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**LOCAL RULES OF COURT  
FROM THE US DISTRICT COURT, FLORIDA, MIDDLE DISTRICT  
[CHAPTER SIX]**

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**CHAPTER SIX | LOCAL RULES OF COURT | USFLMD**

**RULES:** 6.01 through 6.06

**TITLE:** SPECIAL PROCEEDINGS



**Rule 6.01 | TEMPORARY RESTRAINING ORDER**

(a) MOTION. A motion for a temporary restraining order must include:

- (1) "Temporary Restraining Order" in the title,
- (2) a precise and verified description of the conduct and the persons subject to restraint,
- (3) a precise and verified explanation of the amount and form of the required security,
- (4) a supporting legal memorandum, and
- (5) a proposed order.

(b) LEGAL MEMORANDUM. The legal memorandum must establish:

- (1) the likelihood that the movant ultimately will prevail on the merits of the claim,
- (2) the irreparable nature of the threatened injury and the reason that notice is impractical,
- (3) the harm that might result absent a restraining order, and
- (4) the nature and extent of any public interest affected.

(c) SERVICE. Immediately after the order resolving the motion, the movant, even if unsuccessful, must serve on the party the movant sought to restrain:

- (1) the summons;
- (2) the complaint;
- (3) the temporary restraining order or the bond or both, if issued;
- (4) each motion, brief, affidavit, exhibit, proposed order, or other paper submitted to support the motion for the temporary restraining order;
- (5) each additional paper the moving party will submit to support converting the temporary restraining order into a preliminary injunction; and
- (6) a notice of any hearing.



**Rule 6.02 | PRELIMINARY INJUNCTION**

(a) MOTION. A motion for a preliminary injunction:

(1) must comply with the requirements of Local Rule 6.01(a) and (b) but include "Preliminary Injunction" in the title and

(2) must include as an attachment each paper on which the movant relies.

(b) NOTICE. The movant must notify each affected party as soon as practical unless the movant establishes by clear and convincing evidence an extraordinary circumstance not requiring notice.

(c) RESPONSE. A party opposing the motion must respond to the motion within seven days after notice of the motion or seven days before the hearing, whichever is later. The response must include a legal memorandum and each paper on which the party relies.

(d) AMENDMENT. No party may amend a motion or response without leave. A motion requesting leave must not include the proposed amendment.



**Rule 6.03 | IN FORMA PAUPERIS ACTION**

(a) DOCKETING, ASSIGNMENT, AND JUDICIAL REVIEW. The clerk must docket, assign, and submit to a judge for preliminary review a motion for leave to proceed in forma pauperis. The judge must authorize the action before the clerk issues process and before a party requests waiver of service of process. Before authorization, no party or other person must respond to any paper, except a court order.

(b) DEDUCTION FROM RECOVERY. If represented by an appointed lawyer, an in forma pauperis party consents to an order deducting from any recovery a reasonable attorney's fee, costs, and reasonably necessary expenses.



**Rule 6.04 | ACTION BY A PERSON IN CUSTODY**

(a) REQUIRED FORM. A pro se person in custody must use the standard form – available without charge from the clerk and on the court’s website – to file:

(1) an application under 28 U.S.C. §2241,

(2) an application under 28 U.S.C. §2254 or a motion under 28 U.S.C. §2255, or

(3) a complaint, such as a 42 U.S.C. §1983 complaint, that alleges a violation of the United States Constitution or other federal law by a governmental official.

(b) FEE. In an in forma pauperis action by a person in custody, the judge can order the person to pay the clerk’s and the marshal’s fee. Failure to pay can result in dismissal of the action.



**Rule 6.05 | HABEAS ACTION CHALLENGING A DEATH SENTENCE**

(a) SCOPE. This rule governs a habeas corpus action under 28 U.S.C. §2254 challenging a death sentence.

(b) APPENDIX. Florida's attorney general must electronically file an appendix containing a complete copy of the state court record, including:

- (1) the pretrial proceedings,
- (2) the guilt phase,
- (3) the penalty phase,
- (4) the sentencing, and
- (5) the direct state court appeal and collateral proceedings, including the appeal of orders on post-trial motions.

(c) SUPPLEMENTAL APPENDIX. Florida's attorney general must file a supplemental appendix that includes any part of the state court record unavailable when the appendix was filed.

(d) MASTER INDEX. With the appendix and each supplemental appendix, Florida's attorney general:

- (1) must electronically file a master index and
- (2) must electronically bookmark the first page of each document and in the bookmark:
  - (A) must identify the title of each exhibit,
  - (B) must identify the location of the first page of each document in the CM/ECF record, and
  - (C) must cross-reference each bookmark to the corresponding item on the index.

(e) PAPER COPY. Florida's attorney general must bind by volume and promptly deliver to the proper division a tabbed paper copy of the index, the appendix, and each supplemental appendix. The tabs must correspond to the index.

(f) ACTIVE DEATH WARRANT. When a death warrant is active but absent an action under 28 U.S.C. §2254:

- (1) the judge can appoint counsel and set a deadline for filing the action,



(2) Florida's attorney general must comply with (e) within seven days after the warrant issues, and

(3) if the conviction or sentence is challenged in state court after the warrant issues, Florida's attorney general must comply with (e) within seven days after the conclusion of the proceedings in each of the state circuit court, the Florida Supreme Court, and the United States Supreme Court.



**Rule 6.06 | MARSHAL'S DEED AND A COAST GUARD BILL OF SALE**

The marshal must issue a marshal's deed or a Coast Guard bill of sale promptly after confirmation of the sale but not sooner than fourteen days after the sale and not before resolution of each objection to the sale.



APPENDIX



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