



**LOCAL RULES OF COURT
FROM THE US DISTRICT COURT, FLORIDA, NORTHERN DISTRICT
[ALL-IN-ONE DOCUMENT]**

{AS OF: 11/24/2015}

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LOCAL RULES OF COURT | USFLND

RULES: 1.1 through 88.3⁺



RULE 1.1 | SCOPE OF THE RULES; CITATION

These rules apply to all proceedings in the United States District Court for the Northern District of Florida. But they apply to proceedings in the Bankruptcy Court only when not inconsistent with the Bankruptcy Court's own local rules. These rules may be cited as "N.D. Fla. Loc. R." Administrative orders that govern matters not addressed in these rules are available on the District's website.



RULE 2.1 | DEFINITIONS

In these rules:

- (A) "this District" or "the District" means the Northern District of Florida;
- (B) "the Clerk" means the Clerk of Court, Northern District of Florida;
- (C) the "Court" means an assigned judge in a case;
- (D) an "assigned judge" includes each judge assigned to a case (and in most cases, this includes both a district judge and a magistrate judge);
- (E) a reference to any kind of written material or any other medium includes electronically stored information; and
- (F) references to an "attorney" include a party proceeding pro se unless the context clearly indicates the contrary.



RULE 3.1 | DIVISIONS

(A) Boundaries. The District has four divisions:

- (1) the Pensacola Division includes Escambia, Santa Rosa, Okaloosa, and Walton Counties;
- (2) the Panama City Division includes Jackson, Holmes, Washington, Bay, Calhoun, and Gulf Counties;
- (3) the Tallahassee Division includes Leon, Gadsden, Liberty, Franklin, Wakulla, Jefferson, Taylor, and Madison Counties; and
- (4) the Gainesville Division includes Alachua, Lafayette, Dixie, Gilchrist, and Levy Counties.

(B) Place of Filing Original and Removed Cases. An original case must be filed in a division in which venue would be proper if the division was a stand-alone district. A removed case must be filed in the division that includes the county where the case was pending in state court.

(C) Transfer; Place of Keeping a File. A case will remain pending in the division where it was filed unless the Court enters an order transferring it. When there is a physical file, the Clerk may keep it in a division that includes an assigned judge's principal office, even if the case is pending in another division. A physical file may not be withdrawn from the Clerk's office by anyone other than a judge or judge's employee.

(D) Place of Trial or Hearing. A trial or hearing will occur in the division where a case is pending, unless the Court directs otherwise.

RULE 4.1 | SERVING PROCESS ON BEHALF OF A PARTY PROCEEDING IN FORMA PAUPERIS

(A) Court Authorization Required. A party who is not represented by an attorney and who has moved or intends to move for leave to proceed in forma pauperis must not serve process – and must not request a waiver of service under Federal Rule of Civil Procedure 4(d)(1) – until the Court enters an order authorizing it. The Court may direct the manner of serving process or requesting a waiver.

(B) Serving a Correctional Officer or Employee. The Court may direct the manner of personal service on a correctional officer or other employee of a correctional facility and may require the use of a process server designated for a specific correctional facility.



RULE 5.1 | FORM OF DOCUMENTS

(A) Scope of the Rule. This rule sets out the required form of each document filed in a case other than an exhibit or other material not created for filing in the case.

(B) Case Style and Heading. The first page of a document must begin with the case style. The case style must include the name of the court, the case number (including the initials of any assigned judges), and the name of at least one party on each side of the case (as framed by the first pleading or amended by an order or by substitution of a party under Federal Rule of Civil Procedure 25(d)). The document must include a heading after the case style but before any other content. The heading must clearly identify the document.

(C) Format. A document must be double spaced with at least 14-point font and at least one-inch margins on the top, bottom, left, and right of each page. Pages must be numbered. Handwritten documents must be legible with adequate spacing between lines. Hard copies should be securely fastened in the upper left-hand corner.

(D) Signature Block for an Attorney. A document filed by an attorney must include a signature block with the attorney's handwritten or electronic signature, typed name, bar number, street and email addresses, and telephone number. The signature block must identify by name or category the parties on whose behalf the document is filed.

(E) Signature Block for a Pro Se Party. A document filed by a pro se party must include a signature block with the party's handwritten signature, typed or printed name, street address, email address if the party has one, and telephone number if the party has one. But the signature may be electronic if an administrative rule or court order allows the party to file the document electronically.

(F) Certificate of Service. A document must include a certificate of service – with an electronic or handwritten signature – setting out the date and method of service. But a certificate of service is not required if:

- (1) each party on whom the document will be served either
 - (a) is represented by an attorney who will be served through the electronic filing system, or
 - (b) has not yet appeared and will be served through formal service of process; or
- (2) the document is properly being filed ex parte.



RULE 5.2 | CIVIL COVER SHEET

An attorney who files or removes a civil case must simultaneously file a civil cover sheet on a form available without charge from the Clerk or on the District's website. But the Court may allow the civil cover sheet to be filed later. A pro se party need not file a civil cover sheet.



RULE 5.3 | PAYING A FILING FEE OR PROCEEDING IN FORMA PAUPERIS

A party who files or removes a civil case must simultaneously either pay any fee required under 28 U.S.C. §1914 or move for leave to proceed *in forma pauperis* under 28 U.S.C. §1915. The Clerk must open the case and refer any motion for leave to proceed in forma pauperis to an assigned judge. A party who moves for leave to proceed *in forma pauperis* must simultaneously file a financial affidavit on a form available without charge from the Clerk or on the District's website. The motion must also be on a form available without charge from the Clerk or the District's website unless filed by an attorney. Unless otherwise ordered, a person in custody will not be excused from paying the \$5 fee for filing a habeas petition if the person has a prison account with a balance of \$25 or more.



RULE 5.4 | ELECTRONIC FILING

(A) When Required. Unless the Court orders otherwise, every document submitted for filing must be submitted through the electronic filing system, not in hard copy or by facsimile or other means, except that the following documents may – and if so required by an administrative order or an order in a case must – be filed in hard copy:

- (1) An exhibit introduced at a trial or hearing;
- (2) A document filed under seal;
- (3) A document filed by a party pro se.

(B) As Effective as a Hard Copy. An order, sworn document, or other document that is electronically filed in the proper case file has exactly the same effect as would a substantively identical hard copy.

(C) Responsibility for Electronically Filed Signatures. An attorney who electronically files a document with the attorney's handwritten or electronic signature – or who authorizes another person to electronically file such a document – is responsible for the document just as if it had been filed in hard copy with the attorney's handwritten signature. And a party is responsible for a document electronically filed on the party's behalf with the party's or an attorney's handwritten or electronic signature, just as if the document had been filed in hard copy with the party's or attorney's handwritten signature.

(D) Sworn Documents. By electronically filing a copy of a document with an original seal or certification or a sworn original signature, an attorney certifies that the attorney has custody of the original. The attorney must make the original available for inspection and copying by any other party or the Court and must file the original if the Court so orders. If the original is not filed, the attorney must retain the original for at least two years after the litigation – including all appeals – has ended.

(E) Effective Date of an Electronic Filing. A document is electronically filed when the filing is accepted by the District's electronic filing system. A filing is made on a date if it is made prior to midnight on that date in local



time at the place of holding court in the division where the case is pending.

(F) Service on Other Parties. A document that is electronically filed and that is electronically served on a party through the electronic filing system need not be served on that party by any other means, unless the Court so orders. An attorney's participation in the electronic filing system constitutes consent to accept service through the electronic filing system.

(G) Responsibility for a Filing and for the Accuracy of the Docket. The attorney who authorizes the electronic filing of a document is responsible for it under this rule regardless of whether the attorney actually makes the electronic filing or authorizes another person to do so. And the attorney must ensure that the document is accurately docketed.



RULE 5.5 | SEALING CASE FILES AND DOCUMENTS; REDACTING DOCUMENTS

(A) General Rule. Each case file and each document filed in it is public unless one of these provides otherwise: a statute, court rule, administrative order, or order in the case. The Court may, by an order in the case, modify any sealing or redaction requirement set out in an administrative order or this rule.

(B) Documents That May Be Sealed Without an Order. When a statute, court rule, or administrative order requires the sealing of a category of documents, a party may submit a document in that category for filing under seal, without moving for leave to file the document under seal. The Clerk must maintain the document under seal unless the Court orders otherwise.

(C) Documents That May Be Sealed Only With an Order. A party who wishes to file any other document under seal must, if feasible, move in advance for leave to file the document under seal. The party may submit the document for filing under seal only if the Court authorizes it. If a party submits a document for filing under seal before the Court authorizes it – either because obtaining advance authorization was not feasible or in violation of this rule – the Clerk must promptly refer the sealing issue to the Court and must maintain the document under seal until otherwise ordered.

(D) Filing Redacted Versions of Sealed Documents. When feasible, a party who files a document under seal must file a redacted version that will become part of the public file. Filing a redacted version is feasible unless (1) a person could infer from the redacted version the substance or import of the information that called for sealing the original or (2) the redacted version would include so little information that publicly filing it would serve no purpose.

(E) Redacting Documents That Are Improperly Filed with Personal Identifiers. If a party violates Federal Rule of Civil Procedure 5.2 or Federal Rule of Criminal Procedure 49.1 by failing to redact a personal identifier, the party must promptly file a properly redacted substitute. When the substitute is filed, the Clerk must seal the unredacted original.



RULE 5.6 | NOTICE OF A PRIOR OR SIMILAR CASE

A party who files or removes a case must file a notice – and if the party fails to do so any other party with knowledge of the circumstances must file a notice – if:

(A) a case in this District that includes an identical claim – or a similar claim – between some or all of the same or related parties was previously terminated by any means; or

(B) the new case involves issues of fact or law in common with the issues in another case pending in the District.



RULE 5.7 | PRO SE CIVIL-RIGHTS CASES AND COLLATERAL ATTACKS ON CRIMINAL CONVICTIONS

(A) Required Forms. A party not represented by an attorney must file any of these only on a form available without charge from the Clerk or on the District's website: a petition for a writ of habeas corpus, a motion for relief under 28 U.S.C. §2255, or a complaint in a civil-rights case. A case is a civil-rights case if it asserts a claim under the United States Constitution or a statute creating individual rights, including, for example, 42 U.S.C. §1983 or the Civil Rights Act of 1964. The Court need not – and ordinarily will not – consider a petition, motion, or complaint that is not filed on the proper form.

(B) Requirement to Set Out Claims and Facts as Part of the Form; Memorandum Optional. A petition, motion, or complaint described in subdivision (A) must set out specific claims and supporting facts and may not make reference to a memorandum. A party may, but need not, also file a memorandum with the petition, motion, or complaint. A petition, motion, or complaint, together with any memorandum, must not exceed 25 pages, unless the Court authorizes it.

(C) Applicability of Federal Rules in Collateral Attacks. The Rules Governing Section 2254 Cases in the United States District Courts, as adopted by the Supreme Court, apply to all habeas corpus petitions in this District whether or not filed under section 2254. The Rules Governing Section 2255 Proceedings for the United States District Courts, as adopted by the Supreme Court, apply to all section 2255 motions.

RULE 5.8 | SPECIAL PROCEDURAL AND FILING REQUIREMENTS APPLICABLE TO HABEAS CORPUS INVOLVING THE DEATH PENALTY

(A) In habeas corpus cases involving the death penalty, it is the responsibility of the party who first makes reference in a pleading or instrument to a deposition or an exhibit to:

(1) Obtain either the original or a certified copy of that deposition and include that deposition or exhibit as an exhibit to their pleading or instrument; or

(2) To file a certificate indicating why the deposition or exhibit is not included as an exhibit to the pleading or instrument.

(B) It is the responsibility of the party offering for filing any portion of a prior state or federal court record or transcript to:

(1) Obtain from the Clerk's office a habeas corpus checklist and review the various phases of court proceedings identified on the checklist.

(2) Review each prior state or federal court record to be submitted and identify, within each record, the first page of every portion of the submitted record identified on the checklist, using the colored tabs and numbering scheme as indicated below:

(a) Petitioner shall use red index tabs and shall sequentially number the index tabs commencing with the number "P-1," "P-2," etc.

(b) Respondent shall employ blue index tabs and shall sequentially number the index tabs commencing with the number "R-1," "R-2," etc.

(c) Amicus curiae or other parties permitted to intervene or otherwise participate shall employ green index tabs and shall sequentially number the index tabs commencing with the number "X-1," "X-2," etc.

(3) Cross-reference the index tab number to the checklist.



(4) File a completed checklist concurrently with the filing of the first pleading or instrument which makes reference to any portion of a prior state or federal court record or transcript.

(5) Serve a copy of the checklist on all parties and file a certificate of service along with the checklist, indicating service upon all parties.

(C) In order to facilitate the timely and efficient processing of habeas corpus capital cases, checklists and index tabs may be obtained in advance of filing from the Clerk's office.



RULE 5.9 | TRIAL AND HEARING EXHIBITS

(A) Tendering and Maintaining Exhibits. An exhibit tendered or received in evidence during a trial or hearing must be delivered to the Clerk, and the Clerk must maintain custody of the exhibit, with these exceptions:

(1) the Court may order otherwise;

(2) a sensitive exhibit – such as a weapon, drug, cash, pornography, or thing of high value – may be retained by the law enforcement agency or party who offered it, and in that event the agency or party must maintain the integrity of the exhibit;

(3) the Clerk may release an exhibit temporarily to an assigned judge, the judge's staff, or the court reporter.

(B) Retrieving Exhibits After the Litigation. Within 90 days after a case is closed and all appeals have been exhausted, the party who offered an exhibit must retrieve it from the Clerk. The Clerk may destroy an exhibit not timely retrieved.



RULE 6.1 | EXTENSIONS OF TIME AND CONTINUANCES

Only the Court may continue a trial, hearing, or other proceeding. A stipulation to extend a deadline is effective only with Court approval. But the parties may stipulate, without Court approval, to extend a deadline for responding to a specific discovery request or for making a Federal Rule of Civil Procedure 26 disclosure if the extension does not interfere with the time set for any of these: completing discovery, submitting or responding to a motion, or trial.



RULE 7.1 | MOTIONS

(A) How Made. An oral motion may be made during a properly noticed trial or hearing. Any other motion must be in writing in the form required by Local Rule 5.1 and this Local Rule 7.1. A request for action of any kind relating to a case can never be made by a letter to a judge.

(B) Attorney Conference Required. Before filing a motion raising an issue, an attorney for the moving party must attempt in good faith to resolve the issue through a meaningful conference with an attorney for the adverse party. The adverse party's attorney must participate in the conference in good faith. The conference may be conducted in person, by telephone, in writing, or electronically, but an oral conference is encouraged. An email or other writing sent at or near the time of filing the motion is not a meaningful conference. When a conference is conducted in writing or electronically, an attorney ordinarily should be afforded at least 24 hours – as calculated under Federal Rule of Civil Procedure 6 – to respond to a communication. This Rule 7.1(B) applies to an unrepresented (pro se) party only if the party is not in custody.

(C) Certificate Required. A motion or supporting memorandum must include a certificate – under a separate heading – confirming that the moving party complied with the attorney-conference requirement of Local Rule 7.1(B) and setting out the results.

(D) Exceptions: Attorney Conference and Certificate Not Required. An attorney conference and certificate are not required for a motion that would determine the outcome of a case or a claim, for a motion for leave to proceed in forma pauperis, or for a motion that properly may be submitted ex parte.

(E) Supporting and Opposing Memoranda Required; Deadline. A party who files a written motion must file a supporting memorandum in the same document with, or at the same time as, the motion. A party who opposes the motion must file a memorandum in opposition. Unless otherwise ordered, the deadline for a memorandum opposing a motion (other than a summary-judgment motion) is 14 days after service of the motion, without a 3-day extension based on electronic service



of the motion. The deadline and other requirements that apply to a summary-judgment motion are set out in Local Rule 56.1.

(F) Word Limit. A memorandum must not exceed 8,000 words and must include a certificate stating the number of words in the memorandum. The person preparing the certificate may rely on the word count of the word-processing system used to prepare the memorandum. Headings, footnotes, and quotations count toward the word limit. The case style, signature block, and any certificate of service do not count toward the word limit. If a motion itself exceeds 500 words, the words in the motion count toward the limitation on words in the supporting memorandum. In extraordinary circumstances, the Court may grant leave to file a longer memorandum, but doing so is disfavored. A party who moves for leave to file a longer memorandum may attach the proposed memorandum to the motion if all opposing parties consent to the motion; otherwise the party must obtain leave to file the longer memorandum before tendering the longer memorandum.

(G) Exceptions: Memoranda Not Required. Supporting and opposing memoranda are not required for:

- (1) an unopposed motion;
- (2) a motion for leave to proceed in forma pauperis;
- (3) a motion for leave for an attorney to appear pro hac vice or withdraw or for substitution of counsel;
- (4) a motion to withdraw or substitute exhibits;
- (5) a motion to exceed a word or page limit or for leave to file a reply memorandum.

(H) Failing to File a Required Memorandum. The Court may deny a moving party's motion if the party does not file a memorandum as required by this rule. The Court may grant a motion by default if an opposing party does not file a memorandum as required by this rule.

(I) Reply Memoranda. A party ordinarily may not file a reply memorandum in support of a motion. But a party may file a reply memorandum in support of a summary-judgment motion under Local Rule 56.1(D). And in extraordinary circumstances, the Court may grant leave to file a reply memorandum in support of another motion. A reply memorandum must not exceed 3200 words (counted and certified as under Local Rule 7.1(F))



unless the Court sets a higher limit. When leave to file a reply memorandum is required, a party must obtain leave before tendering the reply memorandum.

(J) Notices of Supplemental Authority. If a pertinent and significant authority comes to a party's attention after the party's memorandum has been filed – or after a hearing but before decision – the party may file a notice of supplemental authority. The notice must not exceed 350 words. A copy of the cited authority may be attached. Any response must be made promptly and must be similarly limited.

(K) Oral Argument. The Court may – and most often does – rule on a motion without oral argument, even if a party requests oral argument. But the Court may set an oral argument on its own or at the request of a party. A request may be made as part of the motion or supporting or opposing memorandum, should be set out under a separate heading, and should include an estimate of the required time.

(L) Emergencies. A motion that requires a ruling more promptly than would occur in the ordinary course of business may be labeled an emergency. The motion or supporting memorandum should explain the emergency. The moving party should orally advise the Clerk's office that the emergency motion has been filed. The Court may require an expedited response or otherwise amend the schedule as appropriate.

(M) Sending Letters – or Copies of Letters – to the Judge. A party or victim may address a letter to the judge about a forthcoming sentencing, but the letter must be provided to the probation office – not directly to the judge. A party must not address or send any other letter to the judge. A copy of a letter to and from others – including a letter between attorneys – may be filed with the Clerk as an exhibit when relevant to an issue that is being submitted. But filing letters between attorneys is discouraged. For purposes of this rule, a "letter" includes correspondence of any kind, including email.

RULE 7.2 | REMOVING A CASE FROM STATE COURT

(A) Filing State-Court Papers. At the time of a case's removal from state court, if feasible, and in any event within 14 days after removal, the removing party must file a copy of each paper filed or served in the state court.

(B) Pending Motions. For a motion that was pending in state court at the time of removal, the attorneys must confer and the parties must file supporting and opposing memoranda, unless (1) these steps were already taken in state court or (2) Local Rule 7.1 would not have required these steps for a motion originally filed in this District. The deadline for a supporting memorandum is 14 days after removal. The deadline for an opposing memorandum is 14 days after the later of the removal or the filing of the supporting memorandum.



RULE 11.1 | ATTORNEYS

(A) Qualification for Admission to the District's Bar. An attorney is qualified for admission to the District's bar only if the attorney is a member in good standing of The Florida Bar. But an attorney who was previously admitted to the District's bar may remain a member so long as (1) the attorney does not violate Florida law on the unauthorized practice of law and (2) there are no other grounds for the attorney's removal from the District's bar.

(B) Applying for Admission. An application for admission to the District's bar must be under oath and must be submitted to the Clerk in the form the Clerk directs. The applicant must submit proof of membership in The Florida Bar in the form the Clerk directs. The applicant must pay the fee set by administrative order, except that an applicant who is an employee of the United States or a state or local government need not pay the fee.

(C) Appearing Pro Hac Vice. An attorney who is a member in good standing of the bar of a jurisdiction where the attorney resides or regularly practices law may file a motion in a case for leave to appear pro hac vice. The attorney must pay the fee set by administrative order and must file proof of bar membership in the form the Clerk directs. Admission pro hac vice does not change the attorney's obligation to comply with Florida law on the unauthorized practice of law.

(D) Other Appearances Prohibited; Exceptions for Emergencies and for Attorneys Representing the United States. An attorney must not file a document or appear at a trial or hearing unless the attorney is a member of the District's bar or has been granted leave to appear in the case pro hac vice. But in an emergency, an attorney may file a document or appear while seeking admission to the District's bar or leave to appear pro hac vice. And an attorney may appear for the United States — or for a federal agency or federal employee on matters within the scope of employment — without being a member of the District's bar or being admitted pro hac vice.

(E) Education. By administrative order, the District may require an attorney to successfully complete a tutorial on the local rules – or to meet a similar requirement – before being admitted to the District’s bar, appearing pro hac vice, or appearing for the United States. By administrative order, the District may require an attorney to successfully complete a tutorial on the electronic filing system – or to meet a similar requirement – before filing materials electronically.

(F) Participation by a Represented Party Prohibited. A party who is represented by an attorney must appear only through the attorney; the party may not file documents or participate in a trial or hearing on the party’s own behalf. A party who appears pro se may not be represented jointly or intermittently by an attorney. But an attorney may enter an appearance and thus end a party’s pro se status, so long as the appearance will not delay a trial or other proceeding, and the Court may allow an attorney to withdraw even if doing so will leave the party without an attorney.

(G) Professional Conduct, Disbarment, and Other Discipline.

(1) Professional Conduct. An attorney must comply with the Rules of Professional Conduct that are part of the Rules Regulating The Florida Bar, as amended from time to time, or with any set of rules adopted by The Florida Bar in their place, unless federal law provides otherwise.

(2) Notifying the District of Any Disbarment or Suspension. An attorney who is disbarred or suspended from any jurisdiction’s bar must immediately notify the district by letter to the Clerk or Chief Judge, enclosing a copy of the disbarment or suspension.

(3) Effect of Disbarment or Suspension by The Florida Bar. An attorney who is disbarred or suspended by The Florida Bar stands automatically disbarred or suspended from the district’s bar, without further action, effective at the same time as disbarment or suspension from The Florida Bar. Reinstatement to The Florida Bar after a suspension automatically reinstates the attorney to the district’s bar. An attorney who is readmitted to The Florida Bar after disbarment may become a member of the district’s bar only by reapplying.



(4) Disbarment or Suspension on Other Grounds. An attorney will be removed or suspended from the District's bar on any other ground only after notice and an opportunity to be heard. At the District's option, the opportunity to be heard may be limited to submitting argument or evidence in writing. The attorney may be prohibited from acting on a case in this District after notice is given and while the attorney's removal or suspension is under consideration. Grounds for disbarment or suspension include:

- (a) disbarment or suspension from any jurisdiction's bar;
- (b) conviction of, entry of a plea of guilty or nolo contendere to, or commission of a felony or misdemeanor;
- (c) a finding of, or conduct constituting, contempt of this or any other court;
- (d) a violation of the professional-conduct standards that apply under this rule's paragraph (G)(1); or
- (e) other conduct inconsistent with the high level of professionalism expected in this District.

(5) Withdrawing from the District's Bar. An attorney may withdraw from the District's bar by giving notice to the Clerk.

(6) Reinstatement. The District may reinstate a removed or suspended attorney, or an attorney who has withdrawn, with or without conditions. A reinstated attorney must pay the admission fee unless the attorney is automatically reinstated under Local Rule 11.1(G)(3).

(7) Contempt. A person may be held in contempt of court if the person (a) acts as an attorney in this District in violation of this rule or (b) pretends to be entitled to act as an attorney in this District but is not.

(8) Other Restrictions or Discipline. For good cause, the District may limit an attorney's activities in the District or impose other discipline, and the Court may limit an attorney's activities or impose discipline in a case, after giving any appropriate notice and opportunity to be heard.

(H) Withdrawing in a Case.

(1) When Court Approval Required. An attorney who has appeared in a case may not withdraw unless:

- (a) the Court grants leave to withdraw; or
- (b) the client consents and the withdrawal will leave the client with another attorney of record who intends to continue in the case.

(2) Prior Notice. An attorney must not move for leave to withdraw without first giving 14 days' notice to the client, unless giving notice is impossible. The motion must set out the client's position on the motion.

(3) Nonpayment of Fees. An attorney ordinarily will not be allowed to withdraw based on a client's failure to pay attorney's fees or expenses if the withdrawal will delay a trial or hearing. And in a criminal case, a motion to withdraw based on a defendant's failure to pay attorney's fees or expenses ordinarily will be denied if made more than 7 days after the defendant's first arraignment.

(I) Responsibility of Retained Counsel in Criminal Cases.

(1) Unless the Court, within 7 days after arraignment, is notified in writing of counsel's withdrawal because of the defendant's failure to make satisfactory financial arrangements, the Court will expect retained criminal defense counsel to represent the defendant until the conclusion of the case. Failure of a defendant to pay sums owed for attorney's fees or failure of counsel to collect a sum sufficient to compensate for all the services usually required of defense counsel will not constitute good cause for withdrawal after the 7-day period has expired.



(2) If a defendant moves the Court to proceed on appeal in forma pauperis and/or for appointment of Criminal Justice Act appellate counsel, counsel retained for trial will, in addition to the information required under Form 4 of the Rules of Appellate Procedure, be required to fully disclose in camera (a) the attorney's fee agreement and the total amount of such fees and costs paid to date, in cash or otherwise; (b) by whom fees and costs were paid; (c) any fees and costs remaining unpaid and the complete terms of agreements concerning payment thereof; (d) the costs actually incurred to date; and (e) a detailed description of services actually rendered to date, including a record of the itemized time (to the nearest 1/10 of an hour) for each service, both in-court and out-of-court, and the total time. All such information submitted will be viewed in camera by the Court for the purpose of deciding the defendant's motion and will be a part of the record (sealed if requested) in the case.



RULE 15.1 | AMENDING A PLEADING

(A) Complete Copy Required. A pleading may be amended only by filing a complete copy of the amended pleading. Allegations in a prior pleading that are not set out in the amended pleading are deemed abandoned, with this exception: if, in a definitive ruling, the Court has dismissed a claim or struck a defense without leave to amend, the claim or defense must not be included in a later amended pleading.

(B) Separately Docketing a Motion for Leave and the Amended Pleading. When a pleading may be amended only by leave of court, the amending party must file a motion for leave to amend and must simultaneously file the proposed amended pleading itself. The proposed amended pleading will become effective only if the Court grants leave to amend.



RULE 16.1 | RULE 26(F) ATTORNEY CONFERENCE; PRIOR DISCOVERY

In a civil case in which the attorneys must confer under Federal Rule of Civil Procedure 26(f), the conference must occur as soon as practicable. The Court may – and ordinarily will – enter an order modifying the deadline for the conference. If an order has not been entered, the deadline is determined by the Federal Rules and is ordinarily the earlier of 69 days after any defendant has appeared or 99 days after the first service of process on any defendant. A party may seek discovery before the conference only when authorized by the Federal Rules, by stipulation, or by an order in the case.



RULE 16.2 | NOTICE OF A SETTLEMENT OR INTENT TO PLEAD GUILTY OR MOTION TO CONTINUE; ASSESSING COSTS

(A) Duty to Give Notice. Each attorney of record must ensure that the Court is notified immediately when:

- (1) A civil case is settled;
- (2) A defendant elects to enter a guilty plea;
- (3) The parties resolve by agreement a motion or other dispute that is under submission; or
- (4) A party expects to move for continuance of a trial or hearing.

(B) Manner of Giving Notice. Actual notice must be given in a manner that ensures that the judge and court personnel do not unnecessarily work on a settled case or issue and that jurors are not unnecessarily required to appear. When a trial or hearing is imminent or a matter is under submission, filing an electronic notice may not be sufficient; telephone notice may be required. A party must give notice to all other parties at least as promptly as to the Court.

(C) Expenses. If a party fails to give notice at least two days – calculated under Federal Rule of Civil Procedure 6 – before a jury panel is scheduled to report for jury selection, juror attendance and mileage fees will be assessed against the party or the party's attorney or both, unless the Court orders otherwise for good cause. Other expenses incurred as a result of any failure to give timely notice under this rule – including witness fees, travel expenses, and expenses incurred by the United States Marshal or for court security – may also be assessed. Expenses assessed against an attorney appointed under the Criminal Justice Act may be offset against the attorney's fee.

RULE 16.3 | MEDIATION

The Court may order the parties to mediate a civil case. The parties may agree to mediate a civil case even when the Court has not ordered them to do so. Mediation must be conducted in accordance with the Rules for Certified and Court-Appointed Mediators adopted by the Florida Supreme Court, except as otherwise ordered, but this sentence does not apply to a settlement conference – even if called “mediation” – conducted by a district or magistrate judge. Everything said during a mediation or settlement conference – other than the terms of any settlement agreement itself – is confidential and inadmissible as a settlement negotiation.



RULE 23.1 | CLASS ACTIONS

A pleading that asserts a claim on behalf of or against a class must set out the proposed definition of the class and must allege facts showing that the claim or defense may be so maintained. The pleader must file a motion to certify the class, together with a memorandum and evidence showing the class certification is appropriate, within 90 days after filing the pleading. The Court may change the deadline by an order in the case. The filing of an amended pleading does not extend the deadline.



RULE 24.1 | CONSTITUTIONAL CHALLENGES TO STATUTES, RULES, AND ORDINANCES

A party who files a pleading, written motion, or other paper drawing into question the constitutionality of a federal or state statute or rule must promptly file and serve a notice under Federal Rule of Civil Procedure 5.1(a). A party who files a pleading, written motion, or other paper calling into question the constitutionality of a political subdivision's ordinance or rule must file a notice and serve it on the state attorney general, the state attorney with jurisdiction in the political subdivision's geographic area, and the attorney for the political subdivision.



RULE 26.1 | DISCOVERY IN CIVIL CASES

(A) Discovery Materials Not To Be Filed; Exceptions. A party may conduct discovery but must not file a discovery request or response or a deposition transcript unless:

- (1) the Court orders the filing;
- (2) the material is needed for determination of a pending motion or issue; or
- (3) the material is admitted into evidence at a trial or hearing.

(B) Place of Depositions. Unless the Court orders otherwise for cause,

- (1) a party who asserts a claim for affirmative relief – other than costs and attorney’s fees – can be required to appear once in this District for a deposition; and
- (2) any other party can be required to appear for a deposition only where a nonparty witness could be required to appear.

(C) Objections to Written Discovery Requests. An objection to an interrogatory, production request, or admission request must be set out specifically for the individual interrogatory, production request, or admission request; an objection cannot be set out generally for an entire set of discovery requests. Boilerplate objections are strongly disfavored.

(D) Motions To Compel. A discovery motion must frame the dispute clearly and, if feasible, must, for each discovery request at issue:

- (1) quote the discovery request verbatim;
- (2) quote each objection specifically directed to the discovery request; and
- (3) set out the reasons why the discovery should be compelled.



RULE 26.2 | DISCOVERY IN CRIMINAL CASES

(A) Policy. It is the District's policy to rely on the standard discovery procedure as set forth in this rule as the sole means for the exchange of discovery in criminal cases except in extraordinary circumstances. This rule is intended to promote the efficient exchange of discovery without altering the rights and obligations of the parties, but at the same time eliminating the practice of routinely filing voluminous and duplicative discovery motions. Best practices consistent with this rule may be addressed by administrative order.

(B) Discovery Upon Defendant's Request. At the earliest opportunity and no later than 7 days after arraignment, the defendant's attorney shall contact the government's attorney and make a good faith attempt to have all properly discoverable material and information promptly disclosed or provided for inspection or copying. In addition, upon request of the defendant, the government shall specifically provide the following within 7 days after the request:

(1) Defendant's Statements Under Fed. R. Crim. P. 16(a) (1) (A) (B), and (C). Any written or recorded statements made by the defendant; the substance of any oral statement made by the defendant before or after the defendant's arrest in response to interrogation by a then known-to-be government agent which the government intends to offer in evidence at trial; and any recorded grand jury testimony of the defendant relating to the offenses charged.

(2) Defendant's Prior Record Under Fed. R. Crim. P. 16(a) (1) (D). The defendant's complete arrest and conviction record, as known to the government.

(3) Documents and Tangible Objects Under Fed. R. Crim. P. 16(a) (1) (E). Books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which the government intends to use as evidence-in-chief at trial, which are material to the preparation of the defendant's defense, or which were obtained from or belong to the defendant.



(4) Reports of Examinations and Tests Under Fed. R. Crim. P. 16(a)(1)(F). Results or reports of physical or mental examinations and of scientific tests or experiments, or copies thereof, which are material to the preparation of the defendant's defense or are intended for use by the government as evidence-in-chief at trial.

(5) Expert Witnesses Under Fed. R. Crim. P. 16(a)(1)(G). A written summary of testimony the government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence.

(C) Defendant's Discovery Obligations. If the defendant requests disclosure under subdivisions (a)(1)(C), (D), or (E) of Fed. R. Crim. P. 16, or if the defendant has given notice under Fed. R. Crim. P. 12.2 of an intent to present expert testimony on the defendant's mental condition, the government shall make its requests as allowed by Fed. R. Crim. P. 16 within 3 days after compliance with the defendant's request or after receipt of defendant's notice of intent to present expert testimony on the defendant's mental condition pursuant to Fed. R. Crim. P. 12.2, and the defendant shall provide, by the deadline set out below, the following:

(1) Documents and Tangible Objects Under Fed. R. Crim. P. 16(b)(1)(A). Within 7 days after government's request, books, papers, documents, photographs, tangible objects, or copies or portions thereof, which the defendant intends to introduce as evidence-in-chief at trial.

(2) Reports of Examinations and Tests Under Fed. R. Crim. P. 16(b)(1)(B). At least 30 days before the trial, results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof, which the defendant intends to introduce as evidence-in-chief at trial, or which were prepared by a witness whom the defendant intends to call at trial and which relate to that witness's testimony.

(3) Expert Witnesses Under Fed. R. Crim. P. 16(b)(1)(C). Within 14 days after the government's request, a written summary of testimony the defendant intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence.

(D) Other Disclosure Obligations of the Government. The government's attorney shall provide the following within 7 days after the defendant's arraignment, or promptly after acquiring knowledge thereof:

(1) Brady Material. All information and material known to the government which may be favorable to the defendant on the issues of guilt or punishment, without regard to materiality, that is within the scope of *Brady v. Maryland*, 373 U.S. 83 (1963) and *United States v. Agurs*, 427 U.S. 97 (1976).

(2) Giglio Material. The existence and substance of any payments, promises of immunity, leniency, preferential treatment, or other inducements made to prospective witnesses, within the scope of *United States v. Giglio*, 405 U.S. 150 (1972) and *Napus v. Illinois*, 360 U.S. 264 (1959).

(3) Testifying Informant's Convictions. A record of prior convictions of any alleged informant who will testify for the government at trial.

(4) Defendant's Identification. If a lineup, showup, photo spread or similar procedure was used in attempting to identify the defendant, the exact procedure and participants shall be described and the results, together with any pictures and photographs, shall be disclosed.

(5) Inspection of Vehicles, Vessels, or Aircraft. If any vehicle, vessel, or aircraft was allegedly utilized in the commission of any offenses charged, the government shall permit the defendant's counsel and any experts selected by the defense to inspect it, if it is in the custody of any governmental authority.

(6) Defendant's Latent Prints. If latent fingerprints, or prints of any type, have been identified by a government expert as those of the defendant, copies thereof shall be provided.

(E) Obligations of the Government.

(1) The government shall advise all government agents and officers involved in the case to preserve all rough notes and electronically stored information.



(2) The government shall advise the defendant of its intention to introduce evidence at trial, pursuant to Rule 404(b), Federal Rules of Evidence.

(3) If the defendant was an "aggrieved person" as defined in 18 U.S.C. §2510(11), the government shall so advise the defendant and set forth the detailed circumstances thereof.

(4) The government shall anticipate the need for, and arrange for the transcription of, the grand jury testimony of all witnesses who will testify in the government's case-in-chief, if subject to Fed. R. Crim. P. 26.2 and to 18 U.S.C. §3500. *Jencks* Act materials and witnesses' statements shall be provided as required by Fed. R. Crim. P. 26.2 and §3500. However, the government, and where applicable, the defendant, is requested to make such materials and statements available to the other party sufficiently in advance so as to avoid any delays or interruptions at trial.

(F) Obligations of the Defendant.

(1) Insanity. If a defendant intends to rely upon the defense of insanity at the time of the alleged crime, or intends to introduce expert testimony relating to a mental disease, defect, or other mental condition bearing upon the issue of guilt, or, in a capital case, punishment, the defendant shall give written notice thereof to the government within 14 days after arraignment.

(2) Alibi. If the attorney for the government makes demand for notice of defendant's intent to offer a defense of an alibi, the defendant shall respond within 14 days after the demand.

(3) Entrapment. If the defendant intends to rely upon the defense of entrapment, such intention shall be disclosed by written notice to the government's attorney at least 14 days before the trial. See *United States v. Webster*, 649 F.2d 346 (5th Cir. 1981).



(G) Joint Obligations of Attorneys.

(1) Conference and Joint Report. The attorneys for the government and the defendant shall confer at least 7 days prior to the scheduled date for jury selection and shall discuss all discovery requested and provided. They shall also make every possible effort in good faith to stipulate to facts, to points of law, and to the authenticity of exhibits (particularly regarding those exhibits for which records custodian witnesses may be avoided). A joint written statement, signed by the attorney for each defendant and the government, shall be prepared and filed prior to commencement of trial. It shall generally describe all discovery material exchanged and shall set forth all stipulations. No stipulation made shall be used against a defendant unless the stipulation is in writing and signed by both the defendant and the defendant's attorney.

(2) Newly Discovered Evidence. It shall be the duty of counsel for both sides to immediately reveal to opposing counsel all newly discovered information, evidence, or other material within the scope of this rule, and there is a continuing duty upon each attorney to disclose by the speediest means available.

(3) Discovery Motions Prohibited. No attorney shall file a discovery motion without first conferring with opposing counsel, and no motion will be considered by the Court unless it is accompanied by a certification of such conference and a statement of the moving party's good faith efforts to resolve the subject matter of the motion by agreement with opposing counsel. No discovery motions should be filed for information or material within the scope of this rule.

(4) Filing of Requests. Discovery requests made pursuant to Fed. R. Crim. P. 16 and this local rule require no action on the part of the Court and should not be filed with the Clerk, unless needed for consideration of a motion or to preserve an issue for appeal.

(5) Protected Material. When the government believes that public disclosure of *Giglio* material or testifying-informant convictions poses a danger to a witness, it may provide this information in an envelope separate from other discovery material and marked "*Giglio* material/informant convictions – DISTRIBUTION OUTSIDE THE DEFENSE TEAM IS PROHIBITED." Information designated in this manner shall not be distributed by the attorney for the defendant, except to those working on the attorney's behalf. While it is information that is necessarily shared with the defendant, copies of this information shall not be provided to the defendant.



RULE 41.1 | DISMISSAL FOR FAILURE TO COMPLY WITH A RULE OR COURT ORDER

If a party fails to comply with an applicable rule or a court order, the Court may strike a pleading, dismiss a claim, enter a default on a claim, take other appropriate action, or issue an order to show cause why any of these actions should not be taken.



RULE 54.1 | MOTIONS FOR ATTORNEY'S FEES

(A) Bifurcated Procedure. A party who seeks an award of attorney's fees must first move for a determination of the party's entitlement to a fee award and may move for a determination of the amount of an award only after the Court determines the party's entitlement to an award. Local Rule 7.1, including the requirement for the attorneys to confer in a good-faith effort to resolve the dispute, applies in full.

(B) Deadline for an Entitlement Motion. The deadline for moving for a determination of entitlement is 14 days after the entry of the judgment or, if there is no judgment, 14 days after the case is closed. An appeal does not extend the deadline unless the Court so orders.

(C) Maintaining Time Records. No award of attorney's fees will be made based in whole or part on time devoted to a case unless the attorney or other timekeeper made a contemporaneous, detailed record of the time to the nearest tenth hour. A detailed record must provide enough information to allow the Court to evaluate reasonableness; an entry like "research" or "conference" without a description of the subject will not do.

(D) Filing and Disclosing Time Records. Unless an assigned judge orders otherwise, the time records must not be filed with the Clerk until necessary for the determination of a fee motion. But a party must promptly disclose to another party – on a request made at any time – the total number of hours that have been devoted to the case by the party's attorneys and other timekeepers through the end of the month preceding the request.

(E) Required Filings in Support of a Motion to Determine the Fee Amount. If the Court determines that a party is entitled to a fee award, the party must file within 30 days:

(1) A declaration setting out the time devoted to the case by date and task, specifically identifying the timekeeper and the timekeeper's claimed hourly rate. The declaration must include sufficient detail to allow a determination of reasonableness. And the declaration must include sufficient detail to allow the maximum feasible separation of time devoted to matters that are and are not compensable and matters on which the party did and did not prevail.

(2) A declaration of an independent attorney addressing the reasonableness of the claimed time and rates.

(F) Required Filings in Opposition to a Motion to Determine the Fee Amount. A party who opposes a motion to determine the fee amount must file within 30 days after the motion is served a memorandum specifically identifying any objection to the claimed amount. If the party objects to a timekeeper's claimed hourly rate, the memorandum must set out the rate that the party asserts is reasonable. If the party asserts that hours should be reduced or not compensated, the memorandum must identify the hours or otherwise specifically describe the proposed reduction. The memorandum must set out the fee award the party asserts would be reasonable – and by doing so the party will not be deemed to waive the party's objection that fees should not be awarded at all.

(G) Additional Conference and Notice. After a party files a memorandum in opposition to the motion to determine the fee amount, the attorneys must confer again in a good-faith effort to resolve the dispute – on amount if not also on entitlement. The parties must file a notice of whether they have reached any agreement. The deadline for the notice is 14 days after the memorandum in opposition was filed.

RULE 54.2 | TAXATION OF COSTS

(A) Bill of Costs Required; Objections; Deadlines. A party who seeks taxation of costs — other than attorney's fees — must file a verified bill of costs on a form available from the Clerk or on the District's website. The deadline for filing the bill of costs is 14 days after the entry of the judgment or, if there is no judgment, 14 days after the case is closed. The party may simultaneously file a memorandum in support of the bill of costs. Any other party may file a memorandum in opposition within 14 days after the bill of costs is filed. An appeal does not extend these deadline unless the Court so orders.

(B) Taxation by the Clerk or the Court. Unless the Court orders otherwise, the Clerk will review and take appropriate action on the bill of costs, after the deadline for filing objections.

(C) Review by the Court. On motion filed within 7 days after the Clerk's action, the Court may review the action.

(D) Administrative Order. An administrative order may provide guidance to the Clerk and parties on the taxation of categories of costs, but the administrative order will have no legal effect in any dispute over whether a cost legally can or should be taxed in a case.

RULE 56.1 | SUMMARY JUDGMENT MOTIONS

(A) Federal Rule 56. A summary-judgment motion is governed by Federal Rule of Civil Procedure 56 and, unless the Court orders otherwise, this rule.

(B) Motion and Supporting Memorandum. A party who moves for summary judgment must file at the same time a memorandum of up to 8,000 words and any supporting evidence not already in the record. The memorandum must include a statement of facts generally in the form that would be appropriate in an appellate brief. A statement of facts must not be set out in a separate document.

(C) Opposing Memorandum. An opposing party must file within 21 days – without a 3-day extension based on electronic service of the motion – a memorandum of up to 8,000 words and any opposing evidence not already in the record. The memorandum must respond to the moving party's statement of facts as would be appropriate in an appellate brief. The opposing party must not file a separate document setting out the facts or responding to the moving party's statement of facts.

(D) Reply Memorandum. The moving party may file a reply memorandum of up to 3,200 words. The moving party should do so only if the opposing memorandum raised new matters not addressed in the original supporting memorandum. The deadline for a reply memorandum is 7 days after the opposing memorandum is filed – without a 3-day extension based on electronic service of the opposing memorandum.

(E) Word Limits. Words are counted under this rule, and a certificate of compliance is required, in the same manner as under Local Rule 7.1(F).

(F) Pinpoint Record Citations Required. Each memorandum must include pinpoint citations to the record evidence supporting each factual assertion. The Court may, but need not, consider record evidence that has not been properly cited.

(G) Ruling Without a Hearing; Time for a Ruling. A motion may be resolved against a party without a hearing – and without further notice – at any time after the party has had an opportunity to file a memorandum and evidence under this rule.



RULE 72.1 | AUTHORITY OF UNITED STATES MAGISTRATE JUDGES

(A) Duties Under 28 U.S.C. §636; Effect of a Ruling by a Magistrate Judge.

(1) A magistrate judge is a judicial officer of the district court. All United States magistrate judges serving within the territorial jurisdiction of the Northern District of Florida have the authority conferred by 28 U.S.C. §636 and may exercise all other powers and duties conferred or imposed by law and the federal procedure rules.

(2) A magistrate judge's ruling or order in a matter heard and determined by a magistrate judge is the court's ruling and will remain in effect unless and until reversed, vacated, modified, or stayed. The filing of a motion for reconsideration does not stay the magistrate judge's ruling or order.

(B) Designation for Trial of Misdemeanor Cases Upon Consent Under 18 U.S.C. §3401. All United States magistrate judges serving within the territorial jurisdiction of the Northern District of Florida are hereby designated to try persons accused of, and sentence persons convicted of, misdemeanors and petty offenses committed within this District, in accordance with 18 U.S.C. §3401 and Fed. R. Crim. P. 58.

(C) Designation for Trial of Civil Cases Upon Consent Pursuant to 28 U.S.C. §636(c). With the consent of the parties, full-time magistrate judges are hereby designated to conduct civil trials, including the entry of final judgment.

RULE 72.2 | REFERRAL OF MATTERS TO MAGISTRATE JUDGES BY THIS RULE

(A) Misdemeanor Cases. All misdemeanor cases, including those transferred to this District pursuant to Fed. R. Crim. P. 20, shall be assigned by the Clerk, upon the filing of an information, complaint, or violation notice, or the return of an indictment, to a magistrate judge, who shall proceed in accordance with the provisions of 18 U.S.C. §3401 and of Fed. R. Crim. P. 58.

(B) Applications for Post-Trial Relief by Persons Convicted of Criminal Offenses and Other Cases Filed Under 28 U.S.C. §§2241, 2254, and 2255. Except in cases in which the death penalty has been imposed, all cases seeking post-trial or postconviction relief by persons convicted of state or federal offenses and all other cases arising under 28 U.S.C. §§2241, 2254, or 2255, shall be assigned to a district judge and, unless otherwise ordered, shall be referred by the Clerk to a full-time magistrate judge for all proceedings, including preliminary orders, conduct of necessary evidentiary hearings, and filing of a report and recommendation containing proposed findings of fact and conclusions of law and recommending disposition of the application or petition.

(C) Civil Rights Cases Filed by Prisoners. All prisoner petitions and complaints challenging conditions of confinement pursuant to 42 U.S.C. §1983 and 28 U.S.C. §1331 (Bivens actions), or pursuant to similar statutes, shall be assigned to a district judge and, unless otherwise ordered, shall be referred by the Clerk to a full-time magistrate judge for all proceedings, including preliminary orders, conduct of necessary evidentiary hearings, and filing of a report and recommendation containing proposed findings of fact and conclusions of law and recommending disposition of the complaint.

(D) Social Security Cases and Other Administrative Proceedings. All actions brought under section 205(g) of the Social Security Act, 42 U.S.C. §405(g) and related statutes, and all other actions to review administrative determinations on a developed administrative record shall be assigned to a district judge and, unless otherwise ordered, shall be referred by the Clerk to a magistrate judge for all proceedings, including preliminary orders, conduct of necessary hearings, and filing of a report and recommendation



containing proposed findings of fact and conclusions of law and recommending disposition of the petition or complaint.

(E) Civil Cases Filed by Non-Prisoner Pro Se Litigants. All civil cases filed where one or more of the parties is a non-prisoner pro se litigant shall be assigned to a district judge and, unless otherwise ordered, shall be referred by the Clerk to a full time magistrate judge for all proceedings, including preliminary orders, conduct of necessary hearings, and filing of a report and recommendation containing proposed findings of fact and conclusions of law and recommending disposition of the case.

(F) Additional Duties. Absent an order by a district judge in a specific case to the contrary, the following additional matters shall routinely be referred by the Clerk to magistrate judges serving within the territorial jurisdiction of the Northern District of Florida when a magistrate judge is available, and magistrate judges to whom such matters have been referred shall have authority to:

- (1) Issue criminal complaints and issue appropriate arrest warrants or summons;
- (2) Issue search warrants pursuant to Fed. R. Crim. P. 41, and issue administrative search or inspection warrants;
- (3) Review for probable cause and issue process upon any other application by the United States (for example, for seizure of real property in rem) for which there is evolving legal precedent indicating a need for a judicial finding of probable cause before proceeding;
- (4) Issue warrants and orders as authorized by 18 U.S.C. §2703 (disclosure of customer communications or records), 18 U.S.C. §3123 (a pen register or a trap and trace device), or orders and writs pursuant to 28 U.S.C. §1651(a) (all writs necessary or appropriate in aid of jurisdiction);
- (5) Conduct initial appearances in felony cases, consider and determine motions for detention, impose conditions of release pursuant to 18 U.S.C. §3142, conduct arraignments upon indictments for purposes of taking a not guilty plea, and issue scheduling orders setting trial;

- (6) Appoint counsel for indigent persons pursuant to 18 U.S.C. §3006A;
- (7) Consider and determine motions for detention and impose conditions of release for material witnesses pursuant to 18 U.S.C. §3144;
- (8) Conduct preliminary hearings upon criminal complaints and determine probable cause;
- (9) Conduct and determine removal hearings and issue warrants of removal;
- (10) Conduct first appearances and preliminary hearings, by whatever name called, in proceedings for the revocation of parole, supervised release, mandatory release, or probation;
- (11) Receive the return of indictments by the grand jury and issue process thereon;
- (12) Hear and order discharge of indigent prisoners or persons imprisoned for debt under process or execution issued by a federal court pursuant to 18 U.S.C. §3569 (repealed 1987) and 28 U.S.C. §2007;
- (13) Appoint interpreters in cases pending before a magistrate judge initiated by the United States pursuant to 28 U.S.C. §§1827 and 1828;
- (14) Issue warrants and conduct extradition proceedings pursuant to 18 U.S.C. §3184;
- (15) Perform the functions specified in 18 U.S.C. §§4107, 4108, and 4109, regarding proceedings for verification of consent by offenders to transfer to or from the United States and the appointment of counsel therein;
- (16) Institute proceedings against persons violating certain civil rights statutes under 42 U.S.C. §§1987 and 1989;
- (17) Issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties, witnesses or evidence needed for court proceedings in any civil and criminal cases;

(18) Issue attachment or other orders to enforce obedience to an Internal Revenue Service summons to produce records or give testimony pursuant to 26 U.S.C. §7604(a) and (b);

(19) Settle and certify the nonpayment of seaman's wages and conduct proceedings for the disposition of deceased seaman's effects under 46 U.S.C. §10101 et seq.;

(20) Enforce awards of foreign consul and arbitrate differences between captains and crews of vessels of the consul's nations under 22 U.S.C. §358a;

(21) Review prisoner correspondence;

(22) Enter court orders to withdraw funds from the registry of the court in matters handled by the magistrate judge;

(23) Preside at naturalization ceremonies and issue orders granting motions for naturalization;

(24) Preside at attorney admission ceremonies and issue orders granting applications for admission to the District's bar;

(25) Adopt schedules for forfeiture of collateral under Fed. R. Crim. P. 58(d)(1);

(26) Issue warrants of arrest in rem, attachment, garnishment, or other process in admiralty; and

(27) Determine actions to be taken regarding noncomplying documents submitted for filing under N.D. Fla. Loc. R. 5.1, or the Federal Rules of Civil or Criminal Procedure.

RULE 72.3 | SPECIFIC REFERRALS OF MATTERS TO MAGISTRATE JUDGES

Any district judge may assign any matter, civil or criminal, to a magistrate judge of this District to the full extent permitted by 28 U.S.C. §636. Specifically included is the taking of guilty pleas in felony cases with the consent of the defendant and recommending the acceptance or rejection of such pleas to the district judge, and ordering a presentence investigation report. The assignment and designation of duties to magistrate judges by district judges may be made by written standing order entered jointly by the resident district judges of the District or of any division of the District or through oral directive or written order by any individual district judge in any case, cases, or category of cases assigned to that judge.



RULE 72.4 | FULL-TIME AND PART-TIME MAGISTRATE JUDGES

Any reference in these local rules to magistrate judges includes both full-time and part-time magistrate judges unless otherwise expressly stated in these rules or in the applicable general law or rules of procedure.



RULE 73.1 | PROCEDURES FOR CONSENT TO TRIAL BEFORE A MAGISTRATE JUDGE

(A) Notice. In all civil cases, as may be provided by Administrative Order, the Clerk shall notify the parties that, pursuant to 28 U.S.C. §636(c), they may consent to have a full-time magistrate judge conduct any or all proceedings in the case and order the entry of a final judgment. The notice shall state that the parties are free to withhold their consent without adverse substantive consequences.

(B) Execution of Consent. Any party who consents to trial of any or all of the civil case by a magistrate judge must execute a consent form and return it to the office of the Clerk within 45 days of the date of service of the notice. The form shall not be returned if the party does not consent. No magistrate judge, district judge, or other court official may attempt to coerce any party to consent to the reference of any matter to a full-time magistrate judge. This rule, however, shall not preclude any district judge or magistrate judge from informing the parties that they may have the option of having a case referred to a full-time magistrate judge for all proceedings, including trial.

(C) Reference. Cases in which the parties have timely filed a fully executed consent form shall be referred to the full-time magistrate judge assigned to the case, and notice thereof shall be made a part of the file, with copies furnished to the parties.

RULE 77.1 | PHOTOGRAPHING, RECORDING, AND BROADCASTING PROCEEDINGS

(A) Proceedings must not be photographed, recorded, broadcast, or transmitted by any means, except as authorized by this rule.

(B) Investitures, naturalizations, and ceremonial proceedings may be photographed or recorded, unless the Court prohibits it.

(C) Proceedings may be transmitted to or recorded by the United States Marshals Service for security purposes.

(D) The court reporter may make an audio recording for use in preparing an official transcript. And other court personnel may make an audio recording when the recording will be the official record of a proceeding.

(E) The Court may authorize any other photograph, recording, broadcast, or transmission if consistent with any applicable policies of the Judicial Conference of the United States and Eleventh Circuit Judicial Council.

RULE 77.2 | ELECTRONIC DEVICES

(A) This rule applies to devices that are capable of remote communication (including cellular telephones, laptops, and electronic tablets). This rule also applies to devices that are capable of photographing, recording, broadcasting, or transmitting proceedings. Such devices must not be brought into a United States Courthouse in this District, except as authorized by this rule.

(B) Court employees and employees of an agency with an office in a courthouse may bring devices into the courthouse but may not bring devices into a courtroom unless otherwise authorized by this rule.

(C) Officers providing security may bring devices into a courtroom.

(D) The attorneys of record in a case and members of their staffs may bring devices into the courthouse and into a courtroom. While in the courtroom, attorneys and staff members may use devices only in connection with the proceeding and otherwise must keep devices off or in silent mode. Cellular telephones and other hand-held devices must be kept out of sight while court is in session. Devices may be used outside a courtroom or in other parts of the building so long as court proceedings are not disturbed. The Court may change these provisions by an order in a case.

(E) Members of the media may request the same authority to bring in and use devices as attorneys and their staffs have under this rule's paragraph (D). A request may be made orally or in writing to the Clerk. The Clerk may grant the request under guidelines established by an administrative order or as authorized by the Court in a case. Unless the Clerk grants such a request or the Court gives greater authority under this rule's paragraph (G), members of the media have the same rights, and are subject to the same obligations, as members of the public.

(F) Devices may be brought into a courthouse for photographing, recording, broadcasting, or transmitting proceedings as authorized by Local Rule 77.1.

(G) The Court may authorize devices to be brought into the courthouse or courtroom on other specific occasions and may authorize or restrict their use.



(H) The United States Marshals Service may agree to store a device that cannot properly be brought into the courthouse under this rule. And as part of its control over the courthouse grounds, the Marshals Service may ban or restrict devices on the grounds.



RULE 77.3 | VIDEO AND AUDIO PROCEEDINGS

The Court may conduct a trial or hearing – and may receive testimony and other evidence – by video or audio transmission from a remote location, unless contrary to law.



RULE 77.4 | RELEASE OF INFORMATION IN CRIMINAL AND CIVIL CASES

(A) Release of Information by Officials in General. No judicial branch employee (including a judge's staff, clerks, probation officers, and court reporters), no officer, employee or representative of the United States Marshals Service or court security officer, nor any state, local, or federal law enforcement officer or employee associated with or assisting in the preparation or trial of a criminal case, may disseminate by any means of public communication, without authorization by the Court, information relating to an imminent or pending criminal or civil case that is not part of the public records of the court.

(B) Release of Information by Attorneys in Criminal Cases.

(1) It is the duty of attorneys, including the United States Attorney, who represent parties in criminal cases, and their respective staffs, not to release or authorize the release of information or opinion which a reasonable person would expect to be disseminated by means of public communication, in connection with pending or imminent criminal litigation with which the attorney is associated, if there is a substantial likelihood that such dissemination will cause material administration of justice.

(2) With respect to a grand jury or other pending investigation of any criminal matter, an attorney participating in or associated with the investigation shall refrain from making any extrajudicial statement which a reasonable person would expect to be disseminated by means of public communication, that goes beyond the public record or that is not necessary to inform the public that the investigation is underway, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, to warn the public of any dangers, or otherwise to aid in the investigation.

(3) From the time of arrest, issuance of an arrest warrant, or the filing of a complaint, information, or indictment in any criminal matter until the commencement of trial or disposition without trial, no attorney nor others associated with the prosecution or defense shall release or authorize the release of any extrajudicial statement which a reasonable person would expect to be disseminated by means of public communication, relating to that matter and concerning:

(a) The prior criminal record (including arrests, indictment, or other charges of crime) or the character or reputation of the accused, except that the attorney may make a factual statement of the accused's name, age, residence, occupation, and family status. If the accused has not been apprehended, an attorney associated with the prosecution may release any information necessary to aid in apprehension of the accused or to warn the public of any dangers the accused may present;

(b) The existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;

(c) The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;

(d) The identity, testimony, or credibility of prospective witnesses, except that the attorney may announce the identity of the victim if the announcement is not otherwise prohibited by law;

(e) The possibility of a plea of guilty to the offense charged or a lesser offense;

(f) Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

(4) These prohibitions shall not be construed to preclude the attorney, in the proper discharge of official or professional obligations, from announcing the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit, and use of weapons), the identity of the investigating and arresting officer or agency, and the length of the investigation; from making an announcement, at the time of seizure of any physical evidence other than a confession, admission, or statement, which is limited to a description of the evidence seized; from disclosing the nature, substance, or text of the charge, including a brief description of the offense charged; from quoting or referring without comment to public records of the court in the case; from announcing the scheduling or result of any stage in the judicial process; from requesting assistance in obtaining evidence; or from announcing without further comment that the accused denies the charges.

(5) During the trial of any criminal matter, including the period of selection of the jury, no attorney associated with the prosecution or defense shall give or authorize any extrajudicial statement or interview, relating to the trial or the parties or issues in the trial which a reasonable person would expect to be disseminated by means of public communication, except that an attorney may quote from or refer without comment to public records of the court in the case.

(6) After the completion of a trial or disposition without trial of any criminal matter, and prior to the imposition of sentence, an attorney associated with the prosecution or defense shall refrain from making or authorizing any extrajudicial statement which a reasonable person would expect to be disseminated by means of public communication if there is a substantial likelihood that such dissemination will materially prejudice the imposition of sentence.

(7) Nothing in this rule is intended to preclude the formulation or application of more restrictive rules relating to the release of information about juvenile or other offenders, to preclude the holding of hearings or the lawful issuance of reports by legislative, administrative, or investigative, or to preclude any attorney who represented a party from replying to charges, made public, of attorney misconduct.

(C) Release of Information by Attorneys in Civil Cases. An attorney associated with a civil action shall not during its investigation or litigation make or participate in making an extrajudicial statement, other than a quotation from or reference to public records, which a reasonable person would expect to be disseminated by means of public communication if there is a substantial likelihood that such dissemination will cause material prejudice to a fair trial and which relates to:

- (1) Evidence regarding the occurrence or transaction involved;
- (2) The character, credibility, or criminal record of a party, witness, or prospective witness;
- (3) The performance of results or any examinations or tests or the refusal or failure of a party to submit to such;
- (4) An opinion as to the merits of the claims or defenses of a party, except as required by law or administrative rule; or
- (5) Any other matter reasonably likely to interfere with a fair trial of the action.

(D) Special Orders in Widely Publicized and Sensational Cases. In a widely publicized or sensational case, the Court on motion of either party or on its own motion, may issue a special order governing such matters as: (1) extrajudicial statements by parties and witnesses likely to interfere with the rights of the accused to a fair trial by an impartial jury, (2) the seating and conduct in the courtroom of spectators and news media representatives, (3) management and sequestration of jurors and witnesses, and (4) any other matters which the Court may deem appropriate for inclusion in such an order.

(E) Sealed Indictments in Criminal Cases. Sealed indictments will be automatically unsealed by the Clerk at the first appearance of any defendant named in that indictment unless otherwise ordered by a judicial officer.

(F) Disposition of Sealed Documents in Civil Cases at the Conclusion of the Case. Thirty days after the conclusion of a civil case (expiration of the time to appeal, if no appeal is filed, or voluntary dismissal of the appeal, or receipt of the mandate after an appeal and expiration of the time in which to seek certiorari review in the Supreme Court, if an appeal is taken) all sealed documents maintained in paper form will be returned to the party who submitted them, and the party shall retain the documents for 3 years thereafter.



RULE 77.5 | MARSHAL TO ATTEND COURT

Unless excused by the presiding judge, the United States Marshal of this District, or deputy, or, as an alternative in civil cases only, a court security officer, shall be in attendance during all sessions of any kind conducted in open court.



RULE 87.1 | APPEALS IN BANKRUPTCY CASES

The Federal Rules of Bankruptcy Procedure govern the schedule for an appeal to the district court in a bankruptcy case except as otherwise ordered by the Court.



RULE 88.1 | PRESENTENCE INVESTIGATION REPORTS, PRESENTENCING PROCEDURES, PROVISIONS OF PRETRIAL SERVICES

(A) Ordinarily, sentencing will occur approximately 70 days following the defendant's plea of guilty or nolo contendere, or upon being found guilty, subject to the time limitations and other provisions of Fed. R. Crim. P. 32, and following the preparation of a presentence report by the probation officer.

(B) The presentence report shall be disclosed only as permitted under Fed. R. Crim. P. 32; however, the probation officer's recommendation, if any, on the sentence, shall be disclosed only to the sentencing judge.

(C) The presentence report shall be deemed to have been disclosed (1) when a copy of the report is physically or electronically delivered; or (2) one day after the report's availability for inspection is orally communicated; or (3) three days after a copy of the report or notice of its availability is mailed. A party must make objections or give notice that it has no objections as required by Fed. R. Crim. P. 32(f).

(D) No confidential records of the court maintained at the probation office, including presentence reports and probation supervision reports, shall be sought by any applicant except by written request to the Court establishing with particularity the need for specific information believed to be contained in such records. When a demand for disclosure of such information or such records is made by way of subpoena or other judicial process served upon a probation officer of this court, the probation officer may file a petition seeking instruction from the Court with respect to the manner in which that officer should respond to such subpoena or such process.

(E) Any party filing an appeal or cross appeal in any criminal case in which it is expected that an issue will be asserted pursuant to 18 U.S.C. §3742 concerning the sentence imposed by the Court shall immediately notify the probation officer who shall then file with the Clerk for inclusion in the record in camera a copy of the presentence investigation report. The probation officer shall also furnish, at the same time, a copy of the presentence report to the United States and to the defendant.

(F) Pretrial services within the purview of 18 U.S.C. §3152 et seq. shall be supervised and provided by the chief probation/pretrial services officer of this court pursuant to 18 U.S.C. §3152(a). Any federal officer taking or receiving custody of a defendant in the Northern District of Florida shall immediately notify the probation office of such detention, the name of the defendant, the charge(s) against the defendant, and the place in which the defendant is being detained. A pretrial services officer shall then interview the defendant as soon as practicable at this place of confinement or, if the defendant has been released, at such other places as the pretrial services officer shall specify.

(G) A party may file a sentencing memorandum. The deadline for doing so is three days before the sentencing hearing.

RULE 88.2 | APPEAL OF A MAGISTRATE JUDGE'S RULINGS IN CONSENT MISDEMEANOR CASES

(A) Appeals from any decision, order, judgment, or sentence entered by a magistrate judge in a misdemeanor criminal case, including petty offenses, as to which the defendant has consented to proceed before a magistrate judge shall be governed by Fed. R. Crim. P. 58.

(B) Upon receipt of the notice of appeal, the Clerk shall docket the appeal and assign the case to a district judge.

(C) Unless excused by order of the district judge, every appellant shall be responsible for preparation of a typewritten transcript of the proceedings before the magistrate judge from which an appeal has been taken. If such transcript has been prepared from an audio tape recording, the transcript shall be submitted to the magistrate judge for certification of its accuracy. After certification by the magistrate judge, the transcript shall be forwarded to the Clerk for filing, and the Clerk shall promptly notify the parties of the filing. A copy of the record of such proceedings shall be made available, at the expense of the court, to a person who establishes by affidavit the inability to pay or give security therefor.

(D) Within 15 days of the date on which the transcript is filed in the Clerk's office, or if there is to be no transcript, within 15 days of the filing of the notice of appeal, the appellant shall serve and file a brief which shall enumerate each reversible error claimed to have occurred in the proceedings before the magistrate judge. Within 15 days of service of appellant's brief, the appellee shall serve and file a brief. The appellant may serve and file a reply brief within 7 days of service of appellee's brief.

(E) The district judge to whom the appeal is assigned may hear oral argument or may decide the appeal on the briefs. Requests for oral argument shall be made at the time briefs are filed and shall be granted at the discretion of the district judge.

RULE 88.3 | PATENT RULES

The Northern District of Georgia Local Patent Rules, as amended from time to time, apply in a patent case unless the Court orders otherwise.



XXXX | CUSTOMARY AND TRADITIONAL CONDUCT AND DECORUM

(A) The purpose of this addendum is to state for the guidance of those heretofore unfamiliar with the traditions of this United States District Court certain basic principles concerning courtroom conduct and decorum. These standards are minimal and not all-inclusive. They are intended to emphasize and supplement, not supplant or limit, the ethical obligations of counsel under the Code of Professional Responsibility or the time honored customs of experienced trial counsel.

(B) When appearing in this United States district court, all counsel and all persons at counsel table should conduct themselves in the following customary and traditional manner:

- (1) Stand as court is opened, recessed, or adjourned.
- (2) Stand when the jury enters or retires from the courtroom.
- (3) Stand when addressing, or being addressed by, the court.
- (4) Address all remarks to the court, not to opposing counsel.
- (5) Avoid disparaging remarks or acrimony toward opposing counsel and remain wholly detached from any ill feeling between litigants and witnesses.
- (6) Refer to all persons, including witnesses, other counsel and the parties, by their surnames and not by their first or given names.
- (7) Counsel should request permission before approaching the bench; and any document counsel wish to have the court examine should be handed to the clerk.
- (8) Unless opposing counsel has previously shown exhibits, any exhibit offered in evidence should, at the time of such offer, be handed to opposing counsel.
- (9) In making objections, counsel should state only the legal grounds for the objection and should withhold all further comment or argument unless elaboration is requested by the court.



(10) In examining a witness, counsel shall not repeat or echo the answer given by the witness.

(11) Offers of, or requests for, a stipulation should be made privately, not within the hearing of the jury.

(12) In opening statements and in arguments to the jury, counsel shall not express personal knowledge or opinion concerning any matter in issue, shall not read or purport to read from deposition or trial manuscripts, and shall not suggest to the jury, directly or indirectly, that it may or should request transcripts or the reading of any testimony by the reporter.

(13) Counsel shall admonish and discourage all persons at counsel table from making gestures, facial expressions, audible comments, or the like, as manifestations of approval or disapproval during the testimony of witnesses, or at any other time.

(14) Smoking, eating, food and drink are prohibited in the courtroom at any time.



RULE A | GENERAL PROVISIONS

(1) Scope of the Local Admiralty and Maritime Rules. The local admiralty and maritime rules apply to the procedures in admiralty and maritime claims within the meaning of Fed.R.Civ.P. 9(h), which in turn are governed by the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure.

(2) Citation Format.

(a) The Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure shall be cited as "Supplemental Rule (____)".

(b) The Local Rules of the Northern District of Florida shall be cited as "Local Rule (____)".

(c) The Local Admiralty and Maritime Rules shall be cited as "Local Admiralty Rule (____)".

(3) Application of Local Admiralty and Maritime Rules. The Local Admiralty Rules shall apply to all actions governed by Local Admiralty Rule A(1), and to the extent possible should be construed to be consistent with the other local rules of this Court. To the extent that a Local Admiralty Rule conflicts with another local rule of this Court, the Local Admiralty Rule shall control.

(4) Designation of "In Admiralty" Proceedings. Every complaint filed as a Fed. R. Civ. P. 9(h) action shall boldly set forth the words "IN ADMIRALTY" following the designation of the Court. This requirement is in addition to any statements which may be contained in the body of the complaint.

(5) Verification of Pleadings, Claims and Answers to Interrogatories. Every complaint and claim filed pursuant to Supplemental Rules (B), (C) and/or (D) shall be verified on oath or solemn affirmation by a party, or an officer of a corporate party.

If a party or corporate officer is not within the district, verification of a complaint, claim and/or answers to interrogatories may be made by an agent, an attorney-in-fact, or the attorney of record. Such person shall state briefly the source of his or her knowledge, or information and belief, and shall declare that the document affirmed is true to the



best of his or her knowledge, and/or information and belief. Additionally, such person shall state that he or she is authorized to make this representation on behalf of the party or corporate officer, and shall indicate why verification is not made by a party or a corporate officer. Such verification will be deemed to have been made by the party to whom the document might apply as if verified personally.

Any interested party may move the Court, with or without a request for stay, for the personal oath or affirmation of a party or all parties, or that of a corporate officer. If required by the Court, such verification may be obtained by commission, or as otherwise provided by Court order.

(6) Issuance of Process. Except as limited by the provisions of Supplemental Rule (B) (1) and Local Admiralty Rule B(3) or Supplemental Rule (C) (3) and Local Admiralty Rule C(2); or in suits prosecuted in forma pauperis and sought to be filed without prepayment of fees or costs, or without security; all process shall be issued by the Court without further notice of Court.

(7) Publication of Notices. Unless otherwise required by the Court, or applicable Local Admiralty or Supplemental Rule, whenever a notice is required to be published by any statute of the United States, or by any Supplemental Rule or Local Admiralty Rule, such notice shall be published at least once, without further order of Court, in an approved newspaper in the county or counties where the vessel or property was located at the time of arrest, attachment, or seizure, and if different, in the county within the Northern District of Florida where the lawsuit is pending. Publication of Notice of Sale shall be as provided in Local Admiralty Rule E(16). Upon a showing of good cause, the Court may require additional publications if necessary to provide reasonable notice. The newspaper of largest circulation in a county in the Northern District is rebuttably presumed to be a newspaper of general circulation in that same county.

For purposes of this subsection, an approved newspaper shall be a newspaper of general circulation, designated from time to time by the Court. A listing of these approved newspapers will be made available in the Clerk's Office during normal business hours.

(8) Form and Return of Process in In Personam Actions. Unless otherwise ordered by the Court, Fed.R.Civ.P. 9(h) process shall be by civil summons, and shall be returnable twenty (20) days after service of process; except that process issued in accordance with Supplemental Rule (B) shall conform to the requirements of that rule.

(9) Judicial Officer Defined. As used in these Local Admiralty Rules, the term "judicial officer" or "Court" shall mean either a United States District Judge or a United States Magistrate Judge.

(10) Appendix of Forms. The forms presented in the Appendix provide an illustration of the format and content of papers filed in admiralty and maritime actions within the Northern District of Florida. While the forms are sufficient, they are neither mandatory nor exhaustive.

RULE B | ATTACHMENT AND GARNISHMENT: SPECIAL PROVISIONS

(1) Definition of "Not Found Within the District". In an action in personam filed pursuant to Supplemental Rule (B), a defendant shall be considered "not found within the district" if the defendant cannot be served within the Northern District of Florida with the summons and complaint as provided by Fed.R.Civ.P. 4(d)(1), (2), (3), or (6).

(2) Verification of Complaint Required. In addition to the specific requirements of Local Admiralty Rule A(5), whenever verification is made by the plaintiff's attorney or agent, and that person does not have personal knowledge, or knowledge acquired in the ordinary course of business of the facts alleged in the complaint, the attorney or agent shall also state the circumstances which make it necessary for that person to make the verification, and shall indicate the source of the attorney's or agent's information.

(3) Pre-seizure Requirements. In accordance with Supplemental Rule (B)(1), the process of attachment and garnishment shall issue only after one of the following conditions has been met:

(a) Judicial Review Prior to Issuance. Except as provided in Local Admiralty Rule B(3)(b), a judicial officer shall first review the verified complaint, and any other relevant case papers, prior to the Clerk issuing the requested process of attachment and garnishment. No notice of this prearrest judicial review is required to be given to any person or prospective party.

If the Court finds that probable cause exists to issue the process of attachment and garnishment, plaintiff shall prepare an order for the Court's signature directing the Clerk to issue the process. This order shall substantially conform in format and content to the form identified as NDF 1 in the Appendix of these Local Admiralty Rules.

Upon receipt of the signed order, the Clerk shall file the order and, in accordance with Local Admiralty Rule B(3)(c), issue the summons and process of attachment and garnishment. Thereafter the Clerk may issue supplemental process without further order of Court.

(b) Certification of Exigent Circumstances. If the plaintiff files a written certification that exigent circumstances make review by the Court impracticable, the Clerk shall, in accordance with Local Admiralty Rule B(3)(c), issue a summons and the process of attachment and garnishment. Thereafter at any post-attachment proceedings under Supplemental Rule (E)(4)(f) and Local Admiralty Rule B(5), plaintiff shall have the burden of showing that probable cause existed for the issuance of process, and that exigent circumstances existed which precluded judicial review in accordance with Local Admiralty Rule B(3)(a).

(c) Preparation and Issuance of the Process of Attachment and Garnishment. Plaintiff shall prepare the summons and the process of attachment and garnishment, and deliver the documents to the Clerk for filing and issuance. The process of attachment and garnishment shall substantially conform in format and content to the form identified as NDF 2 in the Appendix to these Local Admiralty Rules, and shall in all cases give adequate notice of the post seizure provisions of Local Admiralty Rule B(5).

(d) Marshal's Return of Service. The Marshal shall file a return of service indicating the date and manner in which service was perfected and, if service was perfected upon a garnishee, the Marshal shall indicate in the return the name, address, and telephone number of the garnishee.

(4) Notification of Seizure to Defendant. In an in personam action under Supplemental Rule (B), it is expected that plaintiff and/or garnishee will initially attempt to perfect service of the notice in accordance with Supplemental Rule (B)(2)(a) or (b).

However, when service of the notice cannot be perfected in accordance with Supplemental Rule (B)(2)(a) or (b), plaintiff and/or garnishee should then attempt to perfect service in accordance with Supplemental Rule (B)(2)(c). In this regard, service of process shall be sufficiently served by leaving a copy of the process of attachment and garnishment with the defendant or garnishee at his or her usual place of business.

(5) Post-attachment Review Proceedings.

(a) Filing a Required Answer. In accordance with Supplemental Rule (E)(4)(f), any person who claims an interest in property seized pursuant to Supplemental Rule (B) must file an answer and claim against the property. The answer and claim shall describe the nature of the claimant's interest in the property, and shall articulate reasons why the seizure should be vacated. The claimant shall serve a copy of the answer and claim upon plaintiff's counsel, the Marshal, and any other party to the litigation. The claimant shall also file a Certificate of Service indicating the date and manner in which service was perfected.

(b) Hearing on the Answer and Claim. The claimant may be heard before a judicial officer not less than three (3) days after the answer and claim has been filed and service has been perfected upon the plaintiff.

If the Court orders that the seizure be vacated, the judicial officer shall also award attorney's fees, costs, and other expenses incurred by any party as a result of the seizure.

If the seizure was predicated upon a showing of "exigent circumstances" under Local Admiralty Rule B(3)(b), and the Court finds that such exigent circumstances did not exist, the judicial officer shall award attorney's fees, costs, and other expenses incurred by any party as a result of the seizure. Upon an award of attorney's fees under this rule, the parties will be directed to comply with Local Rule 54.1(E)

(6) Procedural Requirement for the Entry of Default. In accordance with Rule 55, Fed.R.Civ.P., a party seeking the entry of default in a Supplemental Rule (B) action shall file a motion and supporting legal memorandum and shall offer other proof sufficient to demonstrate that due notice of the action and seizure have been given in accordance with Local Admiralty Rule B(4).



Upon review of the motion, memorandum, and other proof, the Clerk shall, where appropriate, enter default in accordance with Rule 55(a), Fed.R.Civ.P. Thereafter, the Clerk shall serve notice of the entry of default upon all parties represented in the action.

(7) Procedural Requirements for the Entry of Default Judgment. Not later than thirty (30) days following notice of the entry of default, the party seeking the entry of default judgment shall file a motion and supporting legal memorandum, along with other appropriate exhibits to the motion sufficient to support the entry of default judgment. The moving party shall serve these papers upon every other party to the action and file a Certificate of Service indicating the date and manner in which service was perfected.

A party opposing the entry of default judgment shall have five (5) days from the receipt of the motion to file written opposition with the Court. Thereafter, unless otherwise ordered by the Court, the motion for the entry of default judgment will be heard without oral argument.

If the Court grants the motion and enters the default judgment, such judgment shall establish a right on the part of the party or parties in which favor it is entered. The judgment shall be considered prior to any claims of the owner of the defendant property against which it is entered, and to the remnants and surpluses thereof; providing, however, that such a judgment shall not establish any entitlement to the defendant property having priority over non-possessory lien claimants. Obtaining a judgment by default shall not preclude the party in whose favor it is entered from contending and proving that all, or any portion, of the claim or claims encompassed within the judgment are prior to any such non-possessory lien claims.

RULE C | ACTION IN REM

(1) Verification Requirements. Every complaint and claim filed in an in rem proceeding pursuant to Supplemental Rule (C) shall be verified in accordance with Local Admiralty Rules A(5) and B(2).

(2) Pre-seizure Requirements. In accordance with Supplemental Rule (C)(3), the process of arrest in rem shall issue only after one of the following conditions has been met:

(a) Judicial Review Prior to Issuance. Except as provided in Local Admiralty Rule C(2)(b), a judicial officer shall first review the verified complaint, and any other relevant case papers, prior to the Clerk issuing the warrant of arrest and/or summons in rem. No notice of this pre-seizure judicial review is required to be given to any person or prospective party.

If the Court finds that probable cause exists for an action in rem, plaintiff shall prepare an order for the Court's signature directing the Clerk to issue a warrant of arrest and/or summons. This order shall substantially conform in format and content to the form identified as NDF 2 in the Appendix to these Local Admiralty Rules.

Upon receipt of the signed order, the Clerk shall file the order and, in accordance with Local Admiralty Rule C(2)(c), issue the warrant of arrest and/or summons. Thereafter the Clerk may issue supplemental process without further order of the Court.

(b) Certification of Exigent Circumstances. If the plaintiff files a written certification that exigent circumstances make review by the Court impracticable, the Clerk shall, in accordance with Local Admiralty Rule B(3)(b), issue a warrant of arrest and/or summons.

Thereafter at any post-arrest proceedings under Supplemental Rule (E)(4)(f) and Local Admiralty Rule C(7), plaintiff shall have the burden of showing that probable cause existed for the issuance of process, and that exigent circumstances existed which precluded judicial review in accordance with Local Admiralty Rule C(2)(a).



(c) Preparation and Issuance of the Warrant of Arrest and/or Summons. Plaintiff shall prepare the warrant of arrest and/or summons, and deliver them to the Clerk for filing and issuance.

The warrant of arrest shall substantially conform in format and content to the form identified as NDF 4 in the Appendix to these Local Admiralty Rules, and shall in all cases give adequate notice of the post-arrest provisions of Local Admiralty Rule C(7).

(3) Special Requirements for Actions Involving Freight, Proceeds and/or Intangible Property.

(a) Instructions to Be Contained in the Summons. Unless otherwise ordered by the Court, the summons shall order the person having control of the freight, proceeds and/or intangible property to either:

(1) File a claim within ten (10) days after service of the summons in accordance with Local Admiralty Rule C(6) (a); or

(2) Deliver or pay over to the Marshal, the freight, proceeds, and/or intangible property, or a part thereof, sufficient to satisfy plaintiff's claim. The summons shall also inform the person having control of the freight, proceeds, and/or intangible property that service of the summons has the effect of arresting the property, thereby preventing the release, disposal, or other distribution of the property without prior order of the Court.

(b) Requirements for Claims to Prevent the Delivery of Property to the Marshal. Any claim filed in accordance with Supplemental Rule (E) (4) and Local Admiralty Rule C(6) (a) shall describe the nature of claimant's interest in the property, and shall articulate reasons why the seizure should be vacated. The claim shall be served upon the plaintiff, the Marshal, and all other parties to the litigation. Additionally, the claimant shall file a Certificate of Service indicating the date and manner in which service was perfected.

(c) Delivery or Payment of the Freight, Proceeds, and/or Intangible Property to the U.S. Marshal. Unless a claim is filed in accordance with Supplemental Rule (E)(4)(f), and Local Admiralty Rule C(6)(a), any person served with a summons issued pursuant to Local Admiralty Rule C(2)(a) or (b), shall within ten (10) days after execution of service, deliver or pay over to the Marshal all, or part of, the freight, proceeds, and/or intangible property sufficient to satisfy plaintiff's claim. Unless otherwise ordered by the Court, the person tendering control of the freight, proceeds, and/or intangible property shall be excused from any further duty with respect to the property in question.

(4) Publishing Notice of the Arrest as Required by Supplemental Rule (C)(4).

(a) Time for Publication. If the property is not released within ten (10) days after the execution of process, the notice required by Supplemental Rule (C)(4) shall be published by the plaintiff in accordance with Local Admiralty Rule A(7). Such notice, unless otherwise ordered by the Court, shall be published within seventeen (17) days after execution of process. The notice shall substantially conform to the form identified as NDF 7 in the Appendix to these Local Admiralty Rules.

(b) Proof of Publication. Plaintiff shall file proof of publication with the Clerk not later than ten (10) days following the last day of publication. It shall be sufficient proof for the plaintiff to file the sworn statement by, or on behalf of, the publisher or editor, indicating the dates of publication, along with a copy or reproduction of the actual publication.

(5) Undertaking in Lieu of Arrest. If, before or after the commencement of an action, a party accepts any written undertaking to respond on behalf of the vessel and/or other property in return for foregoing the arrest, the undertaking shall only respond to orders or judgments in favor of the party accepting the undertaking, and any parties expressly named therein, to the extent of the benefit thereby conferred.

(6) Time for Filing Claim or Answer. Unless otherwise ordered by the court, any claimant of property subject to an action in rem shall:

(a) File the claim within ten (10) days after process has been executed; and

(b) Serve an answer within twenty (20) days after the filing of the claim.

(7) Post-arrest Proceedings. Coincident with the filing of a claim pursuant to Supplemental Rule (E)(4)(f), and Local Admiralty Rule C(6)(a), the claimant may also file a motion and proposed order directing plaintiff to show cause why the arrest should not be vacated. If the Court grants the order, the Court shall set a date and time for a show cause hearing. Thereafter, if the Court orders the arrest to be vacated, the Court shall award attorney's fees, costs, and other expenses incurred by any party as a result of the arrest.

Additionally, if the seizure was predicated upon a showing of "exigent circumstances" under Local Admiralty Rule C(6)(b), and the Court finds that such exigent circumstances did not exist, the Court shall award attorney's fees, costs and other expenses incurred by any party as a result of the seizure. Upon an award of attorney's fees under this rule, the parties will be directed to comply with Local Rule 54.1(E).

(8) Procedural Requirements Prior to the Entry of Default. In accordance with Rule 55, Fed.R.Civ.P., a party seeking the entry of default judgment in rem shall first file a motion and supporting legal memorandum. The party seeking the entry of default shall also file such other proof sufficient to demonstrate that due notice of the action and arrest have been given by:

(a) Service upon the master or other person having custody of the property;

(b) Delivery, or by certified mail, return receipt requested (or international effective equivalent), to every other person, including any known owner, who has not appeared or intervened in the action, and who is known to have, or claims to have, a possessory interest in the property. The party seeking entry of default judgment under Local Rule C(8) may be excused for failing to give notice to such Aother person@ upon a satisfactory showing that diligent effort was made to give notice without success; and

(c) Publication as required by Supplemental Rule (C)(4) and Local Admiralty Rule C(4). Upon review of the motion, memorandum, and other proof, the Clerk may, where appropriate, enter default in accordance with Rule 55, Fed.R.Civ.P. Thereafter, the Clerk shall serve notice of the entry of default upon all parties represented in the action.

(9) Procedural Requirements for the Entry of Default Judgment. Not later than thirty (30) days following notice of the entry of default, the moving party shall file a motion, and supporting legal documents, for the entry of default judgment pursuant to Rule 55(b), Fed.R.Civ.P. The moving party may also file as exhibits for the motion such other documentation as may be required to support the entry of default judgment. Thereafter the court will consider the motion as indicated below:

(a) When No Person Has Filed a Claim or Answer. Unless otherwise ordered by the court, the motion for default judgment will be considered by the court without oral argument.

(b) When Any Person Has Filed an Appearance, But Does Not Join in the Motion for Entry of Default Judgment. If any person has filed an appearance in accordance with Local Admiralty Rule C(6), but does not join in the motion for entry of default judgment, the party seeking the entry of default judgment shall serve notice of the motion upon the party not joining in the motion, and thereafter the opposing party shall have five (5) days from receipt of the notice to file written opposition with the court.

If the court grants the motion and enters the default judgment, such judgment shall establish a right on the part of the party or parties in whose favor it is entered. The judgment shall be considered prior to any claims of the owner of the defendant property against which it is entered, and to the remnants and surpluses thereof; providing, however, that such a judgment shall not establish any entitlement to the defendant property having priority over non-possessory lien claimants. Obtaining a judgment by default shall not preclude the party in whose favor it is entered from contending and proving that all, or any portion, of the claim or claims encompassed within the judgment are prior to any such non-possessory lien claims.



RULE D | POSSESSORY, PETITORY AND PARTITION ACTIONS

(1) Establishing Dates for the Return of Process. In possessory actions filed pursuant to Supplemental Rule (D), the Court may order that process be returnable at a time shorter than that prescribed by Rule 12(a), Fed.R.Civ.P.

If the Court shortens the time, the Court shall specify the date upon which the answer must be filed, and may also set a hearing date to expedite the disposition of the possessory action. When possible, possessory actions shall be given preference on a judicial officer's calendar.



RULE E | ACTIONS IN REM AND QUASI IN REM: GENERAL PROVISIONS

(1) Statement of Itemized Damages and Expenses Required.

Every complaint in a Supplemental Rule (B) and (C) action shall state the amount of the debt, damages, or salvage for which the action is brought. In addition, the statement shall also specify the amount of any unliquidated claims, including attorneys' fees.

(2) Requirements and Procedures for Effecting Intervention.

Whenever a vessel or other property is arrested or attached in accordance with any Supplemental Rule, and the vessel or property is in the custody of the U.S. Marshal or duly authorized substitute custodian, any other person having a claim against the vessel or property shall be required to present their claim as indicated below:

(a) Intervention of Right When No Sale of the Vessel or Property Is Pending. Except as limited by Local Admiralty Rule E(2)(b), any person having a claim against a vessel or property previously arrested or attached by the Marshal may, as a matter of right, file an intervening complaint at any time before an order is entered by the Court scheduling the vessel or property for sale.

Coincident with the filing of an intervening complaint, the offering party shall prepare and file a supplemental warrant of arrest and/or a supplemental process of attachment and garnishment.

Upon receipt of the intervening complaint and supplemental process, the Clerk shall conform a copy of the intervening complaint and shall issue the supplemental process. Thereafter, the offering party shall deliver the conformed copy of the intervening complaint and supplemental process to the Marshal for execution. Upon receipt of the intervening complaint and supplemental process, the Marshal shall re-arrest or re-attach the vessel or property in the name of the intervening plaintiff.

Counsel for the intervening party shall serve a copy of the intervening complaint, and copies of all process and exhibits upon all other counsel of record, and shall thereafter file a certificate of service with the Clerk indicating the manner and date of service.

(b) Permissive Intervention When the Vessel or Property Has Been Scheduled for Sale by the Court. Except as indicated below, and subject to any other rule or order of this Court, no person shall have an automatic right to intervene in an action where the Court has ordered the sale of the vessel or property, and the date of the sale is set within fifteen (15) days from the date the party moves for permission to intervene in accordance with this subsection. In such cases, the person seeking permission to intervene must:

- (1) File a motion to intervene and indicate in the caption of the motion a request for expedited hearing when appropriate;
- (2) Include a copy of the anticipated intervening complaint as an exhibit to the motion to intervene;
- (3) Prepare and offer for filing a supplemental warrant of arrest and/or a supplemental process of attachment and garnishment;
- (4) Serve copies of the motion to intervene, with exhibits and proposed supplemental process upon every other party to the litigation; and
- (5) File a certificate of service indicating the date and manner of service.

Thereafter, the Court may permit intervention under such conditions and terms as are equitable to the interests of all parties; and if intervention is permitted, shall also direct the Clerk to issue the supplemental process.

Upon receipt of the order permitting intervention, the Clerk shall file the originally signed intervening complaint, conform a copy of the intervening complaint and issue the supplemental process.

Thereafter, the offering party shall deliver the conformed copy of the intervening complaint and supplemental process to the Marshal for execution. Upon receipt of the intervening complaint and supplemental process, the Marshal shall re-arrest or re-attach the vessel or property in the name of the intervening plaintiff.

Counsel for the intervening party shall also serve a copy of the intervening complaint, exhibits, and supplemental process upon every other party of record and shall thereafter file a Certificate of Service with the Clerk indicating the manner and date of service.

(3) Special Requirements for Salvage Actions. In cases of salvage, the complaint shall also state to the extent known, the value of the hull, cargo, freight, and other property salvaged, the amount claimed, the names of the principal salvors, and that the suit is instituted in their behalf and in behalf of all other persons associated with them.

In addition to these special pleading requirements, plaintiff shall attach as an exhibit to the complaint a list of all known salvors, and all persons believed entitled to share in the salvage. Plaintiff shall also attach a copy of any agreement of consortium available and known to exist among them collegially or individually.

(4) Form and Amount of Stipulation or Bonds. Stipulations or bonds in admiralty and maritime actions need not be under seal and may be executed by the agent or attorney of the stipulator or obligor. Stipulations for costs with corporate surety need not be signed or executed by the party, but may be signed by the party's agent or attorney.

(a) Seaman's Wage Claims: Actions initiated by seamen pursuant to 28 U.S.C. 1916 may be filed without prepaying fees or costs or furnishing security therefor.

(b) **Security for Costs:** In an action under the Supplemental Rules, other than an action solely in personam, the plaintiff, and any intervenor, shall file with its initial pleading a stipulation for costs in the principal sum of \$500.00 as security for all costs awarded against the plaintiff or intervenor by this court or any appellate court which shall be deposited into the registry of the court. No motion made by a plaintiff or intervenor will be considered by the Court until the security for costs is deposited. A party may move for an order increasing the amount of security for costs or for return of the balance upon conclusion of the action. In an action for limitation of liability, the amount of security for costs under Supplemental Rule F(1) may be combined with the security for value and interest unless otherwise ordered.

(c) **Actions in Forma Pauperis:** An action under these rules may be maintained in forma pauperis by express allowance of the court upon motion by the party. Where a party is allowed to proceed in forma pauperis, no stipulation for costs shall be required.

(5) Deposit of Marshal's Fees and Expenses Required Prior to Effecting Arrest, Attachment and/or Garnishment.

(a) *Deposit Required Before Seizure.* Any party seeking the arrest or attachment of property in accordance with Supplemental Rule (E) shall deposit a sum with the Marshal sufficient to cover the Marshal's estimated fees and expenses of arresting and keeping the property for at least ten (10) days. The Marshal is not required to execute process until the deposit is made.

(b) *Proration of Marshal's Fees and Expenses Upon Intervention.* When one or more parties intervene pursuant to Local Admiralty Rule E(2)(a) or (b), the burden of advancing sums to the Marshal sufficient to cover the Marshal's fees and expenses shall be allocated equitably between the original plaintiff, and the intervening party or parties as indicated below:

(1) Stipulation for the Allocation and Payment of the Marshal's Fees and Expenses. Immediately upon the filing of the intervening complaint, counsel for the intervening plaintiff shall arrange for a conference between all other parties to the action, at which time a good faith effort shall be made to allocate fees and expenses among the parties. Any resulting stipulation between the parties shall be codified and filed with the Court and a copy served upon the Marshal.

(2) Allocation of Costs and Expenses in the Event That Counsel Cannot Stipulate. The Court expects that counsel will resolve the allocation of costs and expenses in accordance with the preceding paragraph. In the event that such an arrangement cannot be made, the parties shall share in the fees and expenses of the Marshal in proportion to their claims as stated in the original and intervening complaints.

In order to determine the proportionate shares of each party, counsel for the last intervening plaintiff shall determine the total amounts claimed by each party. The individual claims shall be determined from the original and amended complaint, and all other intervening complaints subsequently accepted and processed by the Marshal in accordance with Local Admiralty Rule E(2) (a) or (b).

Thereafter, counsel for the last intervening plaintiff shall deliver to the Marshal a list which summarizes each party's claim, and the proportion which each party's claim bears to the aggregate claims asserted in the litigation, determined to the nearest one-tenth of one percentage point.

Upon receipt of this listing, the Marshal shall determine the total expenses incurred to date and shall estimate the expenses to be incurred during the next ten (10) days. For the purpose of making this calculation, the total fees and expenses shall be calculated from the date when continuous and uninterrupted arrest or attachment of the property began, and not prorated from the date a particular party's intervening complaint was filed.

The Marshal shall then apply the percentages determined in the listing, and shall compute the amount of the intervening party's initial deposit requirements. The Marshal shall also utilize this listing to compute any additional deposit requirements which may be necessary pursuant to Local Admiralty Rule E(5) (c).

The Marshal need not re-arrest or re-attach the vessel and/or property until the deposit is received from the intervening plaintiff.

(c) Additional Deposit Requirements. Until the property arrested or attached and garnished has been released or otherwise disposed of in accordance with Supplemental Rule (E), the Marshal may require from any original and intervening party who has caused the arrest or attachment and garnishment of a vessel or property, to post such additional deposits as the Marshal determines necessary to cover any additional estimated fees or expenses.

(d) Judicial Relief From Deposit Requirements. Any party aggrieved by the deposit requirements of Local Admiralty Rule E(5)(b) may apply to the Court for relief. Such application shall be predicated upon a showing that owing to the relative priorities of the claims asserted against the vessel or other property, the deposit requirements operate to impose a burden disproportionate to the aggrieved party's recovery potential.

The judicial officer may adjust the deposit requirements, but in no event shall the proportion required of an aggrieved party be reduced to a percentage less than that imposed upon the claimant whose claim is the smallest among that of claims which the aggrieved party stipulates as having priority over its claim; or, in the absence of such stipulation, the greatest percentage imposed upon any claimant participating in the deposit requirements.

(e) Consequence of Failing to Comply With Additional Deposit Requirements. Any party who fails to make the additional deposit as requested by the Marshal may not participate further in the proceeding, except for the purpose of seeking relief from this rule. Additionally, the Marshal shall notify the Court in writing whenever any party fails to make additional deposits as required by Local Admiralty Rule E(5)(c).

In the event that a party questions its obligations to advance monies required by this rule, the Marshal may apply to the Court for instructions concerning that party's obligation under the rule.

(6) Property in Possession of a United States Officer.

Whenever the property to be arrested or attached is in custody of a U.S. officer, the Marshal shall serve the appropriate process upon the officer or employee; or, if the officer or employee is not found within the district, then to the custodian of the property within the district. The Marshal shall direct the officer, employee or custodian not to relinquish custody of the property until ordered to do so by the Court.

(7) Process Held in Abeyance.

(a) When Permitted. In accordance with Supplemental Rule (E)(3)(b), a plaintiff may ask the Clerk not to issue process, but rather to hold the process in abeyance. The Clerk shall docket this request, and thereafter shall not be responsible for ensuring that process is issued at a later date.

(b) When Intervention Is Subsequently Required. It is the intention of these rules that a vessel or other property should be arrested or attached pursuant to process issued and effected in only one civil action. Therefore, if while process is held in abeyance on one action, the vessel or property is arrested or attached in another action, it shall be the responsibility of the plaintiff who originally requested process be held in abeyance in the first action to voluntarily dismiss without prejudice the first action, insofar as that action seeks to proceed against the property arrested or attached in the second action, and promptly intervene in the second action pursuant to Local Admiralty Rule

E(2) (a) or (b). In order to prevent undue hardship or manifest injustice, motions to consolidate in rem actions against the same vessel or property will be granted only in exceptional circumstances.

(8) Release of Property in Accordance With Supplemental Rule (E) (5) .

(a) Release by Consent or Stipulation. Subject to the limitations imposed by Supplemental Rule (E) (5) (c), the Marshal may release any vessel, cargo or property in the Marshal's possession to the party on whose behalf the property is detained. However, as a precondition to release, the Marshal shall require a stipulation, bond, or other security, expressly authorizing the release. The authorizing instrument shall be signed by the party, or the party's attorney, on whose behalf the property is detained.

The stipulation, bond, or other security shall be posted in an amount equal to, or greater than, the amount required for the following types of action:

(1) Actions Entirely for a Sum Certain. The amount alleged to be due in the complaint, with interest at six percent (6%) per annum from the date claimed to be due to a date twenty-four (24) months after the date the claim was filed, or by filing an approved stipulation, or bond for the amount alleged plus interest as computed in this subsection.

The stipulation or bond shall be conditioned to abide by all orders of the Court, and to pay the amount of any final judgment entered by this Court or any appellate Court, with interest.

(2) Actions Other Than Possessory, Petitory or Partition. Unless otherwise ordered by the Court, the amount of the appraised or agreed value of the property seized, with interest. If an appraised value cannot be agreed upon by the parties, the Court shall order an appraisal in accordance with Local Admiralty Rule F(3) .

The stipulation or bond shall be conditioned to abide by all orders of the Court, and to pay the amount of any final judgment entered by this Court or any appellate Court, with interest.

The person consenting or stipulating to the release shall also file a claim in accordance with Local Admiralty Rule E(2)(a) or (b).

(3) Possessory, Petitory or Partition Actions. The Marshal may release property in these actions only upon order of Court, and upon the subsequent deposit of security and compliance with such terms and/or conditions as the Court deems appropriate.

(b) Release Pursuant to Court Order. In accordance with Supplemental Rule (E)(5)(c), a party may petition to release the vessel pursuant to Court order. A party making such application shall file a Request for Release which shall substantially conform in format and content to the form identified as NDF 8 in the Appendix to these Local Admiralty Rules. Additionally, the party shall prepare, and offer for filing, a proposed order directing the release. This order shall substantially conform in format and content to the form identified as NDF 9 in the Appendix to these Local Admiralty Rules.

However, as a precondition to the release, the Marshal shall require a stipulation, bond, or other security, as specified in Local Admiralty Rule E(8)(a)(1), (2) or (3), as appropriate.

(c) Upon the Dismissal or Discontinuance of an Action. Upon dismissal of an action by an order of the Court or upon filing a notice of voluntary dismissal, a party may obtain release of any vessel, cargo, or property by coordinating with the Marshal to ensure that all costs and charges of the Court and its officers have first been paid.

(d) Release Subsequent to the Posting of a General Bond.

(1) Requirements of a General Bond. General bonds filed pursuant to Supplemental Rule (E)(5)(b) shall identify the vessel by name, nationality, dimensions, official number or registration number, hailing port and port of documentation.

(2) Responsibility for Maintaining a Current Listing of General Bonds. The Clerk shall maintain a current listing of all general bonds. This listing should be maintained in alphabetical order by name of the vessel. The listing will be available for inspection during normal business hours.

(3) Execution of Process. The arrest of a vessel covered by a general bond shall be stayed in accordance with Supplemental Rule (E)(5)(b), however, the Marshal shall serve a copy of the complaint upon the master or other person in whose charge or custody the vessel is found. If neither the master nor another person in charge of custody is found aboard the vessel, the Marshal shall make the return accordingly.

Thereafter, it shall be plaintiff's responsibility to advise the owner or designated agent, at the address furnished in the general bond, of (1) the case number, (2) nature of the action and the amount claimed; (3) the plaintiff and name and address of plaintiff's attorney; and (4) the return date for filing a claim.

(9) Application to Modify Security for Value and Interest. At any time, any party having an interest in the subject matter of the action may move the Court, on due notice and for cause, for greater, better or lesser security, and any such order may be enforced by attachment or as otherwise provided by law.

(10) Custody and Safekeeping.

(a) *Initial Responsibility.* The Marshal shall initially take custody of any vessel, cargo and/or other property arrested, or attached in accordance with these rules. Thereafter, and until such time as substitute custodians may be authorized in accordance with Local Admiralty Rule E(10)(c), the Marshal shall be responsible for providing adequate and necessary security for the safekeeping of the vessel or property. In the discretion of the Marshal, adequate and necessary security may include the placing of keepers on or near the vessel and/or the appointment of a facility or person to serve as a custodian of the vessel or property.

(b) Limitations on the Handling, Repairing and Subsequent Movement of Vessels or Property. Subsequent to the arrest or attachment of a vessel or property, and except as provided in Local Admiralty Rule E(10)(a), no person may handle cargo, conduct repairs, or move a vessel without prior order of Court. Notwithstanding the foregoing, the custodian or substitute custodian is obligated to comply with any orders issued by the Captain of the Port, United States Coast Guard, including an order to move the vessel; and to comply with any applicable federal, state, or local laws or regulations pertaining to vessel and port safety. Any movement of a vessel pursuant to such requirements must not remove the vessel from the Northern District of Florida and shall be reported to the Court within twenty-four (24) hours of the vessel's movement.

(c) Procedures for Changing Custody Arrangements. Any party may petition the Court to dispense with keepers, remove or place the vessel, cargo and/or other property at a specified facility, designate a substitute custodian for the vessel or cargo, or for other similar relief. The motion shall substantially conform in format and content to the form identified as NDF 5 in the Appendix of these Local Admiralty Rules.

(1) Notification of the Marshal Required. When an application for change in custody arrangements is filed, either before or after the Marshal has taken custody of the vessel or property, the filing party shall serve notice of the application on the Marshal in sufficient time to permit the Marshal to review the indemnification and insurance arrangements of the filing party and substitute custodian. The application shall also be served upon all other parties to the litigation.

(2) Indemnification Requirements. Any motion for the appointment of a substitute custodian or facility shall include as an exhibit to the motion, a consent and indemnification agreement signed by both the filing party, or the filing party's attorney, and the proposed substitute custodian.

The consent and indemnification agreement shall expressly release the Marshal from any and all liability and responsibility for the care and custody of the property while in the hands of the substitute custodian; and shall expressly hold the Marshal harmless from any and all claims whatsoever arising from the substitute custodianship. The agreement shall substantially conform in format and content to the form identified as NDF 6 in the Appendix to these Local Admiralty Rules.

(3) Court Approval Required. The motion to change custody arrangements, and indemnification and consent agreement shall be referred to a judicial officer who shall determine whether the facility or substitute custodian is capable of safely keeping the vessel, cargo and/or property.

(d) *Insurance Requirements.*

(1) Responsibility for Initially Obtaining Insurance. Concurrent with the arrest or attachment of a vessel or property, the Marshal shall obtain insurance to protect the Marshal, the Marshal's deputies, keepers, and custodians from liability arising from the arrest or attachment.

The insurance shall also protect the Marshal and the Marshal's deputies or agents from any liability arising from performing services undertaken to protect the vessel, cargo and/or property while that property is in the custody of the Court.

(2) Payment of Insurance Premiums. It shall be the responsibility of the party applying for the arrest or attachment of a vessel, cargo and/or property to promptly reimburse the Marshal for premiums paid to effect the necessary insurance.

The party applying for change in custody arrangements shall be responsible for paying the Marshal for any additional premium associated with the change.

(3) Taxation of Insurance Premiums. The premiums charged for the liability insurance will be taxed as an expense of custody while the vessel, cargo and/or property is in custodia legis.

(11) Preservation, Humanitarian and Repatriation Expenses.

(a) Limitations on Reimbursement for Services and/or Supplies Provided to a Vessel or Property in Custody. Except in cases of emergency or undue hardship, no person will be entitled to claim as an expense of administration the costs of services or supplies furnished to a vessel, cargo and/or property unless such services or supplies have been furnished to the Marshal upon the Marshal's order, or pursuant to an order of this Court.

Any order issued pursuant to this subsection shall require the person furnishing the services or supplies to file a weekly invoice. This invoice shall be set forth in the format prescribed in Local Admiralty Rule E(11) (e).

(b) Preservation Expenses for the Vessel and Cargo. The Marshal, or substitute custodian, is authorized to incur expenses reasonably deemed necessary in maintaining the vessel, cargo and/or property in custody for the purpose of preventing the vessel, cargo and/or property from suffering loss or undue deterioration.

(c) Expenses for Care and Maintenance of a Crew. Except in an emergency, or upon the authorization of a judicial officer, neither the Marshal nor substitute custodian shall incur expenses for feeding or otherwise maintaining the crew.

Applications for providing food, water and necessary medical services for the maintenance of the crew may be submitted, and decided ex parte by a judicial officer, providing such an application is made by some person other than the owner, manager or general agent of the vessel.

Such applications must be filed within thirty (30) days from the date of the vessel's initial seizure. Otherwise, except in the case of an emergency, such applications shall be filed and served upon all parties, who in turn shall have ten (10) days from receipt of the application to file a written response. Expenses for feeding or otherwise maintaining the crew, when incurred in accordance with this subsection, shall be taxed as an expense of administration and not as an expense of custody.

(d) *Repatriation Expenses.* Absent an order of Court expressly ordering the repatriation of the crew and/or passengers, and directing that the expenses be taxed as a cost of administration, no person shall be entitled to claim these expenses as expenses of administration.

(e) *Claim by a Supplier for Payment of Charges.* Any person who claims payment for furnishing services or supplies in compliance with Local Admiralty Rule E(11), shall submit an invoice to the Marshal's office for review and approval.

The claim shall be presented in the form of a verified claim, and shall be submitted within a reasonable time after furnishing the services or supplies, but in no event shall a claim be accepted after the vessel, or property has been released. The claimant shall file a copy of the verified claim with the Marshal, and also serve the substitute custodian and all other parties to the litigation.

The Marshal shall review the claim, make adjustments or recommendations to the claim as are appropriate, and shall thereafter forward the claim to the Court for approval. The Court may postpone the hearing on an individual claim until a hearing can be set to consolidate other claims against the property.

(12) Property in Incidental Custody and Otherwise Not Subject to the Arrest or Attachment.

(a) Authority to Preserve Cargo in Incidental Custody. The Marshal, or an authorized substitute custodian, shall be responsible for securing, maintaining and preserving all property incidentally taken into custody as a result of the arrest or attachment of a vessel or property. Incidental property may include, but shall not be limited to, laden cargo not itself the subject of the arrest or attachment.

The Marshal or other custodian shall maintain a separate account of all costs and expenses associated with the care and maintenance of property incidentally taken into custody.

Any person claiming entitlement to possession of property incidentally taken into custody shall be required, as a precondition of receiving possession, to reimburse the Marshal for such separately accounted expenses. Funds received by the Marshal will be credited against both the expense of custody and administration.

(b) Separation, Storage and Preservation of Property in Incidental Custody. Any party, or the Marshal, may petition the Court to permit the separation and storage of property in incidental custody from the property actually arrested or attached.

When separation of the property is ordered to protect the incidentally seized property from undue deterioration; provide for safer storage; meet an emergency; reduce the expenses of custody; or to facilitate a sale of the vessel or other property pursuant to Local Admiralty Rule E(16); the costs of such separation shall be treated as an expense of preservation and taxed as a cost of custody.

(c) Disposal of Unclaimed Property. Property incidentally in custody and not subsequently claimed by any person entitled to possession, shall be disposed of in accordance with the laws governing the disposition of property abandoned to the United States of America.

Except when prohibited by prevailing federal statute, the resulting net proceeds associated with the disposition of abandoned property shall be applied to offset the expense of administration, with the remainder escheating to the United States of America as provided by law.

(13) Dismissal.

(1) *By Consent.* No action may be dismissed pursuant to Fed.R.Civ.P. 41(a) unless all costs and expenses of the Court and its officials have first been paid.

Additionally, if there is more than one plaintiff or intervening plaintiff, no dismissal may be taken by a plaintiff unless that party's proportionate share of costs and expenses has been paid in accordance with Local Admiralty Rule E(6).

(2) *Involuntary Dismissal.* If the Court enters a dismissal pursuant to Fed.R.Civ.P. 41(b), the Court shall also designate the costs and expenses to be paid by the party or parties so dismissed.

(14) Judgments.

(1) *Expenses of Sureties as Costs.* If costs are awarded to any party, then all reasonable premiums or expenses paid by the prevailing party on bonds, stipulations and/or other security shall be taxed as costs in the case.

(2) *Costs of Arrest or Attachment.* If costs are awarded to any party, then all reasonable expenses paid by the prevailing party incidental to, or arising from the arrest or attachment of any vessel, property and/or cargo shall be taxed as costs in the case.

(15) Stay of Final Order.

(a) *Automatic Stay for Ten (10) Days.* In accordance with Fed.R.Civ.P. 62(a), no execution shall issue upon a judgment, nor shall seized property be released pursuant to a judgment or dismissal, until ten (10) days after the entry of the judgment or order of dismissal.

(b) Stays Beyond the Ten (10) Day Period. If within the ten (10) day period established by Fed.R.Civ.P. 62(a), a party files any of the motions contemplated in Fed.R.Civ.P. 62(b), or a notice of appeal, then unless otherwise ordered by the Court, a further stay shall exist for a period not to exceed thirty (30) days from the entry of the judgment or order. The purpose of this additional stay is to permit the Court to consider an application for the establishment of a supersedeas bond, and to order the date upon which the bond shall be filed with the Court.

(16) Notice of Sale.

(a) Publication of Notice. In an action in rem or quasi in rem, and except in suits on behalf of the United States of America where other notice is prescribed by statute, the Marshal shall publish notice in any of the newspapers approved pursuant to Local Admiralty Rule A(7).

(b) Duration of Publication. Unless otherwise ordered by the Court, applicable Supplemental Rule, or Local Admiralty Rule, publication of the notice of sale shall be made at least twice; the first publication shall be at least one (1) calendar week prior to the date of the sale, and the second at least three (3) calendar days prior to the date of the sale.

(17) Sale of a Vessel or Property.

(a) Payment of the Purchase Price. Unless otherwise provided in the order of sale, the person whose bid is accepted shall pay the Marshal the purchase price in the manner provided below;

(1) If the Bid Is Not More Than \$500.00. The successful bidder shall immediately pay the full purchase price.

(2) If the Bid Is More Than \$500.00. The bidder shall immediately deposit with the Marshal \$500.00, or 10% of the bid, whichever sum is greater. Thereafter the bidder shall pay the remaining purchase price within three (3) working days.

If an objection to the sale is filed within the time permitted by Local Admiralty Rule E(17)(g), the successful bidder is excused from paying the remaining purchase price until three (3) working days after the Court confirms the sale.

(b) Method of Payment. Unless otherwise ordered by the Court, payments to the Marshal shall be made in cash, certified check or cashier's check.

(c) Custodial Costs Pending Payment. When a successful bidder fails to pay the balance of the bid within the time allowed by Local Admiralty Rule E (17)(a)(2), or within the time permitted by order of the Court, the Marshal shall charge the successful bidder for the cost of keeping the property from the date payment of the balance was due, to the date the bidder takes delivery of the property.

The Marshal may refuse to release the property until these additional charges have been paid.

(d) Default for Failure to Pay the Balance. The person who fails to pay the balance of the bid within the time allowed shall be deemed to be in default. Thereafter a judicial officer may order that the sale be awarded to the second highest bidder, or may order a new sale as appropriate.

Any sum deposited by the bidder in default shall be forfeited, and the amount shall be applied by the Marshal to any additional costs incurred because of the forfeiture and default, including costs incident to resale. The balance of the deposit, if any, shall be retained in the registry and subject to further order of the Court.

(e) Marshal's Report of Sale. At the conclusion of the sale, the Marshal shall file a written report of the sale to include the date of the sale, the price obtained, and the name and address of the buyer.

(f) Confirmation of Sale. Unless an objection is timely filed in accordance with this rule, or the purchaser is in default for failing to pay the balance of the purchase price, plaintiff shall proceed to have the sale confirmed on the day following the last day for filing objections.

In order to confirm the sale, plaintiff's counsel shall file a "Request for Confirmation of Sale" following the last day for filing an objection. The "Request for Confirmation of Sale" shall substantially conform in format and content to the form identified as NDF 10 in the Appendix to these Local Admiralty Rules. Plaintiff's counsel shall also prepare and offer for filing a "Confirmation of the Sale". The "Confirmation of Sale" shall substantially conform in format and content to the form identified as NDF 11 in the Appendix to these Local Admiralty Rules. Thereafter, the Clerk shall file and docket the confirmation and shall promptly transmit a certified copy of the "Confirmation of Sale" to the Marshal's office.

Unless otherwise ordered by the Court, if the plaintiff fails to timely file the "Request for Confirmation of Sale" and proposed "Confirmation of Sale", the Marshal shall assess any continuing costs or expenses for custody of the vessel or property against the plaintiff.

(g) Objections to Confirmation.

(1) Time for Filing Objections. Unless otherwise permitted by the Court, an objection must be filed within three (3) working days following the sale. The party or person filing an objection shall serve a copy of the objection upon the Marshal and all other parties to the action, and shall also file a Certificate of Service indicating the date and manner of service. Opposition to the objection must be filed within five (5) days after receipt of the objection of the sale.

The Court shall consider the objection, and any opposition to the objection, and shall confirm the sale, order a new sale, or grant other relief as appropriate.

(2) Deposit of Preservation or Maintenance Costs. In addition to filing written objections, any person objecting to the sale shall also deposit with the Marshal the cost of keeping the property for at least seven (7) days. Proof of the deposit with the Marshal's office shall be delivered to the Clerk's office by the moving party. The Court will not consider the objection without proof of this deposit. If the objection is sustained, the objector will be reimbursed for the expense of keeping the property from the proceeds of any subsequent sale, and any remaining deposit will be returned to the objector upon Court order. If the objection is denied, the sum deposited by the objector will be applied to pay the fees and expenses incurred by the Marshal in keeping the property from the date the objection was filed until the sale is confirmed. Any remaining deposit will be returned to the objector upon order of Court.

(h) *Confirmation of Title.* Failure of a party to give the required notice of an action and arrest of a vessel, property and/or cargo, or failure to give required notice of a sale, may afford grounds for objecting to the sale, but such failure does not affect the title of a good faith purchaser of the property.

(18) Post-sale Claim. Claims against the proceeds of a sale authorized by these rules, except for seamen's wages, will not be admitted on behalf of lienors who file their claims after the sale. Unless otherwise ordered by the Court, any claims filed after the date of the sale shall be limited to the remnants and surplus arising from the sale.

RULE F | ACTIONS TO LIMIT LIABILITY

(1) Publication of the Notice. Immediately upon the commencement of an action to limit liability pursuant to Supplemental Rule (F), plaintiff shall, without further order of Court, effect publication of the notice in accordance with the provisions set forth in Supplemental Rule (F) (4) and Local Admiralty Rule A(7).

(2) Proof of Publication. Plaintiff shall file proof of publication not later than the return date. It shall be sufficient proof for plaintiff to file the sworn statement by, or on behalf of, the publisher or editor, indicating the dates of publication, along with a copy or reproduction of the actual publication.

(3) Appraisals Pursuant to Supplemental Rule (F) (7). Upon the filing of a claimant's motion pursuant to Supplemental Rule (F) (7), demanding an increase in the funds deposited in Court or the security given by plaintiff, the Court shall order an appraisal of the value of the plaintiff's interest in the vessel and pending cargo. Upon receipt of the order directing the appraisal, the parties shall have three (3) working days to file a written stipulation to an appraiser. In the event that the parties do not file a stipulation, the Court shall appoint the appraiser.

The appraiser shall promptly conduct an appraisal and thereafter file the appraisal with the Clerk and serve a copy of the appraisal upon the moving party and the plaintiff. The appraiser shall also file a Certificate of Service indicating the date and manner in which service was perfected.

(4) Objections to the Appraisal. Any party may move to set aside the appraisal within ten (10) days following the filing of the appraisal with the Clerk.

(5) Fees of the Appraiser. The Court shall establish the fee to be paid the appraiser. Unless otherwise ordered by the Court, the fee shall be taxed against the party seeking relief under Supplemental Rule (F) (7).

APPENDIX



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