



**LOCAL RULES OF COURT
FROM THE US DISTRICT COURT, FLORIDA, SOUTHERN DISTRICT
{[GENERAL RULES]}**

Last Update: 12/1/2023}

GENERAL RULES

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TABLE OF CONTENTS | GENERAL RULES

#	Rule No	Title	Page
A01	Intro	Introductory Statement	5
A02	Rule 1.1	Scope of the Local Rules	6
A03	Rule 3.1	Docketing and Trial	7
A04	Rule 3.3	Civil Cover Sheet	8
A05	Rule 3.8	Notice of Transfer of Refiled and Similar...	9
A06	Rule 5.1	Filing and Copies	10
A07	Rule 5.2	Proof of Service and Service by Publication	13
A08	Rule 5.3	Files and Exhibits	14
A09	Rule 5.4	Filings Under Seal; Disposal of Sealed Materials	18
A10	Rule 7.1	Motions, General	22
A11	Rule 7.2	Motions Pending on Removal or Transfer to...	28
A12	Rule 7.3	Attorneys Fees and Costs	29
A13	Rule 7.6	Continuances of Trials and Hearings	32
A14	Rule 7.7	Correspondence to the Court	33
A15	Rule 7.8	Notice of Supplemental Authority	34
A15	Rule 11.1	Attorneys	35
A16	Rule 15.1	Form of a Motion to Amend and its Supporting...	39
A17	Rule 16.1	Pretrial Procedure in Civil Actions	40
A18	Rule 16.2	Court Annexed Mediation	49
A19	Rule 16.3	Calendar Conflicts	56
A20	Rule 16.4	Notice of Settlement	57
A21	Rule 23.1	Class Actions	58
A22	Rule 24.1	Constitutional Challenge to Act of Congress or...	60

...



...TABLE OF CONTENTS | GENERAL RULES

#	Rule No	Title	Page
A23	Rule 26.1	Discovery and Discovery Material (Civil)	61
A24	Rule 47.1	Taxation of Costs for Undue Inconvenience to...	69
A25	Rule 56.1	Motions for Summary Judgment	70
A26	Rule 62.1	Appeal Bonds or Other Security	74
A27	Rule 67.1	Court Registry and Writs of Garnishment	75
A28	Rule 77.1	Photographing, Broadcasting, Televising	77
A29	Rule 77.2	Release of Information in Criminal and Civil...	78
A30	Rule 87.1	Authority of Bankruptcy Judges to Make Local...	82
A31	Rule 87.2	Reference of Bankruptcy Matters	83
A32	Rule 87.3	Motions for Withdrawal of Reference of Case or...	84
A33	Rule 87.4	Bankruptcy Appeals	85
A34	Rule 87.5	Designation of Bankruptcy Judges to Conduct...	89
A35	Rule 88.1	Appointment of Counsel for Indigent Defendants...	90
A36	Rule 88.2	Post Conviction, Habeas Corpus, and Civil...	91
A37	Rule 88.3	Petty and Certain Misdemeanor offenses	92
A38	Rule 88.5	Speedy Trial Reports	94
A39	Rule 88.7	Retained Criminal Defense Attorneys	95
A40	Rule 88.8	Presentence Investigations	98
A41	Rule 88.9	Motions in Criminal Cases	99
A42	Rule 88.10	Criminal Discovery	101
A43	Rule 88.11	After Hours Criminal Duty Procedures	106

-	n/a	Appendix	108
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LOCAL RULES OF COURT | USFLSD

RULES: 1.1 through 88.11

TITLE: GENERAL RULES

DATE: December 1, 2023



RULES INTRO | INTRODUCTORY STATEMENT

Members of the bar and the Court are proud of the long tradition of courteous practice in the Southern District of Florida. Indeed, it is a fundamental tenet of this Court that attorneys in this District be governed at all times by a spirit of cooperation, professionalism, and civility. For example, and without limiting the foregoing, it remains the Court's expectation that counsel will seek to accommodate their fellow practitioners, including in matters of scheduling, whenever reasonably possible and that counsel will work to eliminate disputes by reasonable agreement to the fullest extent permitted by the bounds of zealous representation and ethical practice.



RULE 1.1 | SCOPE OF THE LOCAL RULES

These Local Rules shall apply in all proceedings in civil and criminal actions except where otherwise indicated.

When used in these Local Rules, the word “counsel” shall be construed to apply to a party if that party is proceeding pro se.

Effective December 1, 1994. Amended effective April 15, 1996; April 15, 1997; April 15, 1998; April 15, 1999; April 15, 2000; April 15, 2001; April 15, 2002; April 15, 2003; April 15, 2004; April 15, 2005; April 15, 2006; April 15, 2007; April 15, 2008; April 15, 2009; April 15, 2010; December 1, 2011; December 1, 2014; December 1, 2015.

Authority

(1993) Model Rule 1.1 (All references to “Model Rules” refer to the Local Rules Project of the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States.)



RULE 3.1 | DOCKETING AND TRIAL

Actions and proceedings shall be tried in their county of origin, except that Highlands, Indian River, Martin, Okeechobee and St. Lucie County actions and proceedings shall be tried at Fort Pierce, Florida.

Notwithstanding the foregoing, any civil or criminal proceeding or trial may, upon Order of Court and in the interest of justice, the status of the docket, or to assure compliance with requirements imposed under the Speedy Trial Act, be conducted at any jury division within the District.

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

Authority

(1993) Former Local Rules 1 and 2. Collier, Hendry and Glades Counties were transferred to the Middle District of Florida by P.L. 100-702.



RULE 3.3 | CIVIL COVER SHEET

Every Complaint or other document initiating a civil action shall be accompanied by a completed civil cover sheet. See form available on the Court's website (www.flsd.uscourts.gov). This requirement is solely for administrative purposes, and matters appearing only on the civil cover sheet have no legal effect in the action. If counsel becomes aware of an error in the civil cover sheet, counsel shall file and serve a notice that identifies the error.

Effective December 1, 1994. Amended effective April 15, 2007; December 3, 2012; December 1, 2015; December 3, 2018.

Authority

(1993) Former Local Rule 4. Model Rule 3.1; paragraph allowing for filing certain cover sheets to be added *nunc pro tunc* and pro se exemption omitted.

RULE 3.8 | NOTICE OF TRANSFER OF REFILED AND SIMILAR ACTIONS AND PROCEDURES

It shall be the continuing duty of the attorneys of record in every action or proceeding to bring promptly to the attention of the Court and opposing counsel the existence of other actions or proceedings as described in Section 2.15.00 of the Court's Internal Operating Procedures, as well as the existence of any similar actions or proceedings then pending before another court or administrative agency. Such notice shall be given by filing with the Court and serving a "Notice of Pending, Refiled, Related or Similar Actions," containing a list and description thereof sufficient for identification.

Effective December 1, 1994. Amended effective April 15, 2006; April 15, 2007; December 1, 2015.

Authority

(1993) Former Local Rule 6.



RULE 5.1 | FILING AND COPIES

(a) Form of Conventionally Filed Documents. All civil and criminal pleadings, motions, and other papers exempted from the requirement that they be filed via CM/ECF and that are instead tendered for conventional (non-CM/ECF) filing shall:

(1) Be bound only by easily-removable paper or spring-type binder clips, and not stapled or mechanically bound or fastened in any way. Voluminous pleadings, motions, or documents may be bound with a rubber band. Attachments may not be tabbed; reference characters should be printed or typed on a blank sheet of paper separating each attached document.

(2) When filing a civil complaint for which issuance of initial process is requested, one (1) copy of the complaint must be submitted for each summons.

(3) Be on standard size 8-1/2"x 11" white, opaque paper.

(4) Be plainly typed or written on one (1) side with 1" margins on top, bottom, and each side. All typewritten documents, except for quoted material of fifty words or more and footnotes, both of which may be single-spaced, shall have not less than one and one-half (1 1/2) spaces between lines. Fonts for typewritten documents, including footnotes and quotations, must be no smaller than twelve (12) point. All typewritten documents must be paginated properly and consecutively at the bottom center of each page. Only one (1) side of the paper may be used.

(5) Include a caption with:

(A) The name of the Court centered across the page;

(B) The docket number, category (civil or criminal), and the last names of the assigned District Judge and Magistrate Judge, centered across the page;

(C) The style of the action, which fills no more than the left side of the page, leaving sufficient space on the right side for the Clerk of the Court to affix a filing stamp; and

(D) The title of the document, including the name and designation of the party (as plaintiff or defendant or the like) on whose behalf the document is submitted, centered across the page.

Exception:

The requirements of (a)(3)-(5) do not apply to:

- (i) exhibits submitted for filing;
- (ii) papers filed in removed actions prior to removal from the state courts; and
- (iii) forms provided by the Court.

(6) For each counsel for any party, include: a signature block with the counsel's name, street address, telephone number, e-mail address, and Florida Bar or other applicable bar identification number.

(7) Not be transmitted to the Clerk of the Court or any Judge by facsimile.

(8) Be submitted with sufficient copies to be filed and docketed in each matter if styled in consolidated cases.

(b) Service and Filing of Documents Via CM/ECF. All documents required to be served shall be filed in compliance with the CM/ECF Administrative Procedures; except for: (A) documents exempted under Section 5 of the CM/ECF Administrative Procedures; and (B) documents that are not permitted to be filed at the time of service by rule, statute, or other proscription. Pro se parties are exempted from this requirement pursuant to Section 2C of the CM/ECF Administrative Procedures. Nonetheless, and notwithstanding any certificate of service to the contrary, the date that a submission from a party who is exempt from electronic filing is docketed by the Clerk of Court shall be deemed the date that such submission is served. The requirements of paragraphs (a)(2)-(6) above shall apply to documents filed via CM/ECF. See Section 3A of the CM/ECF Administrative Procedures.

(c) Restriction on Courtesy Copies. Counsel shall not deliver extra courtesy copies to a Judge's Chambers except when requested by a Judge's office.



(d) Notices of Filing; Form and Content. The title of a notice of filing shall include (1) the name and designation of the party (as plaintiff or defendant or the like) on whose behalf the filing is submitted, and (2) a description of the document being filed. A notice of filing shall identify by title the pleading, motion or other paper to which the document filed pertains and the purpose of the filing, such as in support of or in opposition to a pending motion or the like.

(e) Consent to Service. Registration as an electronic filing user pursuant to Southern District of Florida CM/ECF Administrative Procedures §3B constitutes consent to receive service electronically pursuant to Fed. R. Civ. P. 5(b)(2)(E) and Fed. R. Crim. P. 49 and waiver of any right to receive service by any other means. Service of papers required to be served pursuant to Fed. R. Civ. P. 5(a) and Fed. R. Crim. P. 39 but not filed, such as discovery requests, may be made via email to the address designated by an attorney for receipt of notices of electronic filings.

(f) Inaccessibility of Clerk's Office. During the time that the Court (or the Courthouse located in a particular division of the Court) is closed pursuant to Administrative Order 2022-86 (In Re: Policy for Emergency Closures of Federal Courthouse Facilities in the Southern District of Florida) or pursuant to separate order, the Clerk's Office for the Court (or the particular division of the Court where the Courthouse is closed) shall be deemed inaccessible for purposes of Fed. R. Civ. 6(a)(3) and Fed. R. Crim. P. 45(a)(3).

Effective December 1, 1994. Amended effective April 15, 1996; April 15, 1998; April 15, 1999; April 15, 2000; April 15, 2001; paragraph E added effective April 15, 2003; April 15, 2007; April 15, 2009; April 15, 2010; April 15, 2011; December 1, 2011; December 1, 2015; December 1, 2016; December 3, 2018; December 2, 2019; December 1, 2020; December 1, 2023.

Authority

(1993) Former Local Rule 7; Model Rule 5.1; Administrative Order 90-64 (A.6, B).



RULE 5.2 | PROOF OF SERVICE AND SERVICE BY PUBLICATION

(a) Certification of Service. If a pleading or paper required by Federal Rule of Civil Procedure 5 to be served on the other parties is served on any party by a method other than CM/ECF, that pleading or paper shall include a certificate of service that identifies the persons or firms served, their relationship to the action or proceeding, their street address, telephone number, and email address, and the date and method of service. See form available on the Court's website (www.flsd.uscourts.gov). Signature by the party or its attorney on the certificate of service constitutes a representation that service has been made.

(b) Multiple Copies Unnecessary. Any document permitted to be filed via CM/ECF, including the corporate disclosure statement required by Federal Rule of Civil Procedure 7.1, shall be deemed to have been delivered in multiple if multiple copies are required to be filed.

(c) Publication. Publication required by law or rule of court shall be made in a newspaper of general circulation in the county in which the action is pending, e.g., The Daily Business Review.

Effective December 1, 1994. Amended effective December 1, 2001; April 15, 2007; April 15, 2010; April 15, 2011; December 1, 2015; December 1, 2020; December 1, 2023.

Authority

(1993) Former Local Rule 7; Model Rule 5.2 (does not require certificate of service); Clerk of the Court's administrative rule on issuance of initial process.

(1994) D. Rule 1.07(c), Local Rules, Middle District of Florida.

RULE 5.3 | FILES AND EXHIBITS

(a) Removal of Original Papers. Except as provided in this rule, no original papers in the custody of the Clerk of the Court shall be removed by anyone without order of the Court until final adjudication of the action or proceeding and disposition of the appeal, if one is filed, or expiration of the appeal period without appeal being filed, and then only with permission and on terms of the Clerk of the Court. However, official court reporters, special masters, or commissioners may remove original papers as may be necessary.

(b) Exhibits.

(1) Delivery to and Retention by Clerk. Except as provided by Section 5H of the CM/ECF Administrative Procedures, each exhibit offered or introduced in evidence at any hearing or trial shall be delivered to the Clerk of the Court, who shall keep the exhibit in the Clerk of the Court's custody, until the exhibit is electronically filed and served with the Court in accordance with subsection (b)(2) of this rule. However, when a party offers or introduces into evidence an exhibit that consists of narcotics, cash, counterfeit notes, weapons, precious stones or other items which, because of size or nature, require special handling, that party shall contemporaneously deliver to the Clerk of the Court a photograph of that physical exhibit, which shall later be electronically filed and served with the Court in accordance with subsection (b)(2) of this rule, and that party shall retain that exhibit (or a representative sample in the case of narcotics and other contraband substances) during the pendency of the proceeding and any appeal, and, in a criminal case, shall retain the exhibit for an additional period of one year after the date on which the pertinent defendant's judgment of conviction becomes final. Nothing contained in this Local Rule shall prevent the Court from entering an order with respect to the handling, custody or storage of any exhibit. The Clerk of the Court shall permit United States Magistrate Judges and official court reporters to have custody of exhibits as may be necessary.



(2) Mandatory Electronic Filing. Unless otherwise ordered by the Court, within ten (10) days of the conclusion of a hearing or trial, a party must file and serve in the CM/ECF system (a) an electronic version of each documentary exhibit that the party offered or introduced into evidence and (b) a digital photograph of each non-documentary physical exhibit that the party offered or introduced into evidence. Before the electronic filing and service of such exhibits, the filer must review each exhibit and redact any sensitive, confidential, or private information in accordance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and CM/ECF Administrative Procedures, Section 6, Redaction of Personal Information, Privacy Policy, and Inappropriate Materials, or seek an order from the Court either to seal the exhibit or to exempt the exhibit from electronic filing and service under subsection (b)(3)(C) of this rule. Copies of any items filed under this rule shall also be served pursuant to Fed. R. Civ. P. 5(b)(2) on any pro se parties.

(3) Exemptions from Mandatory Electronic Filing. The following exhibits shall be exempt from mandatory electronic filing and service in the CM/ECF system:

(A) Sealed and ex parte exhibits in criminal cases, which must be conventionally filed in accordance with Rule 5.4.

(B) Contraband images, audio recordings, and video recordings, which must be physically filed with the Clerk of the Court within ten (10) days of the conclusion of the hearing or trial, unless otherwise ordered, in the following form: (i) on a CD, DVD, or other electronic medium containing a copy of the exhibit that included the contraband image, audio recording, or video recording, if the exhibit was offered or introduced at trial in electronic form; or (ii) in original physical form if the contraband image was not offered or introduced at trial in electronic form.

(C) When permitted by order of the Court, exhibits containing voluminous amounts of confidential information that is subject to privacy protections in accordance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, or other applicable rule or statute; within ten (10) days of the conclusion of the hearing or trial, unless otherwise ordered, such exhibits must be delivered to the Clerk of the Court either in original physical form or on a CD, DVD, or other electronic medium containing a copy of the exhibit, but such exhibits are not to be filed and served in the CM/ECF system, and the filer is not required to comply with CM/ECF Administrative Procedures, Section 6, Redaction of Personal Information, Privacy Policy, and Inappropriate Materials.

(4) Certification of Compliance Requirement. When the exhibits that were offered or introduced at a trial or hearing are: (i) electronically filed and served by a party; or (ii) delivered to the Clerk of the Court in accordance with the procedures for exhibits that are exempt from electronic filing and service, the attorney for that party shall also complete and electronically file and serve a Certification of Compliance Re Admitted Evidence form, which can be found at the Court's website (<http://www.flstd.uscourts.gov>).

(5) Attorney Responsibility and Failure to Comply. Unless otherwise ordered, the responsibility for discharging a party's obligations under subsection (b) belongs to the attorney who represented that party at the trial or hearing at which that party offered or introduced an exhibit. A party's failure to timely file and serve exhibits electronically as required by this rule or to timely file and serve its Certification of Compliance Re Admitted Evidence may result in the imposition of sanctions.

(6) Dismissals, Acquittals, and Voluntary Dismissals. Unless the Court, sua sponte or on motion of a party, orders compliance with subsection (b), such compliance is not required for a criminal jury trial that has concluded in a verdict of acquittal and/or pre-verdict dismissal pursuant to Fed. R. Crim. P. 29(a)-(b) on all



charges, or for a civil case that has been dismissed pursuant to Fed. R. Civ. P. 41(a)(1).

(c) Removal of Exhibits. Within ten (10) days after a party electronically files and serves the exhibits it offered or introduced into evidence at a hearing or trial, the party shall make arrangements with the Clerk of the Court to retrieve all of the original exhibits that were electronically filed and served. Any original exhibits that have been returned to or retained by the filing party after either electronic filing and service or the submission of electronic copies pursuant to subsections (b)(3)(B) or (b)(3)(C) shall be kept for safe keeping until the conclusion of any appeals, and, in a criminal case, shall be retained for an additional period of one year after the date on which the pertinent defendant's judgment of conviction becomes final; upon order of the Court, the filing party must return the original exhibits to the Clerk of the Court. For any other original exhibit that was offered or introduced in evidence at a hearing or trial and that was retained by the Clerk of the Court because the exhibit was exempt from electronic filing and service, the party that offered or introduced that exhibit shall retrieve the exhibit from the Clerk of the Court within three (3) months after final adjudication of the action or proceeding and disposition of any appeal and, in a criminal case, shall retain the exhibit until one year after the date on which the pertinent defendant's judgment of conviction becomes final; otherwise, such original exhibit may be destroyed or otherwise disposed of as the Clerk of the Court may deem proper.

[Subsection (d) has been moved to Court's I.O.P.]

Effective December 1, 1994. Amended effective April 15, 2007; April 15, 2010; December 1, 2015; December 1, 2017; December 2, 2019.

Authority

(1993) Former Local Rule 8, as amended by Administrative Order 91-54.



RULE 5.4 | FILINGS UNDER SEAL; DISPOSAL OF SEALED MATERIALS

(a) General Policy. Unless otherwise provided by law, Court rule, or Court order, proceedings in the United States District Court are public and Court filings are matters of public record. Where not so provided, a party seeking to file matters under seal and/or ex parte shall follow the procedures prescribed by this Local Rule and Sections 5A, 5K, 9A-D, and 10B, as applicable, of the CM/ECF Administrative Procedures. In criminal matters, the procedures prescribed by this Local Rule and by the CM/ECF Administrative Procedures concerning the filing of ex parte documents shall only apply to cases in which a person already has been charged by criminal complaint, criminal information, or indictment.

(b) Procedure for Filing Under Seal in Civil Cases. A party seeking to file information or documents under seal in a civil case shall:

(1) In a case that is not otherwise sealed in its entirety as permitted or required by federal law, file and serve electronically via CM/ECF a motion to file under seal that sets forth the factual and legal basis for departing from the policy that Court filings are public and that describes the information or documents to be sealed (the "proposed sealed material") with as much particularity as possible, but without attaching or revealing the content of the proposed sealed material. The proposed sealed material shall not be filed unless the Court grants the motion to file under seal. The motion to file under seal shall specify the proposed duration of the requested sealing. The motion to file under seal and the docket text shall be publicly available on the docket. If, prior to the issuance of a ruling on the motion to file under seal, the moving party elects or is required to publicly file a pleading, motion, memorandum, or other document that attaches or reveals the content of the proposed sealed material, then the moving party must redact from the public filing all content that is the subject of the motion to file under seal. If the Court grants the motion to file under seal, then the moving party shall file any pleading, motion, memorandum, or other document that has been authorized to be filed under seal via CM/ECF using events specifically earmarked for sealed civil filings, but if

a redacted filing previously has been made or is accompanying the sealed filing, then the material that is being filed under seal shall be filed as an attachment to a "Notice of Sealed Filing" which shall be filed via CM/ECF (using events specifically earmarked for sealed civil filings). The moving party must complete any required service of the sealed filing or Notice of Sealed Filing conventionally, indicating the corresponding docket number of the sealed filing or Notice of Sealed Filing.

(2) A party appearing pro se seeking to make a filing under seal in a civil case that is not otherwise sealed in its entirety as permitted or required by federal law must comply with the procedures set forth in Local Rule 5.4(b)(1), except that the motion to file under seal shall be filed conventionally with the Clerk of Court and, if the Court grants the motion to file under seal, the sealed filing or Notice of Sealed Filing shall be submitted to the Clerk of Court in a plain envelope clearly marked "sealed document" with the case number and style of the case noted on the outside. The pro se party must also complete any required service of the sealed filing or Notice of Sealed Filing conventionally indicating the corresponding docket number of the sealed filing or Notice of Sealed Filing.

(3) A party or pro se party seeking to seal a case in its entirety must file a motion to seal conventionally with the Clerk of Court in a plain envelope clearly marked "sealed document" with the style of the case noted on the outside of the envelope. The motion to seal must set forth the factual and legal basis for departing from the policy that Court filings be public, describe the proposed sealed filing with as much particularity as possible without revealing the confidential information, and specify the proposed duration of the requested sealing. If the motion is granted, subsequent filings shall be filed conventionally with the Clerk of Court as sealed documents in a plain envelope clearly marked "sealed document" with the case number and style of the case noted on the outside. The filer must complete any required service of the sealed document(s) conventionally.

(c) Procedure for Filing Under Seal in Criminal Cases. A party seeking to make a filing under seal in a criminal case shall:

(1) Conventionally file a motion to seal that sets forth the factual and legal basis for departing from the policy that Court filings be public and that describes the proposed sealed filing with as much particularity as possible without revealing the confidential information. The motion shall specify the proposed duration of the requested sealing. Unless the Court expressly orders otherwise, the motion to seal will itself be sealed from public view and the docket text appearing on the public docket shall reflect only that a sealed filing has been made.

(2) Conventionally file the proposed sealed filing in a plain envelope clearly marked "sealed document" with the case number and style of the case noted on the outside.

(d) Procedure for Filing Ex Parte. A party submitting an ex parte filing shall:

(1) Include the words "ex parte" in the title of the motion and explain the reasons for ex parte treatment. Upon submission, unless the Court directs otherwise the ex-parte filing will be restricted from public view and the docket text appearing on the public docket will reflect only that a restricted filing has been made. Counsel need not serve motions filed ex parte and related documents unless and until the Court so orders.

(2) In criminal matters, conventionally file the ex parte filing in a plain envelope clearly marked "ex parte" with the case number and style of the case noted on the outside.

(3) In civil matters, electronically file the ex parte filing via CM/ECF as a restricted document using the events specifically earmarked for ex parte filings as described in Section 9 of the CM/ECF Administrative Procedures.

(4) A party appearing pro se must file documents conventionally.

(e) Court Ruling.

(1) *Sealed Filings.* An order granting a motion to seal shall state the period of time that the sealed filing shall be sealed.

(2) *Ex Parte Filings.* Access to ex parte motions and related filings will remain restricted unless the Court orders otherwise.

Effective April 15, 2000. Amended effective April 15, 2001; April 15, 2005; April 15, 2007; April 15, 2010; December 2, 2013; December 1, 2014; December 1, 2015; December 1, 2017; December 2, 2019.



RULE 7.1 | MOTIONS, GENERAL

(a) Filing.

(1) Every motion when filed and served shall incorporate a memorandum of law citing supporting authorities, except that the following motions need not incorporate a memorandum:

(A) petition for writ of habeas corpus ad testificandum or ad prosequendum;

(B) motion for out-of-state process;

(C) motion for order of publication for process;

(D) application for default;

(E) motion for judgment upon default;

(F) motion to withdraw or substitute counsel;

(G) motion for continuance, provided the good cause supporting it is set forth in the motion and affidavit required by Local Rule 7.6;

(H) motion for confirmation of sale;

(I) motion to withdraw or substitute exhibits;

(J) motion for extensions of time providing the good cause supporting it is set forth in the motion;

(K) motion for refund of bond, provided the good cause supporting it is set forth in the motion;

(L) application for leave to proceed in forma pauperis; and

(M) motion for admission pro hac vice.

(2) Those motions listed in (a)(1) above, as well as any motion seeking emergency or ex parte relief or a temporary restraining order, shall be accompanied by a proposed order that is filed and served submitted via e-mail to the Court as prescribed by Section 3I(6) of the CM/ECF Administrative Procedures.

(3) *Pre-filing Conferences Required of Counsel.* Prior to filing any motion in a civil case, except a motion for injunctive relief, for judgment on the pleadings, for

summary judgment, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, for pro hac vice admission, or to involuntarily dismiss an action, for garnishment or other relief under Federal Rule of Civil Procedure 64, or otherwise properly filed ex parte under the Federal Rules of Civil Procedure and these Local Rules, or a petition to enforce or vacate an arbitration award, counsel for the movant shall confer (orally or in writing), or make reasonable effort to confer (orally or in writing), with all parties or non-parties who may be affected by the relief sought in the motion in a good faith effort to resolve by agreement the issues to be raised in the motion. Counsel conferring with movant's counsel shall cooperate and act in good faith in attempting to resolve the dispute. At the end of the motion, and above the signature block, counsel for the moving party shall certify either: (A) that counsel for the movant has conferred with all parties or non-parties who may be affected by the relief sought in the motion in a good faith effort to resolve the issues raised in the motion and has been unable to do so; or (B) that counsel for the movant has made reasonable efforts to confer with all parties or non-parties who may be affected by the relief sought in the motion, which efforts shall be identified with specificity in the statement (including the date, time, and manner of each effort), but has been unable to do so. If certain of the issues have been resolved by agreement, the certification shall specify the issues so resolved and the issues remaining unresolved. Failure to comply with the requirements of this Local Rule may be cause for the Court to grant or deny the motion and impose on counsel an appropriate sanction, which may include an order to pay the amount of the reasonable expenses incurred because of the violation, including a reasonable attorney's fee. See forms available on the Court's website (www.flstd.uscourts.gov).

(b) Hearings.

(1) No hearing will be held on motions unless set by the Court.



(2) A party who desires oral argument or a hearing of any motion shall request it within the motion or opposing memorandum in a separate section titled "request for hearing." The request shall set forth in detail the reasons why a hearing is desired and would be helpful to the Court and shall estimate the time required for argument. The Court in its discretion may grant or deny a hearing as requested, upon consideration of both the request and any response thereto by an opposing party.

(3) Discovery motions may be referred to and heard by a United States Magistrate Judge.

(4) With respect to:

(A) any motion or other matter which has been pending and fully briefed with no hearing set thereon for a period of ninety (90) days, and

(B) any motion or other matter as to which the Court has conducted a hearing but has not entered an order or otherwise determined the motion or matter within ninety (90) days of the hearing, the movant or applicant, whether party or non-party, shall file and serve on all parties and any affected non-parties within fourteen (14) days thereafter a "Notification of Ninety Days Expiring" which shall contain the following information:

(i) the title and docket entry number of the subject motion or other application, along with the dates of service and filing;

(ii) the title and docket number of any and all responses or opposing memoranda, along with the dates of service and filing, or if no such papers have been filed, the date on which such papers were due;

(iii) the title and docket entry number of any reply memoranda, or any other papers filed and served in connection with the motion or other matter, as well as the dates of service and filing; and

(iv) the date of any hearing held on the motion or other matter.

(c) Memorandum of Law.

(1) *Requirements and Timing.* For all motions, except motions served with the summons and complaint, each party opposing a motion shall file and serve an opposing memorandum of law no later than fourteen (14) days after service of the motion. Failure to do so may be deemed sufficient cause for granting the motion by default. The movant may, within seven (7) days after service of an opposing memorandum of law, file and serve a reply memorandum in support of the motion, which reply memorandum shall be strictly limited to rebuttal of matters raised in the memorandum in opposition without reargument of matters covered in the movant's initial memorandum of law. No further or additional memoranda of law shall be filed and served without prior leave of Court. All materials in support of any motion, response, or reply, including affidavits and declarations, shall be served with the filing. For a motion served with the summons and complaint, the opposing memorandum of law shall be due on the day the response to the complaint is due.

Time shall be computed under this Local Rule in accordance with applicable federal rules of procedure (e.g., Fed. R. Civ. P. 6(a) and Fed. R. Crim. P. 45(a)).

(2) *Length.* Absent prior permission of the Court, neither a motion and its incorporated memorandum of law nor the opposing memorandum of law shall exceed twenty (20) pages; a reply memorandum shall not exceed ten (10) pages. As long as no substantive part of the submission appears on the same page(s), the following items do not count toward page limitations for purposes of this rule and any other rules or orders setting forth page limitations: title pages preceding the first page of text, tables of contents, tables of citations, "request for hearing" sections, signature pages, certificates of good faith conferences, and certificates of service. Filing and service of multiple motions for partial summary judgment is prohibited, absent prior permission of the Court. This prohibition does not preclude a party from filing both a motion for summary judgment asserting an immunity from suit and a later motion for summary judgment addressing any issues that may remain in the

case. This prohibition also is not triggered when, as permitted by Fed. R. Civ. P. 12(d), the Court elects to treat a motion filed pursuant to Fed. R. Civ. P. 12(b) or 12(c) as a summary judgment motion.

(d) Emergency Motions and Expedited Motions. The Court may, upon written motion and good cause shown, waive the time requirements of this Local Rule and grant an immediate or expedited hearing on any matter requiring such expedited procedure. A filer may seek expedited consideration through either an emergency motion or an expedited motion in accordance with the following requirements:

(1) *Emergency Motions.* A filer requesting emergency action must include the words "Emergency Motion" in the title of the motion and must set forth in detail the nature of the emergency, the date by which a ruling is necessary, and the reason the ruling is needed by the stated date. The unwarranted designation of a motion as an emergency motion may result in sanctions. The filer must certify that the matter is a true emergency by including the following certification before the motion's signature block:

After reviewing the facts and researching applicable legal principles, I certify that this motion in fact presents a true emergency (as opposed to a matter that may need only expedited treatment) and requires an immediate ruling because the Court would not be able to provide meaningful relief to a critical, non-routine issue after the expiration of seven days. I understand that an unwarranted certification may lead to sanctions.

As prescribed by Section 10 of the CM/ECF Administrative Procedures, a party seeking to file an emergency motion must file and serve the documents electronically via CM/ECF using the events specifically earmarked for emergency matters. Motions are not considered emergencies if the urgency arises because of the attorney's or party's own dilatory conduct. Generally, unless a motion will become moot if not ruled on within seven (7) days, the motion should not be filed as an emergency motion.

(2) *Expedited Motions.* A filer whose time-sensitive motion does not qualify as an emergency motion but who

nonetheless requires an expedited ruling by a date certain may file an expedited motion in lieu of an emergency motion. The motion must include the words "Expedited Motion" in the title and must set forth in detail the date by which an expedited ruling is needed and the reason the ruling is needed by the stated date.

In criminal cases, emergency motions and expedited motions that are also ex parte or sealed must be conventionally filed.

A party appearing pro se must conventionally file emergency motions and expedited motions.

(e) Applications Previously Refused. Whenever any motion or application has been made to any Judge or Magistrate Judge and has been refused in whole or in part, or has been granted conditionally, and a subsequent motion or application is made to a different District Judge or Magistrate Judge for the same relief in whole or in part, upon the same or any alleged different state of facts, it shall be the continuing duty of each party and attorney seeking such relief to present to the District Judge or Magistrate Judge to whom the subsequent application is made an affidavit setting forth the material facts and circumstances surrounding each prior application, including:

- (1) when and to what District Judge or Magistrate Judge the application was made;
- (2) what ruling was made thereon; and
- (3) what new or different facts and circumstances are claimed to exist which did not exist, or were not shown, upon the prior application.

For failure to comply with the requirements of this Local Rule, any ruling made on the subsequent application may be set aside sua sponte or on ex parte motion.

Effective December 1, 1994. Amended effective April 15, 1996; April 15, 1997; April 15, 2000; April 1, 2004; April 15, 2005; April 15, 2006; April 15, 2007; April 15, 2009; April 15, 2010; April 15, 2011; December 1, 2011; December 1, 2014; December 1, 2015; December 1, 2016; December 1, 2017; December 3, 2018; December 2, 2019; December 1, 2020.



RULE 7.2 | MOTIONS PENDING ON REMOVAL OR TRANSFER TO THIS COURT

When a court transfers or a party removes an action to this Court, a true and legible copy of: (a) any pending motion and all documents previously filed in support thereof; and (b) any opposition to any such motion and all documents previously filed in opposition to any such motions, shall be filed and served by the moving party within seven (7) days of the entry of the order of transfer or the filing of the notice of removal unless those materials already have been made part of the case file in this Court. If there is a motion pending upon transfer or removal for which the moving party has not submitted a memorandum in support, the moving party shall file and serve such memorandum within fourteen (14) days after the filing of the notice of removal or the entry of the order or transfer. If the moving party filed a memorandum in support of the motion prior to removal but any party opposing the motion has not yet filed a memorandum in opposition, any party opposing the motion shall file and serve such memorandum within fourteen (14) days after the filing of the notice of removal or the entry of the order of transfer. All parties shall then comply with the briefing deadlines provided in Local Rule 7.1(c).

Effective December 1, 1994. Amended effective April 15, 2003; April 15, 2007; April 15, 2010; December 1, 2015; December 2, 2019.

Authority

(1993) Former Local Rule 10D.



RULE 7.3 | ATTORNEYS FEES AND COSTS

(a) Motions for Attorneys' Fees and/or Non-Taxable Expenses and Costs. This rule provides a mechanism to assist parties in resolving attorneys fee and costs disputes by agreement. A motion for an award of attorneys' fees and/or non-taxable expenses and costs arising from the entry of a final judgment or order shall not be filed until a good faith effort to resolve the motion, as described in paragraph (b) below, has been completed. The motion shall:

- (1) be filed and served within sixty (60) days of the entry of the final judgment or order giving rise to the claim, regardless of the prospect or pendency of supplemental review or appellate proceedings;
- (2) identify the judgment or other order which gives rise to the motion, as well as the statute, rule, or other grounds entitling the moving party to the award;
- (3) state the amount sought;
- (4) disclose the terms of any applicable fee agreement;
- (5) provide:
 - (A) the identity, experience, and qualifications for each timekeeper for whom fees are sought;
 - (B) the number of hours reasonably expended by each such time keeper;
 - (C) a description of the tasks done during those hours; and
 - (D) the hourly rate(s) claimed for each timekeeper;
- (6) describe and document with invoices all incurred and claimed fees and expenses not taxable under 28 U.S.C. §1920;
- (7) be verified; and
- (8) certify that a good faith effort to resolve issues by agreement occurred pursuant to Local Rule 7.3(b), describing what was and was not resolved by agreement and addressing separately the issues of entitlement to fees and amount.



Within fourteen (14) days after service of the motion, the respondent shall describe with reasonable particularity each time entry or nontaxable expense to which it objects, both as to issues of entitlement and as to amount, and shall provide supporting legal authority. If a party objects to an hourly rate, its counsel must submit an affidavit giving its firm's hourly rates for the matter and include any contingency, partial contingency, or other arrangements that could change the effective hourly rate. Pursuant to Federal Rule of Civil Procedure 54(d)(2)(C), either party may move the Court to determine entitlement prior to submission on the issue of amount. This Local Rule's requirements of disclosure are not intended to require the disclosure of privileged, immune, or protected material.

A party shall seek costs that are taxable under 28 U.S.C. §1920 by filing and serving a bill of costs and supporting memorandum in accordance with paragraph 7.3(c) below. The costs and expenses sought in a motion under this paragraph shall not include any cost sought in a bill of costs.

(b) Good Faith Effort to Resolve Issues by Agreement. Except as to any aspect of a fee claim upon which the parties agree, a draft motion compliant with Local Rule 7.3(a)(1)-(8) must be served but not filed at least thirty (30) days prior to the deadline for filing any motion for attorneys' fees and/or costs that is governed by this Local Rule. Within twenty-one (21) days of service of the draft motion, the parties shall confer and attempt in good faith to agree on entitlement to and the amount of fees and expenses not taxable under 28 U.S.C. §1920. The respondent shall describe in writing and with reasonable particularity each time entry or nontaxable expense to which it objects, both as to issues of entitlement and as to amount, and shall provide supporting legal authority. If a federal statute provides a deadline of fewer than sixty (60) days for a motion governed by Local Rule 7.3(a), the parties need not comply with this paragraph's requirements.

(c) Bill of Costs. A bill of costs pursuant to 28 U.S.C. §1920 shall be filed and served within thirty (30) days of entry of final judgment or other appealable order that gives rise to

a right to tax costs under the circumstances listed in 28 U.S.C. §1920. Prior to filing the bill of costs, the moving party shall confer with affected parties under the procedure outlined in S.D.Fla.L.R.7.1(a)(3) in a good faith effort to resolve the items of costs being sought.

An application for a bill of costs must be submitted on form (or in form substantially similar to) AO 133 of the Administrative Office of the United States Courts and shall be limited to the costs permitted by 28 U.S.C. §1920. Expenses and costs that the party believes are recoverable although not identified in §1920 shall be moved for as provided in paragraph 7.3(a) above. The bill of costs shall attach copies of any documentation showing the amount of costs and shall be supported by a memorandum not exceeding ten (10) pages. The prospects or pendency of supplemental review or appellate proceedings shall not toll or otherwise extend the time for filing a bill of costs with the Court.

Effective December 1, 1994. Amended effective April 15, 1999; April 15, 2001; April 15, 2005; April 15, 2006; April 15, 2007; April 15, 2010; April 15, 2011; December 1, 2011; December 3, 2012; December 1, 2015; December 2, 2019; December 1, 2020.

Authority

(1993) Former Local Rule 10F, renumbered per Model Rules.

RULE 7.6 | CONTINUANCES OF TRIALS AND HEARINGS

A continuance of any trial, pretrial conference, or other hearing will be granted only on exceptional circumstances. No such continuance will be granted on stipulation of counsel alone. However, upon written notice served and filed at the earliest practical date prior to the trial, pretrial conference, or other hearing, and supported by affidavit setting forth a full showing of good cause, a continuance may be granted by the Court.

Effective December 1,1994.

Authority

(1993) Former Local Rule 11. Renumbered in accordance with Model Rules.



RULE 7.7 | CORRESPONDENCE TO THE COURT

Unless invited or directed by the presiding Judge, attorneys and parties shall not:

- (a) address or present to the Court in the form of a letter or the like any application requesting relief in any form, citing authorities, or presenting arguments; or
- (b) furnish the Court with copies of correspondence between or among counsel, or any party, except when necessary as an exhibit when seeking relief from the Court.

Local Rule 5.1(c) above governs the provision of "courtesy copies" to a Judge.

Effective December 1, 1994. Amended effective April 15, 2003; April 15, 2007; December 1, 2015; December 1, 2023.

Authority

(1993) Former Local Rule 10M.



RULE 7.8 | NOTICE OF SUPPLEMENTAL AUTHORITY

If one or more pertinent and significant authorities come to a party's attention after the party's motion or memorandum of law has been filed or after oral argument but before a decision has been rendered, a party may promptly file a notice of supplemental authority. Such authority may pre- date the motion, memorandum, or oral argument. The notice shall contain citations to the supplemental authority and shall state the reasons for the filing of the supplemental citations, referring either to the page of the motion or memorandum of law or to a point argued orally. Within seven (7) days of the filing of such a notice, an opposing party may file a response that:

- (i) shall be limited to discussion of the notice and authorities cited therein; and

- (ii) may refer to a page of a previously filed motion or memorandum of law or to a point argued orally.

The bodies of the notice and the response shall not exceed 200 words each. No replies are permitted.

Effective December 1, 2021.



RULE 11.1 | ATTORNEYS

(a) Roll of Attorneys. The Bar of this Court shall consist of those persons heretofore admitted and those who may hereafter be admitted in accordance with the Rules Governing the Admission, Practice, Peer Review, and Discipline of Attorneys.

(b) Contempt of Court. Any person who before his or her admission to the Bar of this Court or during his or her disbarment or suspension exercises in this District in any action or proceeding pending in this Court any of the privileges of a member of the Bar, or who pretends to be entitled to do so, may be found guilty of contempt of Court.

(c) Professional Conduct. The standards of professional conduct of members of the Bar of this Court shall include the current Rules Regulating The Florida Bar. For a violation of any of these canons in connection with any matter pending before this Court, an attorney may be subjected to appropriate disciplinary action.

(d) Appearance by Attorney.

(1) The filing of any pleading, written motion, or other paper shall constitute an appearance by the person who signs such paper unless the paper specifies otherwise.

(2) Unless they have noticed their appearance by filing a pleading, written motion, or other paper, any attorney appearing on behalf of a non-party witness at a hearing shall file and serve a notice of appearance prior to the attorney's appearance on behalf of the attorney's client at the hearing. When the appearance relates to a grand jury matter, the notice of appearance shall be filed with the Clerk of the Court in such manner as to maintain the secrecy requirements of grand jury proceedings, if applicable.

(3) Withdrawal of appearance.

(A) Except as provided by subpart (B) herein, no attorney shall withdraw the attorney's appearance in any action or proceeding except by leave of Court after notice served on the attorney's client and opposing counsel. A motion to withdraw shall include a current mailing address for the



attorney's client or the client's new or remaining counsel.

(B) The appearance of an Assistant Federal Public Defender, Assistant United States Attorney, or other federal, state, or local government attorney is withdrawn when a notice of reassignment or notice of substitution is filed in which an attorney from the withdrawing attorney's office provides notice of that substitute attorney's appearance in the action or proceeding.

(4) Whenever a party has appeared by attorney, the party cannot thereafter appear or act on the party's own behalf in the action or proceeding, or take any step therein, unless an order of substitution shall first have been made by the Court, after notice to the attorney of such party, and to the opposite party; provided, that the Court may in its discretion hear a party in open court, notwithstanding the fact that the party has appeared or is represented by an attorney.

(5) If an attorney dies, is suspended, or ceases to act as an attorney, then a party to an action or proceeding for whom the attorney was acting as counsel must, before any further proceedings are had in the action on the party's behalf, appoint another attorney or appear in person, unless the party is already represented by another attorney.

(6) No agreement between parties or their attorneys, the existence of which is not conceded, in relation to the proceedings or evidence in an action, will be considered by the Court unless the same is made before the Court and noted in the record or is reduced to writing and subscribed by the party or attorney against whom it is asserted.

(7) Only one (1) attorney on each side shall examine or cross-examine a witness, and not more than two (2) attorneys on each side shall argue the merits of the action or proceeding unless the Court shall otherwise permit.

(e) Relations with Jury. Before and during the trial, a lawyer shall avoid communicating with a juror in a case with which

a lawyer is connected about any subject, whether pertaining to the case or not. After the jury has been discharged, a lawyer shall not communicate with a member of the jury about a case with which the lawyer and the juror have been connected without leave of Court granted for good cause shown. In such case, the Court may allow counsel to interview jurors to determine whether their verdict is subject to legal challenge, and may limit the time, place, and circumstances under which the interviews may be conducted. The Court also may authorize certain other post-trial lawyer/jury communications in specific cases as the Court may determine to be appropriate under the circumstances. During any Court-conducted or authorized inquiry, a lawyer shall not ask questions of or make comments to a juror that are calculated to harass or embarrass the juror or to influence the juror's actions in future jury service. Nothing in this rule shall prohibit a lawyer from communicating with a juror after the jury has been discharged where the communication is not related to the case and either the juror initiates the communication or the lawyer encounters the juror in a social or business setting unrelated to the case.

(f) Relation to Other Rules. This Local Rule governing attorneys is supplemented by the Rules Governing the Admission, Practice, Peer Review, and Discipline of Attorneys.

(g) Responsibility to Maintain Current Contact Information. Each member of the Bar of the Southern District, any attorney appearing pro hac vice, and any party appearing pro se shall maintain current contact information with the Clerk of Court. Each attorney shall update contact information including e-mail address within seven (7) days of a change. A party appearing pro se shall conventionally file a Notice of Current Address with updated contact information within seven (7) days of a change. The failure to comply shall not constitute grounds for relief from deadlines imposed by Rule or by the Court. All Court Orders and Notices will be deemed to be appropriately served if directed either electronically or by conventional mail consistent with information on file with the Clerk of Court.

(h) Any party learning of the death of an attorney who has appeared in an action or proceeding (including an attorney who has appeared pro hac vice) shall promptly file and serve

a notice titled "Notice of Deceased Attorney" stating only that the attorney has died. Once a Notice of Deceased Attorney has been filed in a case, no further notice of the death of that attorney need be filed by any other party.

Effective December 1, 1994. Amended effective April 15, 2002; April 15, 2007; April 15, 2010; April 15, 2011; December 1, 2011; December 1, 2015; December 1, 2016; December 2, 2019; December 1, 2020; December 1, 2023.

Authority

(1993) Former Local Rule 16. Renumbered per Model Rules.

RULE 15.1 | FORM OF A MOTION TO AMEND AND ITS SUPPORTING DOCUMENTATION

A party who moves to amend a pleading shall attach the original of the amendment to the motion in the manner prescribed by Section 3I(1) of the CM/ECF Administrative Procedures. Any amendment to a pleading, whether filed as a matter of course or upon a successful motion to amend, must, except by leave of Court, reproduce the entire pleading as amended, and may not incorporate any prior pleading by reference. When a motion to amend is granted, the amended pleading shall be separately filed and served forthwith.

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

Authority

(1993) Model Local Rule 15.1.



RULE 16.1 | PRETRIAL PROCEDURE IN CIVIL ACTIONS

(a) Differentiated Case Management in Civil Actions.

(1) *Definition.* "Differentiated Case Management" is a system for managing cases based on the complexity of each case and the requirement for judicial involvement. Civil cases having similar characteristics are identified, grouped and assigned to designated tracks. Each track employs a case management plan tailored to the general requirements of similarly situated cases.

(2) *Case Management Tracks.* There shall be three (3) case management tracks, as follows:

(A) Expedited-a relatively non-complex case requiring only one (1) to three (3) days of trial may be assigned to an expedited track in which discovery shall be completed within the period of ninety (90) to 179 days from the date of the Scheduling Order.

(B) Standard Track-a case requiring three (3) to ten (10) days of trial may be assigned to a standard track in which discovery shall be completed within 180 to 269 days from the date of the Scheduling Order.

(C) Complex Track-an unusually complex case requiring over ten (10) days of trial may be assigned to the complex track in which discovery shall be completed within 270 to 365 days from the date of the Scheduling Order.

(3) *Evaluation and Assignment of Cases.* The following factors shall be considered in evaluating and assigning cases to a particular track: the complexity of the case, number of parties, number of expert witnesses, volume of evidence, problems locating or preserving evidence, time estimated by the parties for discovery and time reasonably required for trial, among other factors. The majority of civil cases will be assigned to a standard track.

(4) The parties shall recommend to the Court in their proposed Scheduling Order filed pursuant to Local Rule

16.1(b), to which particular track the case should be assigned.

(b) Scheduling Conference and Order.

(1) *Party Conference.* Except in categories of proceedings exempted from initial disclosures under Federal Rule of Civil Procedure 26(a)(1)(B), or when otherwise ordered, counsel for the parties (or the party, if proceeding pro se), as soon as practicable and in any event at least twenty-one (21) days before a scheduling conference is held or a scheduling order is due under Federal Rule of Civil Procedure 16(b), must meet in person, by telephone, or by other comparable means, for the purposes prescribed by Federal Rule of Civil Procedure 26(f).

(2) *Conference Report.* The attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for submitting to the Court, within fourteen (14) days of the conference, a written report outlining the discovery plan and discussing:

(A) the likelihood of settlement;

(B) the likelihood of appearance in the action of additional parties;

(C) proposed limits on the time:

(i) to join other parties and to amend the pleadings;

(ii) to file and hear motions; and

(iii) to complete discovery.

(D) proposals for the formulation and simplification of issues, including the elimination of frivolous claims or defenses, and the number and timing of motions for summary judgment or partial summary judgment;

(E) the necessity or desirability of amendments to the pleadings;

(F) the possibility of obtaining admissions of fact and of documents, electronically stored information or things which will avoid unnecessary proof,

stipulations regarding authenticity of documents, electronically stored information or things, and the need for advance rulings from the Court on admissibility of evidence;

(G) suggestions for the avoidance of unnecessary proof and of cumulative evidence;

(H) suggestions on the advisability of referring matters to a Magistrate Judge or master;

(I) a preliminary estimate of the time required for trial;

(J) requested date or dates for conferences before trial, a final pretrial conference, and trial;

(K) any issues about:

(i) disclosure, discovery, or preservation of electronically stored information, including the form or forms in which it should be produced;

(ii) claims of privilege or of protection as trial-preparation materials, including -- if the parties agree on a procedure to assert those claims after production -- whether to ask the court to include their agreement in an order under Federal Rule of Evidence 502; and

(iii) when the parties have agreed to use the ESI Checklist available on the Court's website (www.flstd.uscourts.gov), matters enumerated on the ESI Checklist; and

(L) any other information that might be helpful to the Court in setting the case for status or pretrial conference.

(3) *Joint Proposed Scheduling Order*. The Report shall be accompanied by a Joint Proposed Scheduling Order which shall contain the following information:

(A) Assignment of the case to a particular track pursuant to Local Rule 16.1(a) above;

(B) The detailed discovery schedule agreed to by the parties;

(C) Any agreements or issues to be decided by the Court regarding the preservation, disclosure, and discovery of documents, electronically stored information, or things;

(D) Any agreements the parties reach for asserting claims of privilege or protection of trial preparation material after production;

(E) A limitation of the time to join additional parties and to amend the pleadings;

(F) A space for insertion of a date certain for filing all pretrial motions;

(G) A space for insertion of a date certain for resolution of all pretrial motions by the Court;

(H) Any proposed use of the Manual on Complex Litigation and any other need for rule variations, such as on deposition length or number of depositions;

(I) A space for insertion of a date certain for the date of pretrial conference (if one is to be held); and

(J) A space for insertion of the date certain for trial.

In all civil cases (except those expressly exempted below) the Court shall enter a Scheduling Order as soon as practicable but in any event within sixty (60) days after the appearance of a defendant and within ninety (90) days after the complaint has been served on a defendant. It is within the discretion of each Judge to decide whether to hold a scheduling conference with the parties prior to entering the Scheduling Order.

(4) *Notice of Requirement.* Counsel for plaintiff, or plaintiff if proceeding pro se, shall be responsible for giving notice of the requirements of this subsection to each defendant or counsel for each defendant as soon as possible after such defendant's first appearance.

(5) *Exempt Actions.* The categories of proceedings exempted from initial disclosures under Federal Rule of Civil Procedure 26(a)(1)(B) are exempt from the

requirements of this subsection. The Court shall have the discretion to enter a Scheduling Order or hold a Scheduling Conference in any case even if such case is within an exempt category.

(6) *Compliance with Pretrial Orders.* Regardless of whether the action is exempt pursuant to Federal Rule of Civil Procedure 26(a)(1)(B), the parties are required to comply with any pretrial orders by the Court and the requirements of this Local Rule including, but not limited to, orders setting pretrial conferences and establishing deadlines by which the parties' counsel must meet, prepare and submit pretrial stipulations, complete discovery, exchange reports of expert witnesses, and submit memoranda of law and proposed jury instructions.

(c) Pretrial Conference Mandatory. A pretrial conference pursuant to Federal Rule of Civil Procedure 16(a), shall be held in every civil action unless the Court specifically orders otherwise. Each party shall be represented at the pretrial conference and at meetings held pursuant to paragraph (d) hereof by the attorney who will conduct the trial, except for good cause shown a party may be represented by another attorney who has complete information about the action and is authorized to bind the party.

(d) Pretrial Disclosures and Meeting of Counsel. Unless otherwise directed by the Court, at least thirty (30) days before trial each party must provide to the other party and promptly file and serve with the Court the information prescribed by Federal Rule of Civil Procedure 26(a)(3). No later than fourteen (14) days prior to the date of the pretrial conference, or if no pretrial conference is held, fourteen (14) days prior to the call of the calendar, counsel shall meet at a mutually convenient time and place and:

- (1) Discuss settlement.
- (2) Prepare a pretrial stipulation in accordance with paragraph (e) of this Local Rule.
- (3) Simplify the issues and stipulate to as many facts and issues as possible.
- (4) Examine all trial exhibits, except that impeachment exhibits need not be revealed.



(5) Exchange any additional information as may expedite the trial.

(e) Pretrial Stipulation Must Be Filed. It shall be the duty of counsel to see that the pretrial stipulation is drawn, executed by counsel for all parties, and filed and served on all parties and filed with the Court no later than seven (7) days prior to the pretrial conference, or if no pretrial conference is held, seven (7) days prior to the call of the calendar. The pretrial stipulation shall contain the following statements in separate numbered paragraphs as indicated:

(1) A short concise statement of the case by each party in the action.

(2) The basis of federal jurisdiction.

(3) The pleadings raising the issues.

(4) A list of all undisposed of motions or other matters requiring action by the Court.

(5) A concise statement of uncontested facts which will require no proof at trial, with reservations, if any.

(6) A statement in reasonable detail of issues of fact which remain to be litigated at trial. By way of example, reasonable details of issues of fact would include: (A) As to negligence or contributory negligence, the specific acts or omissions relied upon; (B) As to damages, the precise nature and extent of damages claimed; (C) As to unseaworthiness or unsafe condition of a vessel or its equipment, the material facts and circumstances relied upon; (D) As to breach of contract, the specific acts or omissions relied upon.

(7) A concise statement of issues of law on which there is agreement.

(8) A concise statement of issues of law which remain for determination by the Court.

(9) Each party's numbered list of trial exhibits, other than impeachment exhibits, with objections, if any, to each exhibit, including the basis of all objections to each document, electronically stored information and thing. The list of exhibits shall be on separate

schedules attached to the stipulation, should identify those which the party expects to offer and those which the party may offer if the need arises, and should identify concisely the basis for objection. In noting the basis for objections, the following codes should be used:

A-Authenticity

I-Contains inadmissible matter (mentions insurance, prior conviction, etc.)

R-Relevancy

H-Hearsay

UP-Unduly prejudicial-probative value outweighed by undue prejudice

P-Privileged

Counsel may agree on any other abbreviations for objections, and shall identify such codes in the exhibit listing them.

(10) Each party's numbered list of trial witnesses, with their addresses, separately identifying those whom the party expects to present and those whom the party may call if the need arises. Witnesses whose testimony is expected to be presented by means of a deposition shall be so designated. Impeachment witnesses need not be listed. Expert witnesses shall be so designated.

(11) Estimated trial time.

(12) Where attorney's fees may be awarded to the prevailing party, an estimate of each party as to the maximum amount properly allowable.

(f) Unilateral Filing of Pretrial Stipulation Where Counsel Do Not Agree. If for any reason the pretrial stipulation is not executed by all counsel, each counsel shall file and serve separate proposed pretrial stipulations not later than seven (7) days prior to the pretrial conference, or if no pretrial conference is held, seven (7) days prior to the call of the calendar, with a statement of reasons no agreement was reached thereon.



(g) Record of Pretrial Conference Is Part of Trial Record.

Upon the conclusion of the final pretrial conference, the Court will enter further orders as may be appropriate. Thereafter the pretrial stipulation as so modified will control the course of the trial, and may be thereafter amended by the Court only to prevent manifest injustice. The record made upon the pretrial conference shall be deemed a part of the trial record; provided, however, any statement made concerning possible compromise settlement of any claim shall not be a part of the trial record, unless consented to by all parties appearing.

(h) Discovery Proceedings. All discovery proceedings must be completed no later than fourteen (14) days prior to the date of the pretrial conference, or if no pretrial conference is held, fourteen (14) days prior to the call of the calendar, unless further time is allowed by order of the Court for good cause shown.

(i) Newly Discovered Evidence or Witnesses. If new evidence or witnesses are discovered after the pretrial conference, the party desiring their use shall immediately furnish complete details thereof and the reason for late discovery to the Court and to opposing counsel. Use may be allowed by the Court in furtherance of the ends of justice.

(j) Memoranda of Law. Counsel shall serve and file memoranda treating any unusual questions of law, including motions in limine, no later than seven (7) days prior to the pretrial conference, or if no pretrial conference is held, seven (7) days prior to the call of the calendar.

(k) Proposed Jury Instructions or Proposed Findings of Facts and Conclusions of Law. At the close of the evidence or at an earlier reasonable time that the Court directs, counsel may submit proposed jury instructions or, where appropriate, proposed findings of fact and conclusions of law to the Court, with copies to all other counsel. Parties shall use pattern jury instructions whenever applicable. Unless a Court order provides otherwise, any proposed jury instruction shall identify its source and cite any supporting authorities. If the source of the jury instruction is identified as a pattern jury instruction, the party shall also state whether the proposed jury instruction is a modified version of that pattern jury instruction and, if so, how it has been modified. At the close of the evidence, a party may file and serve



additional instructions covering matters occurring at the trial that could not reasonably be anticipated; and with the Court's permission, file and serve untimely requests for instructions on any issue.

(1) Penalty for Failure to Comply. Failure to comply with the requirements of this Local Rule will subject the party or counsel to appropriate penalties, including but not limited to dismissal of the cause, or the striking of defenses and entry of judgment.

Effective December 1, 1994. Amended effective April 15, 1996; April 15, 1997; April 15, 1998; April 15, 2001; April 15, 2004; April 15, 2007; April 15, 2010; April 15, 2011; December 1, 2011; December 3, 2012; December 1, 2015; December 1, 2017; December 2, 2019; December 1, 2023.

Authority

(1993) Former Local Rule 17.

RULE 16.2 | COURT ANNEXED MEDIATION

(a) General Provisions.

(1) *Definitions.* Mediation is a supervised settlement conference presided over by a qualified, certified, and neutral mediator, or anyone else whom the parties agree upon to serve as a mediator, to promote conciliation, compromise and the ultimate settlement of a civil action.

A certified mediator is an attorney, certified by the Chief Judge in accordance with these Local Rules, who possesses the unique skills required to facilitate the mediation process including the ability to suggest alternatives, analyze issues, question perceptions, use logic, conduct private caucuses, stimulate negotiations between opposing sides, and keep order.

The mediation process does not allow for testimony of witnesses. The mediator does not review or rule upon questions of fact or law, or render any final decision in the case. The mediator will report to the Court only:

- (i) whether the case settled (in full or in part) or was adjourned for further mediation;
- (ii) whether the mediator declared an impasse;
- (iii) whether the mediation was conducted in person or by video-conference; and
- (iv) pursuant to Local Rule 16.2(e), whether any party failed to participate in the mediation.

(2) *Format.* It is the purpose of the Court, through adoption and implementation of this Local Rule, to provide an alternative mechanism for the resolution of civil disputes leading to disposition before trial of many civil cases with resultant savings in time and costs to litigants and to the Court, but without sacrificing the quality of justice to be rendered or the right of the litigants to a full trial in the event of an impasse following mediation. Mediation also enables litigants to take control of their dispute and encourages amicable resolution of disputes.

(b) Certification; Qualification of Certified Mediators; Compensation of Mediators.

(1) *Certification of Mediators.* The Chief Judge shall certify those persons who are eligible and qualified to serve as mediators under this Local Rule, in such numbers as the Chief Judge shall deem appropriate. Thereafter, the Chief Judge shall have complete discretion and authority to withdraw the certification of any mediator at any time.

(2) *Lists of Certified Mediators.* Lists of certified mediators shall be maintained in the offices of the Clerk of the Court and shall be made available to counsel and the public upon request.

(3) *Qualifications of Certified Mediators.* An individual may be certified to serve as a mediator in this District provided that the individual shall:

(A) be an attorney who has been admitted for at least ten (10) consecutive years to one or more State Bars or the Bar of the District of Columbia; and

(B) currently be a member in good standing of The Florida Bar and the Bar of this Court; and

(C) have substantial experience either as a lawyer or mediator in matters brought in any United States District Court or Bankruptcy Court; and

(D) have been certified and remain in good standing as a circuit court mediator under the rules adopted by the Supreme Court of Florida; and

(E) have substantial experience as a mediator.

The advisory committee may recommend for certification an attorney to serve as a mediator in this District if it determines that, for exceptional circumstances, the applicant should be certified who is not otherwise eligible for certification under this section.

Any individual who seeks certification as a mediator shall agree to accept at least two (2) mediation assignments per year in cases where at least one (1) party lacks the ability to compensate the mediator, in

which case the mediator's fees shall be reduced accordingly or the mediator shall serve pro bono (if no litigant is able to contribute compensation).

The Chief Judge shall constitute an advisory committee from lawyers who represent those categories of civil litigants who may utilize the mediation program and lay persons to assist in formulating policy and additional standards relating to the qualification of mediators and the operation of the mediation program and to review applications of prospective mediators and to recommend certification to the Chief Judge as appropriate.

(4) *Standards of Professional Conduct for Mediators.* All individuals who mediate cases pending in this District shall be governed by the Standards of Professional Conduct in the Florida Rules for Certified and Court-Appointed Mediators adopted by the Florida Supreme Court (the "Florida Rules") and shall be subject to discipline and the procedures therefor set forth in the Florida Rules. Every mediator who mediates a case in this District consents to the jurisdiction of the Florida Dispute Resolution Center and the committees and panels authorized thereby for determining the merits of any complaint made against any mediator in this District.

(5) *Oath Required.* Every certified mediator shall take the oath or affirmation prescribed by 28 U.S.C. §453 upon qualifying as a mediator.

(6) *Disqualification of a Mediator.* Any person selected as a mediator may be disqualified for bias or prejudice as provided in 28 U.S. C. §144, and shall be disqualified in any case in which such action would be required of a justice, judge, or Magistrate Judge governed by 28 U.S.C. §455.

(7) *Compensation of Mediators.* Mediators shall be compensated (a) at the rate provided by standing order of the Court, as amended from time to time by the Chief Judge, if the mediator is appointed by the Clerk on a blind, random basis; or (b) at such rate as may be agreed to in writing by the parties and the mediator, if the mediator is selected by the parties. Absent agreement of the parties to the contrary, the cost of the mediator's services shall be borne equally by the parties to the

mediation conference. A mediator shall not negotiate or mediate the waiver or shifting of responsibility for payment of mediation fees from one party to the other. All mediation fees payable under this rule shall be due within forty-five (45) days of invoice and shall be enforceable by the Court upon motion.

(c) **Types of Cases Subject to Mediation.** Unless expressly ordered by the Court, the following types of cases shall not be subject to mediation pursuant to this rule:

- (1) Habeas corpus cases;
- (2) Motion to vacate sentence under 28 U.S.C. §2255;
- (3) Social Security cases;
- (4) Civil forfeiture matters;
- (5) IRS summons enforcement actions;
- (6) Land condemnation cases;
- (7) Default proceedings;
- (8) Student loan cases;
- (9) Naturalization proceedings filed as civil actions;
- (10) Statutory interpleader actions;
- (11) Truth-in-Lending Act cases not brought as class actions;
- (12) Letters rogatory; and
- (13) Registration of foreign judgments.

(d) **Procedures to Refer a Case or Claim to Mediation.**

(1) *Order of Referral.* In every civil case excepting those listed in Local Rule 16.2(c), the Court shall enter an order of referral similar in form to the proposed order available on the Court's website (www.flstd.uscourts.gov), which shall:

(A) Direct mediation be conducted not later than sixty (60) days before the scheduled trial date which shall be established no later than the date of the issuance of the order of referral.

(B) Direct the parties, within fourteen (14) days of the date of the order of referral, to agree upon a mediator. The parties are encouraged to utilize the list of certified mediators established in connection with Local Rule 16.2(b) but may by mutual agreement select any individual as mediator. The parties shall file and serve a "Notice of Selection of Mediator" within that period of time. If the parties are unable to agree upon a mediator, plaintiff's counsel, or plaintiff if self-represented, shall file and serve a "Request For Clerk To Appoint Mediator," and the Clerk will designate a mediator from the list of certified mediators on a blind, random basis.

(C) Direct that, at least fourteen (14) days prior to the mediation date, each party give the mediator a confidential written summary of the case identifying issues to be resolved.

(2) *Coordination of Mediation Conference.* Plaintiff's counsel (or another attorney agreed upon by all counsel of record) shall be responsible for coordinating the mediation conference date and location agreeable to the mediator and all counsel of record.

(3) *Stipulation of Counsel.* Any action or claim may be referred to mediation upon stipulation of the parties.

(4) *Withdrawal from Mediation.* Any civil action or claim referred to mediation pursuant to this rule may be exempt or withdrawn from mediation by the presiding Judge at any time, before or after reference, upon application of a party and/or determination for any reason that the case is not suitable for mediation.

(e) Party Participation Required. Unless excused in writing by the Court, all parties and required claims professionals (e.g., insurance adjusters) must participate in the mediation conference with full authority to negotiate a settlement as follows:

(i) if the mediation is being conducted by video-conference, participation requires connecting to and participating via video and audio in the mediation conference; and

(ii) if the mediation is being conducted in person, participation requires attending the mediation conference in person (i.e., in person if the party is a natural person, not through an agent; or if the party is an entity, by the personal attendance of an entity representative).

If a party to a mediation is a public entity required to conduct its business pursuant to Florida Statutes Chapter 286, and is a defendant or counterclaim defendant in the litigation, that party shall be deemed to participate in the mediation conference by the participation of a representative with full authority to negotiate on behalf of the entity and to recommend settlement to the appropriate decision-making body of the entity. The representative shall not be solely the public entity's counsel (or firm) of record, however, the representative may be the public entity's in-house counsel where another counsel of record for the public entity is also present. In cases where the in-house counsel is counsel of record, that counsel and another representative may act as duly authorized representatives of the public entity. In cases where the parties include a public entity and/or individuals who were or are employed by a public entity or elected officials of a public entity, such individual parties do not need to attend the mediation conference if all claims asserted against the individuals are covered by insurance or by an indemnification from the public entity for purposes of mediation. Notwithstanding the foregoing, counsel representing the individual defendants shall provide the individual defendants with notice of the mediation conference and the individual defendants shall have the right to attend the mediation conference. The mediator shall report non-participation to the Court. Failure to comply with the participation or settlement authority requirements may subject a party to sanctions by the Court.

(f) Mediation Report; Notice of Settlement; Judgment.

(1) *Mediation Report.* Within seven (7) days following the mediation conference, the mediator shall provide the parties with a Mediation Report. If the mediator is an authorized user of the Court's electronic filing system (CM/ECF) then the mediator shall electronically file and serve a Mediation Report. If the mediator is not an authorized CM/ECF user, the mediator shall either: (a)



file the Mediation Report conventionally; or (b) with the consent of the parties, arrange for one of the parties to file a "Notice of Filing Mediator's Report," which shall attach the report as an exhibit.

(2) *Notice of Settlement.* In the event that the parties reach an agreement to settle the case or claim, counsel shall promptly notify the Court of the settlement pursuant to the requirements of S.D. Fla. L.R. 16.4.

(g) Trial upon Failure to Settle.

(1) *Trial upon Failure to Settle.* If the mediation conference fails to result in a settlement, the case will be tried as originally scheduled.

(2) *Restrictions on the Use of Information Derived During the Mediation Conference.* All proceedings of the mediation shall be confidential and are privileged in all respects as provided under federal law and Florida Statutes §44.405. The proceedings may not be reported, recorded, placed into evidence, made known to the Court or jury, or construed for any purpose as an admission against interest. A party is not bound by anything said or done at the conference, unless a written settlement is reached, in which case only the terms of the settlement are binding.

Effective December 1, 1994. Amended effective April 15, 1996; April 15, 1997; April 15, 1999; April 15, 2004; April 15, 2005; April 15, 2007; April 15, 2009; April 15, 2010; December 1, 2011; December 3, 2012; December 1, 2014; December 1, 2015; December 1, 2017; December 3, 2018; December 2, 2019 ; December 1, 2022.



RULE 16.3 | CALENDAR CONFLICTS

Calendar conflicts will be resolved and notice shall be given in accordance with the Resolution of the Florida State-Federal Council Regarding Calendar Conflicts Between State and Federal Courts (available on the Court's website: www.flsd.uscourts.gov) or as otherwise agreed to between the Judges in a given case.

Effective April 15, 2000. Amended effective April 15, 2006; April 15, 2007; December 1, 2011; December 1, 2015.

Authority

(2000) Resolution of the Florida State-Federal Council Regarding Calendar Conflicts Between State and Federal Courts. See also Fla. R. Jud. Admin. 2.052.

(2006) *Krasnow v. Navarro*, 9 F.2d 451 (11th Cir. 1990).

RULE 16.4 | NOTICE OF SETTLEMENT

If the parties reach an agreement to settle the entire case or certain claims or issues therein, counsel shall notify the Court of such settlement by filing and serving a notice of settlement within two (2) Court days of such agreement being reached. The notice shall be filed and served jointly by counsel for all parties to the settlement. Alternatively, the parties may file and serve a notice or stipulation, as applicable, pursuant to Fed. R. Civ. P. 41. But unless such notice or stipulation is filed within two (2) Court days of the parties reaching a settlement, the parties are still required to file and serve a separate notice of settlement.

Effective December 1, 2017; December 3, 2018; December 2, 2019.



RULE 23.1 | CLASS ACTIONS

In any case sought to be maintained as a class action:

(a) The pleading shall bear next to its caption the legend "Class Action."

(b) The pleading shall contain under a separate heading, styled "Class Action Allegations:"

(1) A reference to the portion or portions of Federal Rule of Civil Procedure 23 under which it is claimed that the suit is properly maintainable as a class action.

(2) Appropriate allegations thought to justify such claim, including, but not necessarily limited to:

(A) the size (or approximate size) and definition of the alleged class

(B) the basis upon which the plaintiff (or plaintiffs) claims

(i) to be an adequate representative of the class, or

(ii) if the class is composed of defendants, that those named as parties are adequate representatives of the class

(C) the alleged questions of law and fact claimed to be common to the class, and

(D) in actions claimed to be maintainable as class actions under Federal Rule of Civil Procedure 23(b)(3), allegations thought to support the findings required by that subdivision.

(c) In ruling on any motion by a putative class action plaintiff for a determination under Federal Rule of Civil Procedure 23(c)(1) as to whether an action is to be maintained as a class action, the Court may allow the action to be so maintained, may disallow and strike the class action allegations, or may order postponement of the determination pending discovery or such other preliminary procedures as appear to be appropriate and necessary in the circumstances. Whenever possible, where it is held that the determination should be postponed, a date will be fixed by the Court for renewal of the motion.



Effective December 1, 1994. Amended effective April 15, 1996; April 15, 2001; April 15, 2004; April 15, 2007; April 15, 2010; December 1, 2011; December 1, 2015.

Authority

(1993) Former Local Rule 19. Renumbered per Model Rules. In accordance with Model Rule 23.1.

RULE 24.1 | CONSTITUTIONAL CHALLENGE TO ACT OF CONGRESS OR STATE STATUTE

(a) Act of Congress. Upon the filing of any action in which the constitutionality of an Act of Congress affecting the public interest is challenged, and to which action the United States or an agency, officer, or employee thereof is not a party in its or their official capacity, counsel representing the party who challenges the Act shall forthwith notify the Court of the existence of the constitutional question. The notice shall contain the full title and number of the action and shall designate the statute assailed and the grounds upon which it is assailed, so that the Court may comply with its statutory duty to certify the fact to the Attorney General of the United States as required by 28U.S.C. §2403. The party challenging constitutionality shall also so indicate on the pleading or paper which first does so by stating, immediately following the title of the pleading or paper, "Claim of Unconstitutionality."

(b) State Statute. Upon the filing of any action in which the constitutionality of a state statute, charter, ordinance, or franchise is challenged, counsel shall comply with the notice provisions of Florida Statutes §86.091.

(c) No Waiver. Failure to comply with this Local Rule will not be grounds for waiving the constitutional issue or for waiving any other right the party may have. Any notice provided under this rule, or lack of notice, will not serve as a substitute for, or as a waiver of, any pleading requirements set forth in the Federal Rules of Civil Procedure or statutes.

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

Authority

(1993) Former Local Rule 9; Model Rule 24.1.



RULE 26.1 | DISCOVERY AND DISCOVERY MATERIAL (CIVIL)

(a) Generally. Parties may stipulate in writing to modify any practice or procedure governing discovery hereunder unless doing so would violate a Court-ordered deadline, obligation, or restriction.

(b) Service and Filing of Discovery Material. Initial and expert disclosures and the following discovery requests, responses, objections, notices or any associated proof of service shall not be filed until they are used in the proceeding or the court orders their filing: (1) deposition transcripts; (2) interrogatories; (3) requests for documents, electronically stored information or things, or to permit entry upon land; (4) requests for admission; (5) notices of taking depositions or notices of serving subpoenas; and (6) privilege logs.

(c) Discovery Material to Be Filed at Outset of Trial or at Filing of Pre-trial or Post-trial Motions. If any written discovery is to be used at trial or is necessary to a pre-trial or post-trial motion, the portions to be used shall be filed with the Clerk of the Court, and served on all parties, at the outset of the trial or at the filing and service on all parties of the motion insofar as their use can be reasonably anticipated by the parties having custody thereof.

(d) Completion of Discovery. Party and non-party depositions must be scheduled to occur, and written discovery requests and subpoenas seeking the production of documents must be served in sufficient time that the response is due on or before the discovery cutoff date. Failure by the party seeking discovery to comply with this paragraph obviates the need to respond or object to the discovery, appear at the deposition, or move for a protective order.

(e) Interrogatories and Production Requests.

(1) Each interrogatory objection and/or response must immediately follow the quoted interrogatory, and no part of an interrogatory shall be left unanswered merely because an objection is interposed to another part of the interrogatory.

(2) Assertion of Privilege:



(A) Where an objection is made to any interrogatory or subpart thereof or to any production request under Federal Rule of Civil Procedure 34, the objection shall state with specificity all grounds. Any ground not stated in an objection within the time provided by the Federal Rules of Civil Procedure, or any extensions thereof, shall be waived.

(B) Where a claim of privilege is asserted in objecting to any interrogatory or production demand, or sub-part thereof, and a complete answer is not provided on the basis of such assertion, within the time provided by subpart (D) below:

(i) The party asserting the privilege shall in the objection to the interrogatory or document demand, or subpart thereof, identify the nature of the privilege (including work product) which is being claimed and if the privilege is being asserted in connection with a claim or defense governed by state law, indicate the state's privilege rule being invoked; and

(ii) The following information shall be provided in the objection, unless divulgence of such information would cause disclosure of the allegedly privileged information:

(a) For documents or electronically stored information, to the extent the information is readily obtainable from the witness being deposed or otherwise:

- (1) the type of document (e.g., letter or memorandum) and, if electronically stored information, the software application used to create it (e.g., MS Word, MS Excel);
- (2) general subject matter of the document or electronically stored information;
- (3) the date of the document or electronically stored information; and
- (4) such other information as is sufficient to identify the document or electronically stored information for a subpoena duces tecum,



including, where appropriate, the author, addressee, and any other recipient of the document or electronically stored information, and, where not apparent, the relationship of the author, addressee, and any other recipient to each other;

(b) For oral communications: (1) the name of the person making the communication and the names of persons present while the communication was made and, where not apparent, the relationship of the persons present to the person making the communication; (2) the date and the place of communication; and (3) the general subject matter of the communication.

(C) This rule requires preparation of a privilege log with respect to all documents, electronically stored information, things and oral communications withheld on the basis of a claim of privilege or work product protection except the following: written and oral communications between a party and its counsel after commencement of the action and work product material created after commencement of the action.

(D) Timing for Party Discovery: Unless the parties agree on a different time frame or the Court orders otherwise, the privilege log required under subpart (C) above shall be served no later than fourteen (14) days following service of: (i) any interrogatory response or document production from which some information or documents are withheld on the basis of such privilege or protection; or (ii) the response to the request for production if all responsive documents are being withheld on the basis of such privilege or protection.

(E) Timing for Non-Party Discovery: Unless the party propounding a non-party subpoena under Federal Rule of Civil Procedure 45(e)(2)(A) and the recipient of such a subpoena agree on a different time frame or the Court orders otherwise, the information required to be provided under Federal

Rule of Civil Procedure 45(e)(2)(A)(ii) shall be served no later than (14) days following service of: (i) any document production provided in response to such a subpoena from which some documents are withheld on the basis of a claim of privilege or work product protection; or (ii) any claim of privilege or work product protection in response to the subpoena if all responsive documents are being withheld on the basis of such privilege or protection.

(3) Whenever a party answers any interrogatory by reference to records or materials from which the answer may be derived or ascertained, as permitted in Federal Rule of Civil Procedure 33(d), the answering party shall make available:

(A) any electronically stored information or summaries thereof that it either has or can adduce by a relatively simple procedure, unless those materials are privileged or otherwise immune from discovery.

(B) any relevant compilations, abstracts or summaries in its custody or readily obtainable by it, unless those materials are privileged or otherwise immune from discovery.

(C) the records and materials for inspection and copying within fourteen (14) days after service of the answers to interrogatories or at a date agreed upon by the parties.

(4) A party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the party from whom discovery is sought must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the Court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Federal Rule of Civil Procedure 26(b)(2)(C). The Court may specify conditions for the discovery. Absent exceptional circumstances, the Court may not impose sanctions under

these Local Rules on a party for failing to provide electronically stored information lost as a result of the routine, good-faith operation of an electronic information system.

(5) The documents, electronically stored information, or things should be referenced to specific paragraphs of a request for production where practicable, unless the producing party exercises its option under Federal Rule of Civil Procedure 34(b) to produce documents as they are kept in the usual course of business. The party producing documents in response to a request for production has an obligation to explain the general scheme of record-keeping to the inspecting party. The objective is to acquaint the inspecting party generally with how and where the documents, electronically stored information, or things are maintained.

(6) Each page of any document produced in a non-electronic format must be individually identified by a sequential number that will allow the document to be identified but that does not impair review of the document.

(7) A party responding to a request for production of documents or materials shall serve a Notice of Completion of Production at the time that party produces (or otherwise makes available) the last of the documents or other materials that are responsive to the request that are not being withheld pursuant to an objection.

(f) Invocation of Privilege during Depositions.

(1) Where a claim of privilege is asserted during a deposition and information is not provided on the basis of such assertion, upon request the attorney or deponent asserting the privilege shall state the specific nature of the privilege being claimed unless divulgence of such information would cause disclosure of privileged information.

(2) After a claim of privilege has been asserted, unless divulgence of requested information would cause disclosure of privileged information, the attorney or party seeking disclosure shall have reasonable latitude during the deposition to question the witness to

establish other relevant information concerning the assertion of the privilege, including questions about the topics set forth in Local Rule 26.1(e)(2)(B)(ii) above.

(g) Discovery Motions.

(1) Discovery Motions and Other Procedures for Resolving Discovery Disputes. Many judges have established specific discovery procedures, which practitioners and pro se parties should review carefully. Some of those procedures are available at <https://www.flsd.uscourts.gov/judges-info>. The following rules shall govern discovery disputes unless they conflict with the assigned judge's procedures, in which case such procedures shall control.

(2) Requirements and Deadlines for Seeking Court Intervention Concerning Discovery Disputes.

(A) A party must submit any discovery dispute to the Court by service of a motion (or, if the assigned judge prohibits discovery motions, in accordance with the assigned judge's discovery procedures) within the time periods set forth in (i)-(iv), as applicable:

(i) for a discovery dispute relating to a written response or objection to a discovery request or to a privilege log, a party shall submit the dispute within twenty-eight (28) days of service of the written response or objection that is the subject of the dispute;

(ii) for a discovery dispute relating to a deposition that has been completed, a party shall submit the dispute within twenty-eight (28) days of the last day of testimony in the deposition giving rise to the dispute;

(iii) for a discovery dispute relating to the sufficiency of a production of documents or other materials, a party shall submit the dispute within twenty-eight (28) days of the producing party's service of the Notice of Completion of Production as required by S.D. Fla. L.R. 26.1(e)(7); and

(iv) for any other discovery dispute, a party shall submit the dispute within twenty-eight (28) days of the date when the issue was first raised with the opposing party.

(B) Failure to submit a discovery dispute to the Court within the time periods set forth in (A)(i)-(iv), absent a showing of good cause, may, in the Court's discretion, constitute grounds for denial of the requested relief.

(C) The deadlines set forth in (A)(i)-(iv) may be extended once for up to seven (7) days by an unfiled, written stipulation between the parties, provided that the stipulation does not conflict with any Court order.

(D) The duty to conduct a pre-filing conference pursuant to S.D. Fla. L.R. 7.1(a)(3) shall not toll the deadlines set forth in (A)(i)-(iv) or any deadline provided by the assigned judge's discovery procedures unless those discovery procedures specifically provide otherwise.

(3) Unless an assigned judge's discovery procedures provide otherwise, a discovery motion and the memorandum in opposition are each limited to ten (10) pages, and the reply memorandum is limited to five (5) pages. If applicable, the moving party must attach to the motion the disputed discovery item and any objection and response thereto.

(h) Reasonable Notice of Taking Depositions. Unless otherwise stipulated by all interested parties, pursuant to Federal Rule of Civil Procedure 29, and excepting the circumstances governed by Federal Rule of Civil Procedure 30(a), a party desiring to take the deposition within the State of Florida of any person upon oral examination shall give at least seven (7) days' notice in writing to every other party to the action and to the deponent (if the deposition is not of a party), and a party desiring to take the deposition in another State of any person upon oral examination shall give at least fourteen (14) days' notice in writing to every other party to the action and the deponent (if the deposition is not of a party).

Failure to comply with this rule obviates the need for protective order.

Notwithstanding the foregoing, in accordance with Federal Rule of Civil Procedure 32(a)(5)(A), no deposition shall be used against a party who, having received less than eleven (11) calendar days' notice of a deposition as computed under Federal Rule of Civil Procedure 6(a), has promptly upon receiving such notice filed and served a motion for protective order under Federal Rule of Civil Procedure 26(c)(1)(B) requesting that the deposition not be held or be held at a different time or place and such motion is pending at the time the deposition is held.

(i) Subpoenas; Cooperation. Whenever a party, before trial, receives objections, documents, electronically stored information, or other things from a non-party in response to a subpoena, the party receiving same shall promptly notify all other parties of such receipt, and shall, upon request, make the materials available for inspection to all other parties in the same form or format as received from the non-party. The other parties may request copies of objections, documents, electronically stored information, or other things, but the expense associated with providing such copies shall be borne by the party requesting the copies, except by order of the Court for good cause shown. Nothing in this subdivision is intended to create, eliminate, enlarge, or reduce any post-judgment notice, disclosure, production, or inspection obligations.

Effective December 1, 1994. Amended effective April 15, 1996; April 15, 1998; April 15, 2001; paragraph G.3 amended effective April 15, 2003; April 15, 2004; April 15, 2005; April 15, 2007; April 15, 2009; April 15, 2010; April 15, 2011; December 1, 2011; December 1, 2014; December 1, 2015; December 1, 2016; December 3, 2018; December 2, 2019; December 1, 2022.

Authority

(1993) Former Local Rule 10I. New portions of Section E [1994, now Subsections G.2-8] are based on S.D.N.Y. local rule.



RULE 47.1 | TAXATION OF COSTS FOR UNDUE INCONVENIENCE TO JURIES

Whenever a civil case that has been set for jury trial is settled or otherwise disposed of, counsel shall so inform the office of the Judge assigned to the case at least one (1) full business day prior to the day the jury is scheduled to be selected or the trial is scheduled to commence, in order that the jurors may be notified not to attend. If such notice is not given to the Clerk of the Court's Office, then except for good cause shown, juror costs, including attendance fees, mileage, and subsistence, may be assessed equally against the parties and their counsel, or otherwise assessed as directed by the Court.

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

Authority

(1993) Former Local Rule 15.



RULE 56.1 | MOTIONS FOR SUMMARY JUDGMENT

(a) Statements of Material Facts.

(1) A motion for summary judgment and the opposition to it shall each be accompanied by a separate and contemporaneously filed and served Statement of Material Facts. The movant's Statement of Material Facts shall list the material facts that the movant contends are not genuinely disputed.

(2) An opponent's Statement of Material Facts shall clearly challenge any purportedly material fact asserted by the movant that the opponent contends is genuinely in dispute. An opponent's Statement of Material Facts also may thereafter assert additional material facts that the opponent contends serve to defeat the motion for summary judgment.

(3) The movant shall respond to any additional facts asserted in the opponent's Statement of Material Facts even if the movant does not serve a reply memorandum. The due date for the Reply Statement of Material Facts is the due date for the reply memorandum.

(b) Form Required for Statements of Material Facts.

(1) All Statements of Material Facts. All Statements of Material Facts (whether filed by the movant or the opponent) shall be filed and served as separate documents and not as exhibits or attachments. In addition, the Statements of Material Facts shall:

(A) Not exceed ten (10) pages;

(B) Consist of separately numbered paragraphs, limited as far as practicable to a single material fact, with each fact supported by specific, pinpoint references to particular parts of record material, including depositions, documents, electronically stored information, affidavits, stipulations (including those made for purposes of the motion only), admissions, and interrogatory answers (e.g., Exhibit D, Smith Affidavit, ¶2; Exhibit 3, Jones deposition, p. 12/lines 4-9).

The pinpoint citations shall reference pages (and line numbers, if appropriate, of exhibits,

designate the number and title of each exhibit, and provide the ECF number of all previously filed materials used to support the Statement of Material Facts. When a material fact requires specific evidentiary support, a general citation to an exhibit without a page number or pincite (e.g., "Smith Affidavit" or "Jones Deposition" or "Exhibit A") is non-compliant. If not already in the record on CM/ECF, the materials shall be attached to the statement as exhibits specifically titled within the CM/ECF system (e.g., Smith Affidavit dated April 12, 2017, Jones Deposition dated May 19, 2018). Reference to a previously filed exhibit shall use the "ECF No." format.

(2) Opponent's Statement of Material Facts.

(A) In addition to complying with the requirements of sub-section (b)(1), an opponent's Statement of Material Facts shall correspond with the order and paragraph numbering format used by the movant, but it shall not repeat the text of the movant's paragraphs.

(B) An opponent's Statement of Material Facts shall use, as the very first word in each paragraph-by-paragraph response, the word "disputed" or "undisputed."

(C) If an opponent's Statement of Material Facts disputes a fact in the movant's Statement of Material Facts, then the evidentiary citations supporting the opponent's position must be limited to evidence specific to that particular dispute.

(D) Any additional facts that an opponent contends are material to the motion for summary judgment shall be numbered and placed immediately after the opponent's response to the movant's Statement of Material Facts. The additional facts shall use separately numbered paragraphs beginning with the next number following the movant's last numbered paragraph. The additional facts shall be separately titled as "Additional Facts" and may not exceed five (5) pages (beyond the ten-(10) page limit for the opponent's Statement of Material Facts.



(3) Reply Statement of Material Facts.

(A) If an opponent's Statement of Material Facts includes additional facts, then the movant shall respond to each additional fact in a separately served Reply Statement of Material Facts.

(B) The Reply Statement of Material Facts shall correspond with the order and paragraph numbering format used in the opponent's additional facts, identifying with the very first word in each fact as "disputed" or "undisputed" at the beginning of each paragraph in the statement, and, if disputed, citing to particular parts of materials in the record in the same manner as required by subsections (b) (1) and (b) (2).

(C) The movant may file and serve a reply memorandum of law, which is separate and distinct from the required Reply Statement of Material Facts addressing the opponent's additional facts.

(c) Effect of Failure to Controvert Undisputed Facts. All material facts in any party's Statement of Material Facts may be deemed admitted unless controverted by the other party's Statement of Material Facts, provided that: (i) the Court finds that the material fact at issue is supported by properly cited record evidence; and (ii) any exception under Fed. R. Civ. P. 56 does not apply.

(d) Consequences of Non-Compliance. If a party files and serves any Statement of Material Facts that does not comply with this rule, then the Court may strike the Statement, require immediate compliance, grant relief to any opposing party for any prejudice arising from a non-compliant statement or response, or enter other sanctions that the Court deems appropriate.

(e) Prohibition Against Multiple Motions for Summary Judgment. Filing and service of multiple motions for partial summary judgment is prohibited, absent prior permission of the Court. This prohibition does not preclude a party from filing both a motion for summary judgment asserting an immunity from suit and a later motion for summary judgment addressing any issues that may remain in the case. This prohibition also is not triggered when, as permitted by Fed.

R. Civ. P. 12(d), the Court elects to treat a motion filed pursuant to Fed. R. Civ. P. 12(b) or 12(c) as a summary judgment motion.

Effective December 1, 1994. Amended effective April 15, 1999; April 15, 2002; April 15, 2005; April 15, 2007; April 15, 2008; April 15, 2010; April 15, 2011; December 1, 2011; December 1, 2015; December 2, 2019; December 1, 2021.

Authority

(1993) Former Local Rule 10J.



RULE 62.1 | APPEAL BONDS OR OTHER SECURITY

A supersedeas bond or other security staying execution of a money judgment shall be in the amount of 110% of the judgment, to provide security for interest, costs, and any award of damages for delay. Upon its own motion or upon application of a party the Court may direct otherwise.

Effective April 15, 2000. Amended effective April 15, 2007; April 15, 2010; December 1, 2015; December 3, 2018.



RULE 67.1 | COURT REGISTRY AND WRITS OF GARNISHMENT

(a) Upon the issuance of any Order of Disbursement on the Court registry, the concerned party shall provide a copy of such Order to the Clerk of the Court's Financial Administrator or other designated deputy.

(b) In any case where an Order of Court directs the Clerk of the Court to handle a specific investment in a different manner than specified by Internal Operating Procedures, the interested party shall serve a copy of the Order upon the Clerk of the Court personally or a deputy clerk specifically designated in accordance with the wording of Federal Rule of Civil Procedure 67, to-wit:

"The party making the deposit shall serve the Order permitting deposit on the Clerk of this Court."

(c) A party applying for the issuance of a writ of garnishment shall pay the amount prescribed by applicable Florida law to the garnishee. The payment is for the attorneys' fees of the garnishee. Monies previously required to be deposited in the non-interest-bearing registry of the Court shall be disbursed as follows:

(1) The Clerk of the Court shall pay such deposit to the garnishee (or garnishee's counsel, if so requested) for the payment or partial payment of attorney's fees which the garnishee expends or agrees to expend in obtaining representation in response to the writ. Such payment shall be made upon the garnishee's demand, in writing, at any time after the service of the writ, unless otherwise directed by the Court.

(2) In cases of a pre-judgment writ of garnishment, if the garnishee fails to make written demand within sixty (60) days of the conclusion of the case, including all appeals, the Clerk of the Court shall return such deposit to the depositing party (or their counsel) without further order or request, unless otherwise directed by the Court.

(3) In cases of a post-judgment writ of attachment, if the garnishee fails to make written demand within sixty (60) days after post-judgment proceedings on the writ have concluded, including all appeals concerning the writ, the Clerk of the Court shall return such deposit



to the depositing party (or their counsel) without further order or request, unless otherwise directed by the Court.

(4) If garnishment cost deposit monies remain on deposit with the Clerk of the Court more than five (5) years after the conclusion of a case or post-judgment proceedings, including all appeals, and if the Clerk of the Court has made reasonable attempts to provide notice to the depositing party or to distribute those monies without success, those unclaimed monies shall be moved into the appropriate U.S. Treasury Unclaimed Funds account pursuant to Title 28, United States Code, Section 2042, without further order of Court. Any monies deposited with the U.S. Treasury under these provisions as unclaimed are available for immediate disbursement to any party by the Clerk of the Court upon application and further Court order.

Effective December 1, 1994. Amended effective April 15, 2002; April 15, 2007; April 15, 2010; December 1, 2011; December 1, 2014; December 1, 2015.

Authority

(1993) Former Local Rule 24. Renumbered per Model Rules project.

(2002) Federal Rule of Civil Procedure 69, Florida Statute Section 77.28, and Administrative Orders 90–104, 98–51 and 2001–69.



RULE 77.1 | PHOTOGRAPHING, BROADCASTING, TELEVISIONING

Other than required by authorized personnel in the discharge of official duties, all forms of equipment or means of photographing, audio- or video- recording, broadcasting or televising within the environs of any place of holding court in the District, including courtrooms, chambers, adjacent rooms, hallways, doorways, stairways, elevators or offices of supporting personnel, whether the Court is in session or at recess, is prohibited; except that: (a) photographing in connection with naturalization hearings or other special proceedings, as approved by a Judge of this Court, will be permitted; and (b) following a declaration of a local, state, or national emergency, audio and video recording may be permitted by order of the Court.

Effective December 1, 1994. Amended effective April 15, 2007; December 1, 2011; December 1, 2015; December 3, 2018; December 1, 2020.

Authority

(1993) Former Local Rule 20.

(2011) Amended to provide for participation in pilot program for the study of camera use in district courtrooms pursuant to those guidelines issued by the Judicial Conference Committee on Court Administration and Case Management (www.uscourts.gov).

RULE 77.2 | RELEASE OF INFORMATION IN CRIMINAL AND CIVIL PROCEEDINGS

(a) It is the duty of the lawyer or law firm 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 lawyer or the firm is associated, if there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

(b) With respect to a grand jury or other pending investigation of any criminal matter, a lawyer 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.

(c) 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, a lawyer or law firm associated with the prosecution or defense shall not 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:

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

(2) 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.

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

(4) The identity, testimony, or credibility of prospective witnesses, except that the lawyer or law firm may announce the identity of the victim if the announcement is not otherwise prohibited by law.

(5) The possibility of a plea of guilty to the offense charged or a lesser offense.

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

The foregoing shall not be construed to preclude the lawyer or law firm during this period, in the proper discharge of the lawyer's or its 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 made against the accused.

(d) During the trial of any criminal matter, including the period of selection of the jury, no lawyer or law firm 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 the lawyer or law firm may quote from or refer without comment to public records of the Court in the case.



(e) After the completion of a trial or disposition without trial of any criminal matter, and prior to the imposition of sentence, a lawyer or law firm 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 reasonable likelihood that such dissemination will affect the imposition of sentence.

(f) Nothing in this Local 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 bodies, or to preclude any lawyers from replying to charges of misconduct that are publicly made against the lawyer or law firm.

(g) A lawyer or law firm 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 reasonable likelihood that such dissemination will interfere with 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 or results of any examinations or tests or the refusal or failure of a party to submit to such.
- (4) The lawyer's opinion as to the merits of the claims or defenses of a party, except as required by law or administrative rule.
- (5) Any other matter reasonably likely to interfere with a fair trial of the action.

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



Authority

(1993) Former Local Rule 21. Rule 4-3.6 of the Rules Regulating The Florida Bar.



RULE 87.1 | AUTHORITY OF BANKRUPTCY JUDGES TO MAKE LOCAL RULES

The Bankruptcy Judges of the United States Bankruptcy Court in this District may, by action of a majority of the Bankruptcy Judges, make local rules of practice and procedure to govern all cases, proceedings and other matters in the Bankruptcy Court.

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

RULE 87.2 | REFERENCE OF BANKRUPTCY MATTERS

(a) General Order of Reference. Pursuant to 28 U.S.C. §157(a) and the Order of Reference entered March 27, 2012 (see Order of Reference available on Court's website, www.flstd.uscourts.gov), all cases under Title 11, United States Code, and all proceedings under Title 11, United States Code or arising in or related to cases under Title 11, United States Code, are referred to the Bankruptcy Judges for this District and shall be commenced in the Bankruptcy Court pursuant to the Local Bankruptcy Rules. The Order of Reference also applies to notices of removal pursuant to 28 U.S.C. §1452(a), which shall be filed with the Clerk of the Bankruptcy Court for the Division of the District where such civil action is pending. The removed claim or cause of action shall be assigned as an adversary proceeding in the Bankruptcy Court.

(b) Authority of Bankruptcy Judges. If a Bankruptcy Judge or District Judge determines that entry of a final order or judgment by a Bankruptcy Judge would not be consistent with Article III of the United States Constitution in a particular case or proceeding referred under the Order of Reference and determined to be a core matter, the Bankruptcy Judge shall, unless otherwise ordered by the District Court, hear the case or proceeding and submit proposed findings of fact and conclusions of law stated on the record or in an opinion or memorandum of decision.

(c) Authority of District Court to Treat Final Orders as Proposed Findings and Conclusions. As provided in Federal Rule of Bankruptcy Procedure 8018.1, if, on appeal, the District Court determines that the Bankruptcy Court did not have the power under Article III of the United States Constitution to enter the judgment, order, or decree appealed from, the District Court may treat such judgment, order, or decree as proposed findings of fact and conclusions of law.

Former Local Rule 87.2 amended and renumbered as Local Rule 87.4, and new Local Rule 87.2 adopted effective April 15, 1996. Amended effective April 15, 2007; April 15, 2010; December 1, 2015; December 2, 2019.

RULE 87.3 | MOTIONS FOR WITHDRAWAL OF REFERENCE OF CASE OR PROCEEDING FROM THE BANKRUPTCY COURT

A motion to withdraw the reference pursuant to 28 U.S.C. §157(d) shall be filed with the Clerk of the Bankruptcy Court in accordance with the requirements of Local Bankruptcy Rule 5011-1 and served on all parties. Subsequently filed motions for withdrawal of reference in the same case or proceeding shall be regarded as similar actions and proceedings under Local Rule 3.8 and the attorneys of record shall notify the District Court of all such pending actions and proceedings in compliance with Local Rule 3.8. and, if applicable, provide the notice required by Local Rule 7.1(f).

Effective April 15, 1996. Amended effective April 15, 1999; April 15, 2007; April 15, 2010; December 1, 2015; December 2, 2019.



RULE 87.4 | BANKRUPTCY APPEALS

Bankruptcy appeals to the District Court are governed by the Federal Rules of Bankruptcy Procedure, particularly Rules 8001 through 8028, and the Local Rules of the Bankruptcy Court. As is authorized by Federal Rule of Bankruptcy Procedure 8026, those rules are supplemented as follows:

(a) Assignment. Appeals from orders or judgments entered by the Bankruptcy Court shall generally be assigned in accordance with the Court's Internal Operating Procedures. Appeals from orders in a bankruptcy case or proceeding in which appeals have been taken from prior orders in the same case or proceeding shall be regarded as similar actions and proceedings under Local Rule 3.8 and it will be the continuing obligation of the Clerk of the District Court and the attorneys of record to comply with Local Rule 3.8.

(b) Docketing of Notice of Appeal in District Court. All notices of appeal filed in the Bankruptcy Court under Federal Rule of Bankruptcy Procedure 8003 and 8004 shall be electronically transmitted promptly to the Clerk of the District Court by the Bankruptcy Clerk resulting in the opening of a new civil case in District Court's automated case management system CM/ECF.

(c) Limited Authority of Bankruptcy Court to Enter Orders Prior to Transmittal of Record to District Court. After the notice of appeal is electronically transmitted to the District Court and a civil case is opened but before the record is transmitted to the District Court, the Bankruptcy Court is authorized and directed to dismiss an appeal for appellant's: (1) failure to pay the prescribed filing fees; (2) failure to comply with the time limitations specified in Federal Rule of Bankruptcy Procedure 8002; or (3) failure to file a designation of the items for the record or copies thereof or a statement of the issues as required by Federal Rule of Bankruptcy Procedure 8009, and Local Bankruptcy Rule 8009-1. The Bankruptcy Court is further authorized and directed to hear, under Federal Rule of Bankruptcy Procedure 9006(b), motions to extend the foregoing deadlines and to consolidate appeals that present similar issues from a common record. The Bankruptcy Court is also authorized to consider motions for stay pending appeal filed under Federal Rule of Bankruptcy Procedure 8007(a). Bankruptcy Court orders entered under this subsection shall be docketed in the Bankruptcy



Court docket and transmitted to the District Court for docketing in the District Court case. Bankruptcy Court orders entered under this subsection may be reviewed by the District Court on motion filed in the District Court within fourteen (14) days after entry of the order on the District Court docket. A motion seeking review shall be filed pursuant to section (d) of this Local Rule.

(d) Motions for Stay and Other Intermediate Requests for Relief. Motions for stay pending appeal filed in the District Court pursuant to Federal Rule of Bankruptcy Procedure 8007(b), motions to review Bankruptcy Court orders entered under Federal Rule of Bankruptcy Procedure 9006(b), and other motions requesting intermediate relief as set forth in Federal Rule of Bankruptcy Procedure 8010(c), shall be filed in the District Court case opened upon transmittal to the District Court of the notice of appeal and served on all parties. The movant shall designate any relevant portions of the Bankruptcy Court record necessary for the District Court to rule on the motion. It shall be the duty of the Clerk of the District Court immediately to transmit a copy of the order ruling on said motion to the Clerk of the Bankruptcy Court. Local Rules 5.1 and 7.1 shall apply to motions for stay and other motions seeking intermediate appellate relief from the District Court.

(e) Motions for Leave to Appeal. A motion for leave to appeal and notice of appeal shall be filed in the Bankruptcy Court pursuant to Local Bankruptcy Rule 8004-1 and served on all parties. Upon transmittal of the notice, motion, and related documents to the District Court, a civil case shall be opened as provided in subsection (b) of this Local Rule.

Upon disposition of the motion, the Clerk of the District Court immediately shall transmit a copy of the District Court order to the Clerk of the Bankruptcy Court. If the motion for leave to appeal is granted, the appeal will proceed under the original case number and the Clerk of the Bankruptcy Court will prepare and transmit the record on appeal.

(f) Briefs.

(1) *Briefing Schedule.* The briefing schedule specified by Federal Rule of Bankruptcy Procedure 8018 may be altered only by order of the District Court or by the Bankruptcy Court in accordance with Rule 9038. If the

Clerk of the District Court does not receive appellant's brief within the time specified by Federal Rule of Bankruptcy Procedure 8018, and there is no motion for extension of time pending, the Clerk of the District Court shall furnish to the judge to whom the appeal is assigned a proposed order for dismissal of the appeal.

(2) *Form and Length of Briefs.* The form and length of briefs specified by Federal Rule of Bankruptcy Procedure 8015, and summarized in the Federal Rules of Bankruptcy Procedure *Part VIII Appendix: Length Limits Stated in Part VIII of the Federal Rules of Bankruptcy Procedures*, may be altered only by the order of the District Court. Failure to comply with Federal Rule of Bankruptcy Procedure 8015 may result in the striking of a brief. District Court Local Rules 5.1 and 7.1 do not apply to briefs governed by Federal Rule of Bankruptcy Procedure 8015.

(g) Oral Argument. Any party requesting oral argument shall make the request within the body of the principal or reply brief, not by separate motion. The setting of oral argument is within the discretion of the District Court.

(h) Judgment. Upon receipt of the District Court's opinion, the Clerk of the District Court shall enter judgment in accordance with Federal Rule of Bankruptcy Procedure 8024(a) and, in accordance with Federal Rule of Bankruptcy Procedure 8024(b), immediately shall transmit to each party and to the Clerk of the Bankruptcy Court a notice of entry together with a copy of the District Court's opinion.

(i) Appeal. If an appeal remains pending three (3) months after its entry on the District Court docket, the appealing party shall file and serve on all parties a "Notice of 90 Days Expiring" in the manner prescribed by Local Rule 7.1(b)(4).

(j) Notice. The Clerk of the Bankruptcy Court shall provide reference to this Local Rule with the notice of appeal provided to each party in accordance with Federal Rule of Bankruptcy Procedure 8003(c)(1). Failure to receive such a copy will not excuse compliance with all provisions of this Local Rule.

(k) Court Discretion. This Local Rule is not intended to exhaust or restrict the District Court's discretion as to any aspect of any appeal.

(l) Sealed Documents. Pursuant to Federal Rule of Bankruptcy Procedure 8009(f), if a document sealed by the Bankruptcy Court is to be included in the record on appeal, a motion must be filed in the District Court to accept the sealed document and served on all parties. If the motion is granted, the Bankruptcy Clerk promptly will transmit the sealed document to the District Court Clerk.

Effective April 15, 1996. Amended effective April 15, 1999; April 15, 2007; April 15, 2009; April 15, 2010; December 1, 2011; December 1, 2015; December 2, 2019; December 1, 2023.

Authority

Former Local Rule 27; (1996) renumbered from Local Rule 87.2 (1993).



RULE 87.5 | DESIGNATION OF BANKRUPTCY JUDGES TO CONDUCT JURY TRIALS

The Bankruptcy Judges of this District are specially designated to conduct jury trials, with the express consent of all parties, in all proceedings under 28 U.S.C. §157 in which the right to a jury trial applies. Pleading and responding to a jury trial demand in bankruptcy cases is governed by Local Bankruptcy Rule 9015-1. Local Rule 47.1 shall apply to jury trials conducted by Bankruptcy Judges under this rule.

Effective April 15, 1999. Amended effective April 15, 2007; April 15, 2010; December 1, 2015.

Comments

(1999) Incorporates the provisions of Administrative Order 96-03 “In re: Designation of Bankruptcy Judges to Conduct Jury Trials” available on the Court’s website (www.flstd.uscourts.gov).

RULE 88.1 | APPOINTMENT OF COUNSEL FOR INDIGENT DEFENDANTS IN CRIMINAL PROCEEDINGS

The appointment of counsel and counsel's obligations in the representation of indigent defendants in criminal proceedings pursuant to Federal Rule of Criminal Procedure 44 shall be in accordance with the "Plan of the United States District Court for the Southern District of Florida Pursuant to the Criminal Justice Act of 1964, as Amended." The current plan is available on the Court's website (www.flsd.uscourts.gov).

Effective December 1, 1994. Amended effective April 15, 2007; December 3, 2012; December 1, 2015.

Authority

(1993) Former Local Rule 17, updated.

RULE 88.2 | POST CONVICTION, HABEAS CORPUS, AND CIVIL RIGHTS PROCEEDINGS

(a) The following petitions, motions, and complaints must substantially follow the forms, if any, prescribed by the Court and obtained from the Clerk of the Court upon request:

(1) Petitions for writ of habeas corpus pursuant to 28 U.S.C. §2241 (common law habeas corpus),

(2) Petitions for writ of habeas corpus pursuant to 28 U.S.C. §2254 (state prisoner attacking conviction),

(3) Motions to Vacate pursuant to 28 U.S.C. §2255 (federal prisoner attacking conviction),

(4) Civil rights complaints pursuant to 42 U.S.C. §1983 (Constitutional deprivation under color of state law),

(5) Civil rights complaints pursuant to *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) (Constitutional deprivation under color of federal law).

Each must be signed under penalty of perjury by petitioner/movant or by a person authorized to sign it for petitioner/movant and, together with filing fee, if any, shall be filed in the Clerk's Office and served according to Federal Rule of Civil Procedure 5.

(b) When a petition, motion to vacate, or complaint is submitted in forma pauperis, the petitioner/movant/plaintiff shall submit the form "Application to Proceed Without Prepayment of Fees and Affidavit," which may be obtained from the Clerk of the Court, or an affidavit which substantially follows the form, and shall, under oath, set forth information which establishes that he or she is unable to pay the fees and costs of the proceedings referenced above.

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

Authority

(1993) Former Local Rule 18.



RULE 88.3 | PETTY AND CERTAIN MISDEMEANOR OFFENSES

(a) Covered Offenses. This Rule shall apply to petty offenses, as defined in 18 U.S.C. §19, and to certain misdemeanors as shall be identified from time to time by the Court in collateral schedules. Collectively, these petty offenses and identified misdemeanors shall be referred to for purposes of this Rule as "covered offenses."

(b) Collateral and Mandatory Appearance.

(1) Covered offenses that are committed on or within the perimeter of Federally-owned or controlled buildings or within the boundaries of National Parks, Preserves, Historic Sites, or Government Reservations, including but not limited to military installations, and violations under various Treaties and Wildlife Acts, for which collateral may be posted and forfeited in lieu of appearance by the person charged, together with the amount of collateral to be posted and offenses for which a mandatory appearance is required shall be in accordance with schedules which may from time to time be approved by the Court and filed with the Clerk of the Court.

(2) Collateral may not be posted for any covered offense if the alleged violator has previously been convicted of any such offense.

(c) Forfeiture of Collateral.

(1) Any person issued a violation notice for a covered offense for which collateral can be posted may, upon request of the issuing officer, post the required amount by placing cash, personal check or money order in the official violation notice envelope and, after sealing same, delivering it to authorized personnel at a designated office where a receipt will be given. All such envelopes received will be forwarded via mail each day, except for those containing cash which shall be personally delivered to the Clerk of the Court.

(2) The posting of collateral shall signify that the offender does not wish to appear nor request a hearing before the Judge. Collateral so posted shall be forfeited to the United States and the proceedings shall be terminated.



(d) Failure to Post Collateral.

(1) If a person charged with a covered offense for which collateral is required fails to post and forfeit collateral, any punishment, including fine, imprisonment or probation may be imposed within the limits established by law upon conviction by plea or after trial.

(2) No person shall be detained for failure to post collateral for a covered offense for which collateral may be posted unless the person is placed under arrest.

(e) Arrest. Nothing contained in these Local Rules shall prohibit a law enforcement officer from arresting an alleged violator for the commission of any offense, including those for which collateral may be posted or mandatory appearance required, and forthwith notifying a Magistrate Judge for the purpose of appearance or setting bail.

(Schedule of fines and mandatory appearance is on file with Clerk's Office and agencies charged with enforcement thereof.)

Effective December 1, 1994. Amended effective April 15, 2006; April 15, 2007; April 15, 2009; April 15, 2010; December 1, 2011, December 1, 2015; December 2, 2019.

Authority

(1993) Former Local Rule 22.

(2011) Amended to merge Local Rule 88.4 into Local Rule 88.3.



RULE 88.5 | SPEEDY TRIAL REPORTS

Counsel for the Government and counsel for each defendant shall, within twenty-one (21) days after arraignment and every twenty-one (21) days thereafter until trial or plea of guilty or nolo contendere, file with the Court and serve on all parties a status report as to each defendant which shall include a concise statement of:

(a) All excludable time as recorded on the docket on which there is agreement, including the applicable statutes. Such agreement shall be conclusive as between the parties, unless it has no basis in fact or law.

(b) All excludable time as recorded on the docket on which there is conflict, including the applicable statutes or law.

(c) Computation of the gross time, excludable time, net time remaining, and the final date upon which the defendant can be tried in compliance with the Speedy Trial Plan of this Court.

(d) Any agreement by the parties as to excludable time which exceeds the amount recorded on the docket shall have no effect unless approved by the Court.

Effective December 1, 1994. Amended effective April 15, 1998; April 15, 1999; April 15, 2007; April 15, 2010; December 1, 2011; December 1, 2015; December 2, 2019.

Authority

(1993) Former Local Rule 25. Title 18, United States Code, Section 3161.

(2011) Amended to eliminate authority of Court to accept a waiver of Speedy Trial rights. See *Zedner v. United States*, 547 U.S. 489 (2006).

RULE 88.7 | RETAINED CRIMINAL DEFENSE ATTORNEYS

(a) Retained criminal defense attorneys are expected to make financial arrangements satisfactory to themselves and sufficient to provide for representation of each defendant until the conclusion of the defendant's case at the trial level. Failure of a defendant to pay sums owed for attorney's fees, or failure of counsel to collect a sum sufficient to compensate him for all the services usually required of defense counsel, will not constitute good cause for withdrawal after arraignment. Every defendant, of course, has a right to appeal from any conviction.

(b) All notices of permanent appearance in the District Court, and motions for substitution of counsel, shall state whether the appearance of counsel is for trial only or for trial and appeal.

(c) At arraignment, the Magistrate Judge will inquire of each defendant and counsel whether counsel has been retained for trial only or for trial and appeal. Where counsel indicates that he or she has been retained only for trial, the defendant will be notified that it is the defendant's responsibility to arrange for counsel for any necessary appeals.

(d) In cases where the defendant moves the Court to proceed in forma pauperis on appeal, or for appointment of Criminal Justice Act appellate counsel, the Court will consider, in passing upon such applications, factors such as

- (i) the defendant's qualified Sixth Amendment right to counsel of choice, recognizing the distinction between choosing a trial lawyer and choosing an appellate lawyer;

- (ii) the contract between the defendant and trial counsel;

- (iii) the defendant's present financial condition and ability to have retained only trial counsel;

- (iv) retained counsel's appellate experience;

- (v) the financial burden that prosecuting the appeal would impose upon trial counsel, in view of the fee received and the professional services rendered; and

(vi) all other relevant factors, including any constitutional guarantees of the defendant.

(e) In assessing whether the legal fees previously paid to defense counsel should reasonably encompass appellate representation, the Court is to apply the provisions of Rule 4-1.5 of the Rules Regulating The Florida Bar. The Court is to consider the following factors as guides in determining the reasonableness of the fee:

(i) the time and labor required, the novelty, complexity, and difficulty of the questions involved, and the skill requisite to perform the legal service proffered;

(ii) the likelihood that the acceptance of the particular employment precluded other employment by the lawyer;

(iii) the fee, or rate of fee, customarily charged in the locality for legal services of a comparable or similar nature;

(iv) the significance of, or amount involved in, the subject matter of the representation, the responsibility involved in the representation, and the results obtained;

(v) the time limitations imposed by the client or by the circumstances and, as between attorney and client, any additional or special time demands or requests of the attorney by the client;

(vi) the nature and length of the professional relationship of the client; and

(vii) the experience, reputation, diligence and ability of the lawyer or lawyers performing the service and the skill, expertise or efficiency of efforts reflected in the actual providing of such services.

In determining a reasonable fee, the time devoted to the representation and the customary rate of fee are not the sole or controlling factors; nor should the determination be governed by fees or rates of fee provided under the Criminal Justice Act. All factors set out in this Local Rule and in the Rules Regulating The Florida Bar should be considered, and may be applied, in justification of a fee higher or lower



than that which would result from application of only the time and rate factors.

(f) Those parts of proceedings undertaken pursuant to paragraphs (d) and (e) of this Local Rule that involve confidential or privileged information or communications shall be held in camera, ex-parte, and under seal.

Effective December 1, 1994. Amended effective April 15, 2007; April 15, 2010; April 15, 2011; December 2, 2013; December 1, 2015.

Authority

(1993) New added at the request of the Eleventh Circuit.

RULE 88.8 | PRESENTENCE INVESTIGATIONS

(a) Within seven (7) days following entry of a guilty plea or a verdict of guilty, counsel for the defendant and the probation officer will have made arrangements for the initial interview of the defendant for the PSI.

(b) Counsel for the parties shall confer no later than seven (7) days prior to the scheduled sentencing hearing proceeding with respect to the anticipated length of the sentencing and the number of witnesses to be called. If either party reasonably anticipates that the sentencing proceeding will exceed one hour, the party shall file and serve on all parties a notice with the Clerk of the Court and shall hand deliver a courtesy copy to the United States Probation Office no later than five (5) days prior to the sentencing proceeding. The notice shall advise the Court of the number of witnesses to be called and the estimated time required for the sentencing proceeding. Additionally, counsel for the parties shall file within the same time period any notice for enhancement of sentence or requests for departure.

(c) The recommendation as to sentencing made to the Court by the United States Probation Office shall remain confidential.

(d) Counsel for the parties may retain the PSI in their custody, and counsel for the defendant shall provide a copy to the defendant. However, the PSI is a confidential document and neither the parties nor their counsel are authorized to duplicate or disseminate it to third parties without prior permission of the Court.

Effective December 1, 1994. Amended effective April 15, 2007; April 15, 2010; December 1, 2011; December 1, 2015; December 2, 2019.

Authority

Administrative Order 95-02.



RULE 88.9 | MOTIONS IN CRIMINAL CASES

(a) Motions in criminal cases are subject to the requirements of, and shall comply with, Local Rule 7.1. with the following exceptions:

Section 7.1(a)(3), which is superseded by this Local Rule.

Section 7.1(b), which pertains to hearings. Hearings on criminal motions may be set by the Court upon appropriate request or as required by the Federal Rules of Criminal Procedure and/or Constitutional Law.

In addition, at the time of filing motions in criminal cases, counsel for the moving party shall file with the Clerk of the Court a statement certifying either:

(1) that counsel have conferred in a good faith effort to resolve the issues raised in the motion and have been unable to do so; or

(2) that counsel for the moving party has made reasonable effort (which shall be identified with specificity in the statement) to confer with the opposing party but has been unable to do so. This requirement to confer shall not apply to ex parte filings.

(b) Motions in criminal cases which require evidentiary support shall be accompanied by a concise statement of the material facts upon which the motion is based.

(c) Motions in criminal cases shall be filed and served within twenty-eight (28) days from the arraignment of the defendant to whom the motion applies, except that motions arising from a post-arraignment event shall be filed and served within a reasonable time after the event.

(d) Parties shall use pattern jury instructions whenever applicable. Unless a Court order provides otherwise, any proposed jury instruction shall identify its source and cite any supporting authorities. If the source of the jury instruction is identified as a pattern jury instruction, the party shall also state whether the proposed jury instruction is a modified version of that pattern jury instruction and, if so, how it has been modified.

Effective December 1, 1994. Amended effective April 15, 1996; April 15, 1997; April 15, 1998; April 15, 2003; April 15, 2007; April 15, 2010; December 1, 2014; December 1, 2015; December 2, 2019; December 1, 2023.

Authority

(1994) Formerly Local Rule 10G; inadvertently omitted in 1993 revision. (1996) B. From Local Rule 7.5 and former Local Rule 10.H.

RULE 88.10 | CRIMINAL DISCOVERY

(a) A defendant's request to the Court for entry of the Standing Discovery Order shall constitute a discovery request by the defendant under Fed. R. Crim. P. 16(a)(1)(A), (B), (C), (D), (E), and (F), and, following entry of the Standing Discovery Order, the government shall comply with the obligations imposed upon it by Fed. R. Crim. P. 16(a)(1)(A-F), and shall permit the defendant to inspect and copy the written or recorded statements made by the defendant, or copies thereof, or supply copies thereof, which are within the possession, custody or control of the government, the existence of which is known or by the exercise of due diligence may become known to the government, all subject to the provisions of Fed. R. Crim. P. 16(a)(2).

(b) Following a defendant's request to the Court for entry of the Standing Discovery Order and the Court's entry of the Standing Discovery Order, the defendant, subject to the provisions of Fed. R. Crim. P. 16(b)(2), shall:

(1) after the government complies with Fed. R. Crim. P. 16(a)(1)(E), comply with the obligations that arise under Fed. R. Crim. P. 16(b)(1)(A); and

(2) after the government complies with Fed. R. Crim. P. 16(a)(1)(F), comply with the obligations that arise under Fed. R. Crim. P. 16(b)(1)(B).

(c) The government shall reveal to the defendant and permit inspection and copying of all information and material known to the government which may be favorable to the defendant on the issues of guilt or punishment within the scope of *Brady v. Maryland*, 373 U.S. 83 (1963), and *United States v. Agurs*, 427 U.S. 97 (1976).

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

(e) The government shall supply the defendant with a record of prior convictions of any alleged informant who will testify for the government at trial.



(f) The government shall state whether defendant was identified in any lineup, showup, photo array or similar identification proceeding, and produce any pictures utilized or resulting therefrom.

(g) The government shall advise its agents and officers involved in this case to preserve all rough notes.

(h) The government shall comply with the notice obligations set forth in Federal Rule of Evidence 404(b).

(i) The government shall state whether the defendant was an aggrieved person, as defined in 18 U.S.C. §2510(11), of any relevant electronic surveillance that was authorized pursuant to 18 U.S.C. §2516 and 18 U.S.C. §2518 and that has been unsealed in accordance with 18 U.S.C. §2518, and if so, shall set forth in detail the circumstances thereof.

(j) The government shall have transcribed the grand jury testimony of all witnesses who will testify for the government at the trial of this cause, preparatory to a timely motion for discovery.

(k) The government shall, upon request, deliver to any chemist selected by the defense, who is presently registered with the Attorney General in compliance with 21 U.S.C. §§822 and 823, and 21 C.F.R. §101.22(8), a sufficient representative sample of any alleged contraband which is the subject of this indictment, to allow independent chemical analysis of such sample.

(l) The government shall permit the defendant, his counsel and any experts selected by the defense to inspect any automobile, vessel, or aircraft allegedly utilized in the commission of any offenses charged. Government counsel shall, if necessary, assist defense counsel in arranging such inspection at a reasonable time and place, by advising the government authority having custody of the thing to be inspected that such inspection has been ordered by the court.

(m) The government shall provide the defense, for independent expert examination, copies of all latent fingerprints or palm prints which have been identified by a government expert as those of the defendant.

(n) The parties shall make every possible effort in good faith to stipulate to all facts or points of law the truth and

existence of which is not contested and the early resolution of which will expedite the trial.

(o) Schedule of Discovery.

(1) Discovery which is to be made in connection with a pre-trial hearing other than a bail or pre-trial detention hearing shall be made not later than forty-eight (48) hours prior to the hearing. Discovery which is to be made in connection with a bail or pre-trial detention hearing shall be made not later than the commencement of the hearing.

(2) Discovery which is to be made in connection with trial shall be made not later than fourteen (14) days after the arraignment, or such other time as ordered by the court.

(3) When discovery concerning expert witnesses has been requested and is required to be made pursuant to Fed. R. Crim. P. 16(a)(1)(G) or Fed. R. Crim. P. 16(b)(1)(C), it shall be made as follows, or at such other time as ordered by the court:

(A) An initial written summary of the anticipated testimony that is subject to disclosure shall be provided to the requesting party within fourteen (14) days of that party's written request pursuant to Fed. R. Crim. P. 16(a)(1)(G)(i) or Fed. R. Crim. P. 16(b)(1)(C)(i), except that the summary need not be provided to the requesting party earlier than fourteen (14) days after the arraignment. That summary must provide a synopsis of:

the anticipated opinions,

the bases and reasons for those opinions, and

either the anticipated expert witness's qualifications, if the particular expert witness has already been selected, or

the type of expert witness who will be providing the anticipated testimony.

(B) The more-detailed information required pursuant to Fed. R. Crim. P. 16(a)(1)(G) or Fed. R. Crim. P. 16(b)(1)(C) must be disclosed:

(i) no later than twenty-one (21) days before the commencement of trial for testimony that the government intends to present at trial during its case-in-chief, except that this disclosure need not be provided earlier than fourteen (14) days after the arraignment;

(ii) no later than seven (7) days before the commencement of trial for testimony that the government intends to present at trial during its rebuttal to counter testimony that the defendant has timely disclosed under Fed. R. Crim. P. 16(b)(1)(C);

(iii) no later than twenty-one (21) days before the commencement of trial for testimony that the defendant intends to present at trial during the defendant's case-in-chief, including testimony on the defendant's mental condition, except that this disclosure need not be provided earlier than fourteen (14) days after the arraignment; and

(iv) no later than seven (7) days before the commencement of trial for testimony that the defendant intends to present at trial to counter testimony that the government has timely disclosed under Fed. R. Crim. P. 16(a)(1)(G).

A defendant or the government may request, pursuant to this rule and Fed. R. Crim. P. 16(d) or Fed. R. Crim. P. 16.1(b), that the court exercise its discretion and alter the default deadlines established by this rule. Any such request shall set forth the reasons (for example, to ensure sufficient time to provide effective assistance of counsel, prepare adequately for trial, find and secure an expert witness, or prepare the required expert disclosure) and the factual circumstances that warrant the requested modification of the expert discovery timetable.

(4) Discovery which is to be made in connection with post-trial hearings (including, by way of example only, sentencing hearings) shall be made not later than seven (7) days prior to the hearing. This discovery rule shall



not affect the provisions of Local Rule 88.8 regarding pre-sentence investigation reports.

(5) It shall be the continuing duty of counsel for both sides to immediately reveal to opposing counsel all newly discovered information or other material within the scope of this Local Rule.

(6) In accordance with Fed. R. Crim. P. 16.1(a), no later than fourteen (14) days after a defendant's arraignment, the attorney for the government and the defendant's attorney must confer and try to agree on:

(A) any anticipated request for modification of the timetables and procedures for pretrial disclosure prescribed by this rule and Fed. R. Crim. P. 16; or

(B) a timetable and procedures for pretrial disclosure under Rule 16 if the Standing Discovery has not been requested and entered.

In accordance with Fed. R. Crim. P. 16.1(b), to facilitate preparation for trial, one or both parties may ask the court to modify the time, place, manner, or other aspects of disclosure prescribed by this rule or Fed. R. Crim. P. 16, or to determine the time, place, manner or other aspects of disclosure that have not already been determined by this rule or Fed. R. Crim. P. 16.

Effective December 1, 1994. Amended effective April 15, 1996; April 15, 1998; April 15, 2000; April 15, 2003; April 15, 2005; April 15, 2007; April 15, 2010; December 2, 2013; December 1, 2015; December 1, 2016; December 2, 2019, December 1, 2020; December 1, 2022.

Authority

(1994) Former Standing Order on Criminal Discovery of the Southern District, as amended after public hearing in 1994.

Comments

(2000) With regard to discovery practices related to search warrants in criminal cases see September 7, 1999, letter from the then United States Attorney for the Southern District of Florida which has been posted at the U.S. Attorney's website at http://www.usdoj.gov/usao/fls/Discovery_Practices.html.



RULE 88.11 | AFTER HOURS CRIMINAL DUTY PROCEDURES

When a defendant is arrested after hours (in the evening, on the weekend, on a holiday, or in the daytime during the business week at a time that does not permit an appearance at the prescribed session of Magistrate Court), the Duty Assistant United States Attorney shall contact the Duty Magistrate Judge for the purpose of having a bond set.

Once the Duty Magistrate Judge sets a bond, the Duty Assistant United States Attorney shall transmit the bond information to the Duty Marshal and/or to the arresting agents who shall transmit the bond information to the booking officials at the receiving institution. A "permanent" bond shall be set for the defendant at the next available prescribed Duty Magistrate Judge Court session when the defendant appears for initial appearance.

For arrests that occur during the business week, prior to the end of the business day but subsequent to a time when an initial appearance at the prescribed session of Magistrate Judge Court can be made, the Duty Assistant United States Attorney shall contact the Duty Magistrate Judge in chambers for the purpose of having a temporary bond set. As with after-hours arrests, the Duty Assistant United States Attorney shall transmit the bond information to the Duty Marshal and/or the arresting agents. If the Duty Magistrate Judge is on the bench when a Duty Assistant United States Attorney calls for the purpose of having a temporary bond set, the Duty Magistrate Judge will return the Duty Assistant United States Attorneys call as soon as the Duty Magistrate Judge gets off the bench.

For after-hours arrests, the Duty Assistant United States Attorney shall leave a message on the Duty Magistrate Judge's beeper or cell phone. If by beeper, the call will be returned by the Duty Magistrate Judge. Once the Duty Magistrate Judge sets a bond, the Duty Assistant United States Attorney shall transmit the bond information to the Duty Marshal and/or the arresting agents for transmittal to the receiving institution. Routine arrests occurring after 10:00 p.m. need not be communicated to the Duty Magistrate Judge that night, but shall be reported by the Duty Assistant United States Attorney to the Duty Magistrate Judge the following morning. In emergency situations, the Duty Magistrate Judge may be contacted directly at any hour.

Since a probable causes determination must be made within forty-eight (48) hours of all arrests, except as Federal Rule of Criminal

Procedure 4.1 may otherwise provide, a criminal complaint must be presented directly to a Magistrate Judge for review and approval in all cases where the initial appearance will not take place within forty-eight (48) hours of an arrest.

All after-hours Duty arrests (including but not limited to arrests on warrants where bonds have already been endorsed/set) shall be reported to the Duty Magistrate Judge by the Duty Assistant United States Attorney.

Effective April 15, 2006. Amended effective April 15, 2007; December 1, 2011; December 1, 2015.

APPENDIX



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