

RULE F | ACTIONS TO LIMIT LIABILITY

(1) Monition, Injunction and Publication of the Notice. Upon the plaintiff's filing of an Ad Interim Stipulation of Value or otherwise posting a deposit or transfer in compliance with Supplemental Rules F(1) and F(2), the Court shall immediately issue a Monition and Injunction pursuant to Supplemental Rule F(3). The Monition and Injunction shall: enjoin the further prosecution of any action or proceeding against the plaintiff or the plaintiff's property with respect to any claim subject to limitation in the action; order that all persons asserting claims with respect to which the complaint seeks limitation to file and serve their respective claims pursuant to Supplemental Rule F(4); order that public notice be effectuated by the plaintiff pursuant to Supplemental Rule F(4); and approve the Ad Interim Stipulation of Value or other form of deposit, transfer or security if it meets the requirements of Supplemental Rules F(1) and F(2). Upon the issuance of the Monition and Injunction by the Court, the plaintiff shall effect publication of the notice in accordance with the provisions set forth in Supplemental Rule F(4) and Local Admiralty Rule A(7). This Local Rule does not affect a claimant's right to assert the insufficiency of the fund or security under Supplemental Rule F(7).

(2) Proof of Publication. Plaintiff shall file and serve proof of publication of the notice to claimants with the Court within seven (7) days after the date fixed by the Court pursuant to Supplemental Rule F(4). It shall be sufficient proof for plaintiff to file and serve the sworn statement or a declaration pursuant to 28 U.S.C. §1746 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) Security and Appraisals Pursuant to Supplemental Rule F(7). Upon the filing and serving 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 freight.

Upon receipt of the order directing the appraisal, the parties shall have seven (7) days to file and serve 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 of the Court and serve a copy of the appraisal upon the moving party and the plaintiff. The appraiser shall also file and serve a Certificate of Service indicating the date and manner in which service was perfected.

At such time that the parties agree to the quantum of the plaintiff's Ad Interim Stipulation of Value, deposit or security, or alternatively, the Court finds that the plaintiff's Ad Interim Stipulation of Value is insufficient or excessive, the Court shall order that a deposit or security be effectuated for the amount agreed by the parties or the amount found by the Court to be sufficient, after the date for objections to the appraisal under Supplemental Rule F(4) has passed and the Court has ruled on the objections. The Joint Stipulation of the Parties as to the Value of the Vessel shall substantially conform to the form identified as SDF 18 on the Court's website (www.flsd.uscourts.gov).

(4) Objections to the Appraisal. Any party may move to set aside the appraisal within fourteen (14) days following the filing of the appraisal with the Clerk of the Court.

(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).

(6) Order of Proof at Trial. In an action where plaintiff seeks to limit liability, the claimants shall offer their proof at trial first, whether the right to limit arises as a claim or as a defense.

Effective December 1, 1994. Amended effective April 15, 2007; April 15, 2010; April 15, 2011; December 1, 2015.

Advisory Notes

(1993) **Local Admiralty Rule F(1).** This section incorporates the publication provisions of Local Admiralty Rule A(7), and applies them to limitation of liability actions. The rule provides for the publication of the notice required by Supplemental Rule F(4) without further order of the Court. The Advisory Committee believes that this self-executing aspect of the rule will save judicial time and at the same time will not impair the rights of any party or claimant.



Local Admiralty Rule F(2). The Advisory Committee determined that filing proof of publication with the Clerk of the Court was essential in order to establish an adequate record of the publication.

Local Admiralty Rule F(3). This section continues in substance the provisions of former Local Admiralty Rule 10.

(2010) **Local Admiralty Rule F(1).** The Advisory Committee determined that the publication of the notice without court order did not meet the self-executing aspect of the rule as contemplated in 1993.

Amended to conform tabulation to the style used in the federal rules of procedure.

Local Admiralty Rule F(2). The advisory Committee believes that the previous language “not later than the return date” was vague. The language was changed to remove any confusion on the definition of “return date” and the time by which the plaintiff is required to file the proof of publication. The addition of the language “or a declaration pursuant to 28 U.S.C. §1746” was added to deal with any exigent circumstances.

Local Admiralty Rule F(3). The Advisory Committee determined that while the previous Local Rule references a claimant’s demand for an increase, it fails to consider instances where the claimants accept the plaintiff’s Ad Interim Stipulation of Value, obviating the need to post further security.

Local Admiralty Rule F(6). The Maritime Law Association of the United States (“MLA”) has approved Model Local Admiralty Rules dated May 2, 2008. The Advisory Committee has adopted MLA Model Local Admiralty Rule F(2) because the Committee believes that although petitioners in limitation of liability proceedings are the plaintiffs, in practice they are defending claims of claimants and therefore the claimants should offer proof at trial first.

