

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 2023-77

IN RE:
AMENDMENTS TO THE LOCAL RULES

FILED BY CW D.C.

Oct 24, 2023

ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S. D. OF FLA. - MIA


THIS COURT has given notice and an opportunity to be heard in accordance with Federal Rule of Civil Procedure 83 and Federal Rule of Criminal Procedure 57, has conducted an *en banc* hearing, and has considered the comments of the public and the report of the Court's Ad Hoc Committee on Rules and Procedures with regard to proposed amendments, in the form attached, that amend the Local General Rules, including the Admiralty and Maritime Rules, the Magistrate Rules and the Special Rules Governing the Admission, Practice, Peer Review, and Discipline of Attorneys. Upon consideration of the public comments received and the report of the Ad Hoc Committee, it is hereby

ORDERED that the rules identified are amended in the form attached (with the language to be deleted ~~stricken~~ and the language to be added double underlined).

IT IS FURTHER ORDERED that the foregoing rule amendments shall take effect on December 1, 2023 and shall govern all proceedings thereafter commenced and, insofar as just and practicable, all proceedings then pending.

IT IS FURTHER ORDERED that the Clerk of the Court is directed to: (a) publish an abbreviated notice once in the *Daily Business Review* (in each edition published in Miami-Dade, Broward, and Palm Beach Counties, Florida) alerting the public of the newly amended local rules; (b) post this Order (with attachments) prominently on the Court's website for the next 60 days; and (c) provide notice of the local rule amendments to the Court's bar through the CM/ECF electronic noticing system.

DONE AND ORDERED in Miami, Florida, this 24th day of October, 2023.



CECILIA M. ALTONAGA
CHIEF UNITED STATES DISTRICT JUDGE

c: Hon. William H. Pryor, Jr., Chief Judge, Eleventh Circuit Court of Appeals
All Southern District of Florida District Judges, Bankruptcy Judges and Magistrate Judges
Ashlyn D. Beck, Circuit Executive, Eleventh Circuit
Angela E. Noble, Court Administrator · Clerk of Court
Scott M. Dimond, Chair, Ad Hoc Committee on Rules and Procedures
All Members of the Ad Hoc Committee on Rules and Procedures
Library
Daily Business Review

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 ~~2007-44~~2022-86 (In Re: Policy for Emergency Closures of Federal Courthouse Facilities in the Southern District of Florida~~Emergency Closure of Courthouse~~) 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.

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. ~~*The Daily Business Review* and such other newspapers as the Court from time to time may indicate are designated as official newspapers for the publication of notices pertaining to proceedings in this Court; provided, however, that publication shall not be restricted to the aforesaid periodicals unless an order for publication specifically so provides 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.

RULE 7.7 CORRESPONDENCE TO THE COURT

Unless invited or directed by the presiding Judge, attorneys and ~~parties~~any party represented by an attorney 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, ~~represented by an attorney~~, 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.

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) ~~When~~If an attorney dies, ~~or is removed or~~ suspended, or ceases to act as ~~such, 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 ~~such 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.

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.flsd.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.
- (l) **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.

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.

RULE 88.9 MOTIONS IN CRIMINAL CASES AND JURY INSTRUCTIONS

- (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.

ADMIRALTY AND MARITIME RULES

RULE A. GENERAL PROVISIONS

- (1) **Scope of the Local Admiralty and Maritime Rules.** The Local Admiralty and Maritime Rules apply to the procedures in admiralty and maritime claims within the meaning of Federal Rule of Civil Procedure 9(h), which in turn are governed by the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure.
- (2) **Citation Format.**
 - (a) *The Supplemental Rules* for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure shall be cited as “Supplemental Rule ()”.
 - (b) The Local Admiralty and Maritime Rules shall be cited as “Local Admiralty Rule ()”.
- (3) **Application of Local Admiralty and Maritime Rules.** The Local Admiralty Rules shall apply to all actions governed by Local Admiralty Rule A(1), and to the extent possible should be construed to be consistent with the other Local Rules of this Court. To the extent that a Local Admiralty Rule conflicts with another Local Rule of this Court, the Local Admiralty Rule shall control.
- (4) **Designation of “In Admiralty” Proceedings.** Every complaint filed as a Federal Rule of Civil Procedure 9(h) action shall boldly set forth the words “IN ADMIRALTY” following the designation of the Court. This requirement is in addition to any statements which may be contained in the body of the complaint.
- (5) **Verification of Pleadings, Claims and Answers to Interrogatories.** Every complaint and claim filed pursuant to Supplemental Rules B, C and/or D shall be verified on oath or solemn affirmation by a party, or an officer of a corporate party.

If a party or corporate officer is not within the District, verification of a complaint, claim and/or answers to interrogatories may be made by an agent, an attorney-in-fact, or the attorney of record. Such person shall state briefly the source of his or her knowledge, or information and belief, and shall declare that the document affirmed is true to the best of his or her knowledge, and/or information and belief. Additionally, such person shall state that he or she is authorized to make this representation on behalf of the party or corporate officer, and shall indicate why verification is not made by a party or a corporate officer. Such verification will be deemed to have been made by the party to whom the document might apply as if verified personally.

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

- (6) **Issuance of Process.** Except as limited by the provisions of Supplemental Rule B(1) and Local Admiralty Rule B(3) or Supplemental Rule C(3) and Local Admiralty Rule C(2); or in suits prosecuted in forma pauperis and sought to be filed without prepayment of fees or costs, or without security; all process shall be issued by the Court without further notice of Court.
- (7) **Publication of Notices.** Unless otherwise required by the Court, or applicable Local Admiralty or Supplemental Rule, whenever a notice is required to be published by any statute of the United States, or by any Supplemental Rule or Local Admiralty Rule, such notice shall be published at least once, without further order of Court, in ~~an approved~~ newspaper of general circulation in the county or counties where the vessel or property was located at the time of arrest, attachment, or seizure, and if different, in the county within the Southern District of Florida where the lawsuit is pending, e.g., the *Daily Business Review*.

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

- (8) **Form and Return of Process in In Personam Actions.** Unless otherwise ordered by the Court, Federal Rule of Civil Procedure 9(h) process shall be by civil summons, and shall be returnable twenty-one (21) days after service of process; except that process issued in accordance with Supplemental Rule B shall conform to the requirements of that rule.
- (9) **Judicial Officer Defined.** As used in these Local Admiralty Rules, the term "judicial officer" or "Court" shall mean either a United States District Judge or a United States Magistrate Judge.
- (10) **Forms.** The forms presented on the Court's website (www.flsd.uscourts.gov) provide an illustration of the format and content of papers filed in admiralty and maritime actions within the Southern District of Florida. While the forms are sufficient, they are neither mandatory nor exhaustive.

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

RULE 9. DISCIPLINE ON CONSENT, RESIGNATION, OR INACTIVE STATUS IN OTHER COURTS

- (a) Any attorney admitted to practice before this Court shall, upon being suspended or disbarred on consent, resigning, or being placed on inactive status with any other bar while an investigation into allegations of misconduct is pending, promptly inform the Clerk of the Court of such suspension or disbarment on consent, resignation, or inactive status, within thirty (30) days of its occurrence.
- (b) An attorney admitted to practice before this Court who shall be suspended or disbarred on consent, resign, or placed on inactive status with the bar of any other court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth, or possession of the United States while an investigation into allegations of misconduct is pending shall, upon the filing with this Court of a certified copy of the judgment or order accepting such suspension or disbarment on consent, resignation, or inactive status, cease to be permitted to practice before this Court and be stricken from the roll of attorneys admitted to practice before this Court until further order of the Court.
- (c) Any attorney who has resigned from or been placed on inactive status with The Florida Bar while an investigation into allegations of misconduct is pending shall inform the Clerk of the Court within thirty (30) days. Upon receipt of notice of such action, the attorney's ability to practice before this Court shall be administratively suspended and the attorney may not resume practice before this Court until they certify that they are an active attorney in good standing with The Florida Bar. There is no inactive status other than for government attorneys in this Court. An attorney may resign from the bar of this Court by notifying the Clerk of Court in writing and only if the attorney is in good standing, is not counsel of record in an active case, and is not subject to any disciplinary proceedings. Upon receipt of the notice of resignation, the attorney will be ineligible to practice in this Court and must reapply for admission pursuant to Rule 2 of these rules. Upon the death of an attorney representing any party in an action or proceeding, the attorney's ability to practice before this Court shall be administratively suspended and the attorney's member status in CM/ECF shall be changed to "deceased."

Effective December 1, 1994. Amended effective April 15, 2007; April 15, 2010; April 15, 2011; December 1, 2015; December 1, 2017; December 1, 2023