against a person who is not a party, that person is liable to the same process for enforcing obedience to the order as if a party.

### **New:**

When an order grants relief for a nonparty or may be enforced against a nonparty, the procedure for enforcing the order is the same as for a party

**Old:**

The practice as herein prescribed governs in actions involving the exercise of the power of eminent domain under the law of a state, provided that if the state law makes provision for trial of any issue by jury, or for trial of the issue of compensation by jury or commission or both, that provision shall be followed.

**New:**

This rule governs an action involving eminent domain under state law. But if state law provides for trying an issue by jury — or for trying the issue of compensation by jury or commission of both — that law governs.