UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FILED by CM D.C.
JAN 29 2001
CLARENCE MADDOX
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

IN RE: **Administrative Order 2001-10**

AMENDMENTS TO THE LOCAL RULES
_____/

THIS COURT has given notice and opportunity to be heard in accordance with Fed.R.Civ.P. 83 and Fed.R.Crim.P. 57, has conducted an *en banc* hearing, and has considered the comments of the public and the Court's Advisory Committee on Rules and Procedures with regard to proposed amendments to Local General Rules 1.1, 3.8, 5.1, 5.4, 7.3, 16.1, 23.1, 26.1, and 30.1, Appendix A (Discovery Practices Handbook), Admiralty and Maritime Rule C, and Forms 1 through 14 in the form attached. Upon consideration of the public comments received and the report of the Advisory Committee, it is hereby

ORDERED that Local General Rules 1.1, 3.8, 5.1, 5.4, 7.3, 16.1, 23.1, 26.1, and 30.1, Appendix A (Discovery Practices Handbook), Admiralty and Maritime Rule C, and Forms 1 through 14 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 April 15, 2001, 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 hereby directed, for the next 60 days: (a) to publish this Order (without the attachments) twice a week in the Daily Business Review (in the editions published in Dade, Broward and Palm Beach Counties, Florida); and (b) to offer every person who files any papers in any action in this Court, and to give to anyone who so desires, a copy of this Order with the attached rule amendments

29th **DONE AND ORDERED** in Chambers at Fort Lauderdale, Broward County, Florida this 29th day of January, 2001.

William J. Zloch

WILLIAM J. ZLOCH
CHIEF UNITED STATES DISTRICT JUDGE

c: Honorable R. Lanier Anderson, III, Chief Judge, Eleventh Circuit
All Southern District Judges and Magistrate Judges
Norman E. Zoller, Circuit Executive, Eleventh Circuit
All Members of the Advisory Committee on Rules and Procedures
Brian F. Spector, Chair, Advisory Committee on Rules & Procedures
Library
Daily Business Review

GENERAL RULES

RULE 1.1 SCOPE OF THE RULES

* * * * * * * *

B. Effective Date. These rules become effective February 15, 1993, provided however, that the 1994 amendments shall take effect on December 1, 1994, the 1996 amendments shall take effect on April 15, 1996, the 1997 amendments shall take effect on April 15, 1997, the 1998 amendments shall take effect on April 15, 1998, the 1999 amendments shall take effect on April 15, 1999, ~~and~~ the 2000 amendments shall take effect on April 15, 2000, and the 2001 amendments shall take effect on April 15, 2001 and shall govern all proceedings thereafter commenced and, insofar as just and practicable, all proceedings then pending.

* * * * * * * *

RULE 3.8. DUTY JUDGE

There shall be established for the Miami, Fort Lauderdale and West Palm Beach Divisions on a monthly rotating basis, to be determined by the Court, a schedule designating each active resident Judge as Duty Judge who shall be available to hear and preside over the following:

1. ~~All grand~~ Grand jury matters, as provided by the Court in its administrative orders;

2. Emergency naturalization matters and naturalization ceremonies;

3. Matters arising from Magistrate Judge's proceedings which are not assigned to a District Judge, including but not limited to application for review of bonds and competency examinations;

4. Transfer of probation from foreign districts;

5. Swearing in of attorneys to practice;

6. Wire tap applications in matters not assigned to any District Judge, as provided by the Court in its administrative orders;

7. Approval of issuance of warrants of arrest in admiralty cases when the District Judge assigned is unavailable;

8. Emergency petitions for writ of habeas corpus involving a petitioner's claim to immediate release, where the assigned judge is in the district, but otherwise unavailable to rule on the petition.

9. Written and verbal requests for excuses from complying with grand jury and petit jury summonses.

Comments

(2001) Conforms to periodic administrative orders.

* * * * * * * *

RULE 5.1 FILING AND COPIES

A. Form. All civil and criminal pleadings, motions, and other papers tendered for 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.

~~1~~ 2. Be accompanied by one clear photo copy. The photo copy is not subject to the restrictions of section 1, supra. Although the photocopy must be in all other respects identical to the file copy, it should be bound or fastened, and tabbed, if appropriate, in a way that facilitates its use by the judge. When filing a civil complaint for which issuance of initial process is requested, three additional copies for each summons must be submitted.

Exceptions:

(a) Those litigants who have been allowed to proceed in forma pauperis shall not be required to submit duplicate copies. However, they are encouraged to do so.

(b) Transcripts of state court hearings/trials; administrative records in Social Security cases, and extensive exhibits to motions for summary judgment, unless otherwise directed by court order.

~~2~~ 3. Be on standard size 8-1/2" x 11" white, opaque paper, to the extent practicable with a standard two hole punch located at the top center (required for original only).

~~3~~ 4. Be plainly typed or written on one side with 1" margins on each side, not less than one and one-half spaces between lines except for quoted material, and properly paginated at the bottom of each page.

~~4~~ 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 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) in whose behalf the document is submitted.

Exception:

The requirements of 3 and 4(a)-(d) do not apply to: (1) exhibits submitted for filing; and (2) papers filed in removed actions prior to removal from the state courts.

~~5~~ 6. Include a signature block with the name, address, telephone number, facsimile telephone number, e-mail address, and Florida Bar identification number of all counsel for the party.

~~6~~ 7. Not be transmitted to the Clerk or any Judge by facsimile telecopier.

~~7~~ 8. Be submitted with sufficient copies to be filed and docketed in each matter if styled in consolidated cases.

Comments

(2001) The amendments to Subsection A are intended to facilitate the process of document imaging by reducing the time spent on disassembling documents in preparation for scanning and decreasing the frequency of equipment failure caused by undetected fastening material.

* * * * * * * *

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 shall follow the procedures prescribed by this rule.

B. Procedure for filings under seal. A party seeking to make a filing under seal shall:

1. Deliver to the Clerk's Office ~~two copies~~ an original and one copy of the proposed filing, each contained in a separate plain envelope clearly marked as "sealed document" with the case number and style of the action noted on the outside. The Clerk's Office shall note on each envelope the date of filing and docket entry number.

2. File ~~a~~ an original and a copy of the motion to seal with self-addressed postage-paid envelopes, setting forth a reasonable basis for departing from the general policy of a public filing, and generally describing the matter contained in the envelope. The motion shall specifically state the period of time that the party seeks to have the matter maintained under seal by the Clerk's Office. Unless permanent sealing is sought, the motion shall ~~contain a date on which the matter can be unsealed or destroyed by the Clerk~~ set forth how the matter is to be handled upon expiration of the time specified in the Court's sealing order. Absent extraordinary circumstances, no matter sealed pursuant to this rule may remain sealed for longer than five (5) years from the date of filing.

3. ~~Complete and f~~File ~~a "Sealed Filing Cover Sheet"~~ an "**ORDER RE: SEALED FILING**" in the form set forth at the end of this rule. The form is available at the Clerk's Office. The bottom portion should be left blank for the Judge's ruling.

C: Court Ruling. If the Court grants the motion to seal, the Clerk's Office shall maintain the matter under ~~secure conditions until the date~~ seal as specified in the Court order. If the Court denies the motion to seal, ~~both copies~~ the original and copy of the proposed filing ~~and the motion to seal~~ shall be returned to the party in its original envelope.

D. Disposition of Sealed Matter. Unless the Court's sealing order permits the matter to remain sealed permanently, the Clerk will dispose of the sealed matter upon expiration of the time specified in the Court's sealing order by unsealing, destroying, or returning the matter to the filing party.

Comment

(2001) The current amendments are intended to reflect more accurately existing procedures, and to assist the court in the maintenance and ultimate disposition of sealed records by creating a form order which specifies how long the matter is to be kept under seal and how it is to be disposed of after the expiration of that time. By its terms, this rule does not apply to materials covered by specific statutes, rules or court orders authorizing, prescribing or requiring secrecy. However, litigants are required to complete an "Order Re: Sealed Filing" in the form set forth at the end of this rule for materials being filed under seal after the entry of, and pursuant to, a protective order governing the use and disclosure of confidential information.

[Remainder of Page Intentionally Left Blank

New Order Re: Sealed Filing Follows on Next Page]

~~UNITED STATES DISTRICT COURT~~
~~SOUTHERN DISTRICT OF FLORIDA~~
~~Case No~~ _____

~~A.B.~~
~~Plaintiff,~~
~~vs.~~ ~~DOCKET ENTRY #~~ _____
~~C.D.~~ ~~(to be completed by Clerk of Court)~~
~~Defendant.~~
_____/

~~SEALED FILING COVER SHEET~~

~~Party Filing Matter Under Seal:~~
~~Name:~~ _____
~~Address:~~ _____
~~Telephone:~~ _____
~~Facsimile:~~ _____
~~E-mail:~~ _____

~~Counsel for Party Filing Matter Under Seal:~~
~~Name:~~ _____
~~Address:~~ _____
~~Telephone:~~ _____
~~Facsimile:~~ _____
~~E-mail:~~ _____

~~Date of Filing:~~ _____

~~Party has filed a separate Motion to Seal, requesting that the matter remain sealed:~~
~~__ Until Conclusion of Trial~~
~~__ Until Conclusion of Direct Appeal~~
~~__ Until Case Closing~~
~~__ Permanently~~
~~__ Other~~ _____

~~If permanent sealing is required, specify the authorizing law, court order or court rule:~~ _____
_____

~~The moving party requests that when the sealing period expires, the filed matter should be (select one):~~
~~__ unsealed and placed in the public portion of the court file~~
~~__ destroyed~~
~~__ returned to the party or counsel for the party, as identified above~~

_____

~~COURT RULING~~
~~(to be completed by Clerk based on Court's order)~~

~~Ruling on Motion to Seal:~~ ~~__ Granted~~ ~~__ Denied~~ ~~__ Other~~
~~Date:~~ _____

~~Matter May Be Unsealed After:~~
~~__ Conclusion of Trial~~ ~~__ Conclusion of Direct Appeal~~
~~__ Case Closing~~ ~~__ Other~~ _____

~~__ Matter to remain sealed absent further Court Order~~

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. -Civ or Cr-(USDJ's last name/USMJ's last name)

_____

Plaintiff,

vs.

_____

Defendant.
_____/

ORDER RE: SEALED FILING

Party Filing Matter Under Seal

Name: _____

Address: _____

Telephone: _____

On behalf of (select one): ❑ Plaintiff ❑ Defendant

Date sealed document filed: _____

If sealed pursuant to statute, cite statute: _____

If sealed pursuant to previously entered protective order, date of order and docket entry number: _____

The matter will remain sealed until:

❑ Conclusion of Trial ❑ Arrest of First Defendant

❑ Case Closing ❑ Conclusion of Direct Appeal

❑ Other _____

❑ Permanently. Specify the authorizing law, rule, court order:

_____

The moving party requests that when the sealing period expires, the filed matter should be (select one):

❑ Unsealed and placed in the public portion of the court file ❑ Destroyed ❑ Returned to the party or counsel for the party, as identified above

---

It is **ORDERED** and **ADJUDGED** that the proposed sealed document is hereby:

❑ Sealed ❑ NOT Sealed ❑ Other _____

The matter may be unsealed after:

❑ Conclusion of Trial ❑ Arrest of First Defendant ❑ Remain Sealed

❑ Case Closing ❑ Conclusion of Direct Appeal ❑ Other _____

DONE and ORDERED at _____, Florida this _____ day of

_____, 20 .

_____

United States District Judge

This document has been disposed of in the following manner _____ by

_____ on _____.

RULE 7.3 ATTORNEYS FEES AND COSTS

A. Upon Entry of Final Judgment or Order.

Any motion for attorneys fees and/or to tax costs must specify: the judgment and the statute, rule, or other grounds entitling the moving party to the award; must state the amount or provide a fair estimate of the amount sought; shall disclose the terms of any agreement with respect to fees to be paid for the services for which the claim is made; shall be supported with particularity; shall be verified; and shall be filed and served within 30 days of entry of Final Judgment or other appealable order which gives rise to a right to attorneys fees or costs. Any such motion shall be accompanied by certification that counsel has fully reviewed the time records and supporting data and that the motion is well grounded in fact and justified. In addition, counsel filing the motion shall confer with counsel for the opposing party and shall file with the Court, within three (3) days of the motion, a statement certifying that counsel has conferred with counsel for the opposing party in a good faith effort to resolve by agreement the motion, the results thereof and whether a hearing is requested.

The prospects or pendency of supplemental review or appellate proceedings shall not toll or otherwise extend the time for filing of a motion for fees and/or costs with the district court.

B. Prior to Entry of Final Judgment.

Any motion for attorneys fees and/or to tax costs made before entry of final judgment or other appealable order must specify the statute, rule, or other grounds entitling the moving party to the award; must state the amount or provide a fair estimate of the amount sought; shall disclose the terms of any agreement with respect to fees to be paid for the services for which the claim is made; shall be supported with particularity; and shall be verified. Any such motion shall be accompanied by certification that counsel has fully reviewed the time records and supporting data and that the motion is well grounded in fact and justified. In addition, counsel filing the motion shall confer with counsel for the opposing party and shall file with the Court, within three (3) days of the motion, a statement certifying that counsel has conferred with counsel for the opposing party in a good faith effort to resolve by agreement the motion, the results thereof and whether a hearing is requested.

Comments

(2001) Applicability to interim fee applications clarified.

RULE 16.1 PRETRIAL PROCEDURE IN CIVIL ACTIONS

B. Scheduling Conference and Order. ~~In lieu of compliance with Rule 26(f), Fed.R.Civ.P., within twenty (20) days after the filing of an answer by the last answering defendant, or within sixty (60) days after the filing of a complaint (whichever shall first occur)~~

1. *Party Conference.* Except in categories of proceedings exempted from initial disclosures under Rule 26(a)(1)(E), Fed.R.Civ.P., 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 21 days before a scheduling conference is held or a scheduling order is due under Rule 16(b), Fed.R.Civ.P., ~~in all civil actions, except those specifically excluded by subpart 9 of this subsection, shall~~ must meet in person, by telephone, or by other comparable means, for the ~~following~~ purposes prescribed by Rule 26(f), Fed.R.Civ.P. ~~:~~

~~1. *Documents.* To exchange all documents then reasonably available to a party which are then contemplated to be used in support of the allegations of the pleading filed by the party. Documents exchanged must either be uniquely marked or be accompanied by an accurate list. If a list is not provided, each page of each document produced shall be marked with a unique identifying number. If a list is provided, it shall not simply identify documents by categories but shall specifically identify each document in such a way as to distinguish it from all other documents listed, and shall state the number of pages in each document. Documents later shown to have been reasonably available to a party and not exchanged may be subject to exclusion at time of trial.~~

~~2. *Discovery Schedule.* To agree upon a preliminary schedule for all discovery in the matter.~~

~~3. *Other Evidence.* To exchange any other evidence then reasonably available to obviate the filing of unnecessary discovery motions.~~

~~4. *List of Witnesses.* To exchange a list of witnesses then known to have knowledge of the facts supporting the material allegations of the pleading filed by the party. The parties shall thereafter be under a continuing obligation to advise opposing parties of other witnesses as they become known.~~

~~5. *Settlement.* To discuss, in good faith, settlement of the action.~~

~~6. *Complicated Case; Need for Rule Variations.* To discuss whether the action is sufficiently complicated so that all or part of the procedures of the Manual For Complex Litigation, Third (Federal Judicial Center 1995) should be used, and to discuss whether the provisions of these rules or the Federal Rules of Civil Procedure can and should be departed from in the action, for example, such as whether any depositions will require more than six~~

~~hours to complete or whether more depositions than the number permitted under Fed.R.Civ.P. 30(a)(2)(A) should be allowed. Counsel may propose to the Court modifications of the procedures in the Manual to facilitate the management of a particular action and any permissible departures from these rules or the Federal Rules of Civil Procedure.~~

~~*7. Scheduling Report and Order*: To prepare a Scheduling Report which shall include the following:~~

2. *Conference Report and Order*. 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) a detailed schedule of discovery for each party;~~

(~~b~~ a) ~~discussion of~~ the likelihood of settlement;

(~~c~~ b) ~~discussion of~~ the likelihood of appearance in the action of additional parties;

(~~d~~ 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.

(~~e~~ d) proposals for the formulation and simplification of issues, including the elimination of frivolous claims or defenses;

(~~f~~ e) the necessity or desirability of amendments to the pleadings;

(~~g~~ f) the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, stipulations regarding authenticity of documents and the need for advance rulings from the Court on admissibility of evidence;

(~~h~~ g) suggestions for the avoidance of unnecessary proof and of cumulative evidence;

(~~i~~ h) suggestions on the advisability of referring matters to a magistrate judge or master;

(~~j~~ i) a preliminary estimate of the time required for trial;

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

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

~~Within ten (10) days after the meeting held pursuant to this subsection, those attending are mutually obligated to file the Scheduling Report of Scheduling Meeting.~~ 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.1 above;

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

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

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

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

(f) 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;

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

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

~~Within 40 days after the filing of an answer, or within 120 days after the filing of the Complaint (whichever shall first occur), each judge shall in~~ 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 90 days after the appearance of a defendant and within 120 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.

3. ~~8.~~ *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.

4. ~~9.~~ *Exempt Actions.* The ~~following types of cases~~ categories of proceedings exempted from initial disclosures under Rule 26(a)(1)(E) 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.

~~(a) Cases filed in or removed to this Court on or before the effective date of this rule or any portion thereof;~~
~~(b) Habeas corpus cases;~~
~~(c) Motion to vacate sentence under 28 U.S.C. § 2255;~~
~~(d) Social Security cases;~~
~~(e) IRS Summons enforcement actions;~~
~~(f) Bankruptcy proceedings, including appeals and adversary proceedings;~~
~~(g) Land condemnation cases;~~
~~(h) Default proceedings;~~
~~(i) Student loan cases;~~
~~(j) VA loan overpayment cases;~~
~~(k) Naturalization proceedings filed as civil actions;~~
~~(l) Cases seeking review of administrative agency action;~~
~~(m) Statutory interpleader actions;~~
~~(n) Truth-in-Lending Act cases not brought as class actions;~~
~~(o) Labor Management Relations Act;~~
~~(p) Pro se prisoner's civil rights cases;~~
~~(q) Letters rogatory;~~
~~(r) Registration of foreign judgments; and~~
~~(s) Upon motion of any party or the Court, any other case expressly exempted by Court order.~~

~~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.~~

5. ~~10.~~ *Compliance With Pretrial Orders.* Regardless of whether the action is exempt pursuant to ~~Section 9~~ Rule 26(a)(1)(E), Fed.R.Civ.P., the parties are required to comply with any pretrial orders by the Court and the requirements ~~of parts C through M~~ of this 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 Rule 16(a), Fed.R.Civ.P., 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 ~~**Counsel Must Meet.**~~ Unless otherwise directed by the Court, at least thirty (30) days before trial each party must provide to the other party and promptly file with the Court the information prescribed by Rule 26(a)(3), Fed.R.Civ.P. No later than ten days prior to the date of the pretrial conference, or if no pretrial conference is held, ten 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 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. Furnish opposing counsel names and addresses of trial witnesses, except that impeachment witnesses need not be revealed.~~

5. ~~6.~~ 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 with the Court no later than five days prior to the pretrial conference, or if no pretrial conference is held, five 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. 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.

Comments

(2001) Rules 16.1.B, D and E amended to conform with the December 2000 amendments to Rule 26, Fed.R.Civ.P.

* * * * * * * *

RULE 23.1 CLASS ACTIONS

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

* * * * * * * *

3. Within 90 days after the filing of a complaint in a class action, unless this period is extended on motion for good cause appearing, the plaintiff shall move for a determination under subdivision (c)(1) of Rule 23, Fed.R.Civ.P., as to whether the case is to be maintained as a class action. In ruling upon such a motion, 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 ~~of~~ 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.

Comments

(2001) Corrects typographical error.

* * * * * * * *

RULE 26.1 DISCOVERY AND DISCOVERY DOCUMENTS (CIVIL)

~~**A. Election to Opt Out of Rules 26(a)(1)-(4) and 26(d), Fed.R.Civ.P.** The disclosure requirements imposed by Rule 26(a)(1)-(4), Fed.R.Civ.P., and the early discovery moratorium imposed by Rule 26(d), Fed.R.Civ.P., shall not apply to civil proceedings in this court, except as otherwise ordered by a judge of this court in a particular case or except pursuant to written stipulation of all affected parties, subject to court approval. This Local Rule 26.1.A. does not~~

~~in any way affect the obligations imposed under Local Rule 16.1 or the limitations on discovery imposed by other parts of Local Rule 26.1.~~

A. Initial Disclosures. Except in categories of proceedings specified in Rule 26(a)(1)(E), Fed.R.Civ.P., or to the extent otherwise stipulated or directed by order, a party must comply with the disclosure obligations imposed under Rule 26(a)(1), Fed.R.Civ.P., in the form prescribed by Rule 26(a)(4), Fed.R.Civ.P.

B. Service and Filing of Discovery Material. In accordance with Rule 5(d), Fed.R.Civ.P., disclosures under Rule 26(a)(1) or (2), Fed.R.Civ.P., and the following discovery requests and responses must not be filed with the Court or the Clerk, nor proof of service thereof, until they are used in the proceeding or the court orders filing: (i) depositions; (ii) interrogatories, (iii) requests for documents or to permit entry upon land, and (iv) requests for admission.

~~1. Depositions upon written questions,~~
~~2. Responses or objections to depositions upon written questions,~~
~~3. Written interrogatories,~~
~~4. Answers or objections to written interrogatories,~~
~~5. Request for production of documents or to inspect any intangible thing,~~
~~6. Objections to requests for the production of documents or to inspect any tangible thing,~~
~~7. Written requests for admission,~~
~~8. Answers or objections to written requests for admission;~~
~~shall be served upon counsel and parties but shall not be filed with the Court or the Clerk, nor proof of service thereof, unless on order of the Court or for use in the proceeding. The party responsible for service of the discovery material shall retain the original and become the custodian. The original of all depositions upon oral examination shall be retained by the party taking such depositions.~~

C. Discovery Material to Be Filed With Motions. If relief is sought under any of the Federal Rules of Civil Procedure, copies of the discovery matters in dispute shall be filed with the Court contemporaneously with any motion filed under these rules by the party seeking to invoke the Court's relief.

D. Discovery Material to Be Filed at Outset of Trial or at Filing of Pre-trial or Post-trial Motions. If depositions, interrogatories, requests for documents, requests for admission, answers or responses are to be used at trial or are necessary to a pre-trial or post-trial motion, the portions to be used shall be filed with the Clerk at the outset of the trial or at the filing of the motion insofar as their use can be reasonably anticipated by the parties having custody thereof.

E. Discovery Material to Be Filed on Appeal. When documentation of discovery not previously in the record is needed for appeal purposes, upon an application and order of the Court, or by stipulation of counsel, the necessary discovery papers shall be filed with the Clerk.

F. Timing of Discovery.

1. *When ~~Depositions~~ Discovery May Be Taken.* ~~After commencement of the action, any party may take the testimony of any person, including a party, by deposition upon oral examination.~~ In accordance with Rule 26(d), Fed.R.Civ.P., except in categories of proceedings exempted from initial disclosures under Rule 26(a)(1)(e), Fed.R.Civ.P., or when authorized under the Federal Rules of Civil Procedure or by order or agreement of the parties, a party may not seek discovery from any source before the parties have conferred as required by Rule 26(f), Fed.R.Civ.P.

~~a. Leave of court, granted with or without notice, must be obtained only if the plaintiff seeks to take a deposition prior to expiration of 30 days after service of the summons and complaint upon any defendant or service is made under Rule 4(e), Fed.R.Civ.P., except that leave is not required (1) if a defendant has served a notice of taking deposition or otherwise sought discovery, or (2) special notice is given as provided in subdivision b. of this rule.~~

~~b. Leave of court is not required for the taking of a deposition by the plaintiff if the notice of taking deposition (A) states that the person to be examined is about to go out of the district where the action is pending and more than 100 miles from the place of trial, or is about to go out of the United States, or is bound on a voyage to sea, and will be unavailable for examination unless the person's deposition is taken before expiration of the 30-day period, and (B) sets forth facts sufficient to support the statement. The plaintiff's attorney shall sign the notice, and the attorney's signature constitutes a certification by the attorney that to the best of the attorney's knowledge, information, and belief the statement and supporting facts are true. The sanctions provided by Rule 11, Fed.R.Civ.P., are applicable to the certification. If a party shows that when the party was served with the notice under this subdivision b. the party was unable through the exercise of diligence to obtain counsel to represent the party at the taking of the deposition, the deposition may not be used against the party.~~

a. Leave of Court is not required under Rule 30(a)(2)(C), Fed.R.Civ.P., if a party seeks to take a deposition before the time specified in Rule 26(d), Fed.R.Civ.P., if the notice contains a certification, with supporting facts, that the person to be examined is expected to leave the United States and be unavailable for examination in this country unless deposed before that time.

b. ~~c.~~ A party may depose any person who has been identified as an expert whose opinions may be presented at trial. The deposition shall not be conducted until after the expert summary or report required by Local Rule 16.1.K. is provided.

~~2. *When Interrogatories May Be Served Under Rule 33, Fed.R.Civ.P.* Interrogatories under Rule 33, Fed.R.Civ.P., may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the summons and complaint upon that party in accordance with the limitations imposed by Local Rule 26.1.G. A defendant may serve answers or objections within 45 days after service of the summons and complaint upon that defendant.~~

~~3. *When Requests May Be Served Under Rules 34 and 36, Fed.R.Civ.P.* Requests under Rules 34 and 36, Fed.R.Civ.P., may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the summons and complaint upon that party. A defendant may serve a response within 45 days after service of the summons and complaint upon that defendant.~~

G. Interrogatories and Document Requests.

1. The presumptive limitation on the number of interrogatories (25 questions including all discrete subparts) which may be served without leave of court or written stipulation, as prescribed by Rule 33(a), Fed.R.Civ.P., shall ~~not~~ apply to actions in this Court. ~~The limitations on interrogatories are set forth below in this Rule 26.1.G.~~ Interrogatories propounded in the form set forth in Appendix B to these rules shall be deemed to comply with the numerical limitations of Rule 33(a).

~~2. At the commencement of discovery, interrogatories will be restricted to those seeking names of witnesses with knowledge or information relevant to the subject matter of the action, the nature and substance of such knowledge, the computation of each category of damage alleged, and the existence, custodian, location and general description of relevant documents, including pertinent insurance agreements, and other physical evidence, or information of a similar nature. Questions seeking the names of expert witnesses and the substance of their opinions may also be served. Interrogatories propounded in the form set forth in Appendix B to these rules shall comply with the limitations of this rule.~~

~~3. During discovery, interrogatories other than those seeking information described in paragraph 2 above may only be served if they are a more practical method of obtaining the information sought than a request for production or a deposition.~~

~~4. At the conclusion of each party's discovery, and prior to the discovery cut-off date, interrogatories seeking the claims and contentions of the opposing party may be served unless the Court has ordered otherwise.~~

2. ~~5.~~ No part of an interrogatory shall be left unanswered merely because an objection is interposed to another part of the interrogatory.

3. ~~6.~~ (a) Where an objection is made to any interrogatory or sub-part thereof or to any document request under Fed.R.Civ.P. 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 document demand, or sub-part thereof, and an answer is not provided on the basis of such assertion:

(i) The attorney asserting the privilege shall in the objection to the interrogatory or document demand, or sub-part 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: (1) the type of document; (2) general subject matter of the document; (3) the date of the document; (4) such other information as is sufficient to identify the document for a subpoena duces tecum, including, where appropriate, the author of the document, the addressee of the document, and, where not apparent, the relationship of the author and addressee 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; (3) the general subject matter of the communication.

4. ~~7.~~ Interrogatories shall be so arranged that following each question there shall be provided sufficient blank space for inserting a typed response. If the space allotted is insufficient, the responding party shall retype the pages repeating each question in full followed by the answer or objection thereto.

5. ~~8.~~ Whenever a party answers any interrogatory by reference to records from which the answer may be derived or ascertained, as permitted in Fed.R.Civ.P. 33(c):

(a) The specification of documents to be produced shall be in sufficient detail to permit the interrogating party to locate and identify the records and to ascertain the answer as readily as could the party from whom discovery is sought.

(b) The producing party shall make available any computerized information or summaries thereof that it either has or can adduce by a relatively simple procedure, unless these materials are privileged or otherwise immune from discovery.

(c) The producing party shall provide any relevant compilations, abstracts or summaries in its custody or readily obtainable by it, unless these materials are privileged or otherwise immune from discovery.

(d) The documents shall be made available for inspection and copying within ten days after service of the answers to interrogatories or at a date agreed upon by the parties.

H. Discovery Motions.

1. *Time for Filing.* All motions related to discovery, including but not limited to motions to compel discovery and motions for protective order, shall be filed within thirty (30) days of the occurrence of grounds for the motion. Failure to file discovery motion within thirty (30) days, absent a showing of reasonable cause for a later filing, may constitute a waiver of the relief sought.

2. *Motions to Compel.* Except for motions grounded upon complete failure to respond to the discovery sought to be compelled or upon assertion of general or blanket objections to discovery, motions to compel discovery in accordance with Rules 33, 34, 36 and 37, Fed.R.Civ.P., shall quote verbatim each interrogatory, request for admission or request for production and the response to which objections is taken followed by (a) the specific objections, (b) the grounds assigned for the objection (if not apparent from the objection), and (c) the reasons assigned as supporting the motion, all of which shall be written in immediate succession to one another. Such objections and grounds shall be addressed to the specific interrogatory or request and may not be made generally.

I. Certificate of Counsel. Prior to filing any discovery motion, counsel for the ~~moving party~~ movant shall confer ~~(orally or in writing)~~, or make reasonable ~~effort~~ efforts to confer~~(~~, orally or in writing~~), with counsel for the opposing party~~, 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~~ the discovery ~~motion, and~~ dispute. Counsel conferring with movant's counsel ~~for the opposing party~~ shall cooperate ~~with such efforts to confer and be obligated to~~ and act in good faith in attempting to resolve the dispute. All discovery ~~matters at issue. At the time of filing the discovery motion, counsel for the moving party shall file with the Clerk~~

motions shall contain a statement certifying either: (a) that counsel ~~have~~ 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 discovery motion and ~~have~~ has been unable to do so; or (b) that counsel for the ~~moving party~~ movant has made reasonable ~~effort (which~~ 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~~) to confer with the opposing party~~, but has been unable to do so. If certain of the issues have been resolved by agreement, the statement shall specify the issues so resolved and the issues remaining unresolved. Failure to comply with the requirements of this rule may be cause for the Court to grant or deny the discovery 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.

J. Reasonable Notice of Taking Depositions. Unless otherwise stipulated by all interested parties, pursuant to Rule 29, Fed.R.Civ.P., and excepting the circumstances governed by Rule 30(a), Fed.R.Civ.P., a party desiring to take the deposition within this State of any person upon oral examination shall give at least five (5) working 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 ten (10) working days' notice in writing to every other party to the action and the deponent (if the deposition is not of a party).

Failure by the party taking the oral deposition to comply with this rule obviates the need for protective order.

Notwithstanding the foregoing, in accordance with Rule 32(a)(3), Fed.R.Civ.P., no deposition shall be used against a party who, having received less than eleven (11) calendar days' notice of a deposition as computed under Rule 6(a), Fed.R.Civ.P., has promptly upon receiving such notice filed a motion for protective order under Rule 26(c)(2) 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.

K. Length of Depositions. ~~Unless agreed to by all parties and, with respect to depositions of non-party witnesses, as agreed to by non-party witness, or unless ordered by the Court, no deposition of any party or witness shall last more than six (6) hours.~~ Unless otherwise authorized by the Court or stipulated by the parties, a deposition is limited, under Rule 30(d), Fed.R.Civ.P., to one day of seven hours.

Comments

(2001) Rules 26.1.A, B, F, G and K are amended to conform with the December 2000 amendments to Rules 5, 26 and 30, Fed.R.Civ.P. Rule 26.1.I is amended to make clear that the obligation to confer in advance of moving to compel production of documents sought from a non-party by subpoena includes consultation with all parties who may be affected by the relief sought and with the non-party recipient of the subpoena.

* * * * * * * *

RULE 30.1 SANCTIONS FOR ABUSIVE DEPOSITION CONDUCT

A. The following abusive deposition conduct is prohibited:

* * * * * * * *

3. Instructing a deponent not to answer a question except when to preserve a privilege, to enforce a limitation on evidence directed by the court, or to present a motion under Fed.R.Civ.P. 30(d)(4 ~~3~~).

* * * * * * * *

Comments

(2001) Rule 30.1.A.3 is amended to conform to the December 2000 amendment of Rule 30, Fed.R.Civ.P.

* * * * * * * *

APPENDICES

APPENDIX A. DISCOVERY PRACTICES HANDBOOK

I. DISCOVERY IN GENERAL

A. Courtesy and Cooperation Among Counsel.

* * * * * * * *

(5) *Mandatory Disclosure.* The disclosure requirements imposed by FED.R.CIV.P. 26(a)(1)–(4), and the early discovery moratorium imposed by FED.R.CIV.P. 26(d), are ~~not~~

applicable to civil proceedings in the Southern District of Florida. ~~, except as otherwise ordered by a judge of the Court in a particular case or except pursuant to written stipulation of all affected parties, subject to Court approval. See Local General Rule 26.1.A, Southern District of Florida. Local General Rule 16.1, Southern District of Florida, provides for limited self-disclosure.~~

B. Filing of Discovery Materials.

(1) *General Rule.* In accordance with Rule 5(d), Fed.R.Civ.P., and Local General Rule 26.1.B, Southern District of Florida, disclosures under Rule 26(a)(1) or (2), Fed.R.Civ.P., and discovery materials shall not be filed with the Court as a matter of course. Disclosures and ~~Discovery~~ discovery documents may later be filed if necessary in presentation and consideration of a motion to compel, a motion for protective order, a motion for summary judgment, a motion for injunctive relief, or other similar proceedings.

* * * * * * * *

(3) *Filings Under Seal.* Documents and things may be filed under seal~~, whereupon the Clerk of the Court will treat the material filed as confidential. Submissions to be treated in this manner should be clearly marked "Filed Under Seal," and a Notice of Filing Under Seal should be served on all other counsel.~~ in accordance with the procedures set forth in Local General Rule 5.4

* * * * * * * *

II. DEPOSITIONS

A. General Policy and Practice.

* * * * * * * *

(4) *Length and Number of Depositions.* Rule 30(d)(2), Fed.R.Civ.P., unless otherwise authorized by the Court or stipulated by the parties, a deposition is limited to one day of seven hours. ~~Local General Rule 26.1.K provides that unless agreed to by all parties and, with respect to depositions of non-party witnesses, as agreed to by the non-party witness, or unless ordered by the Court, no deposition of any party or witness shall last more than six (6) hours.~~ Under Fed.R.Civ.P. 30(a)(2)(A), absent written stipulation of the parties or leave of Court, the number of depositions being taken by each party is limited to ten.

* * * * * * * *

III. PRODUCTION OF DOCUMENTS

* * * * * * * *

B. Procedures Governing Manner of Production.

* * * * * * * *

(1) *Production of Documents.* When documents are being produced (unless the case is a massive one) the following general guidelines, which may be varied to suit the needs of each case, are normally followed:

* * * * * * * *

c. Listing or Marking. Rule 26(a)(1)(B), Fed.R.Civ.P., requires a party, without awaiting a discovery request, to provide the other parties with a copy of, or a description by category and location, of all documents, data compilations, and tangible things that are in possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment. ~~Local General Rule 16.1.B. mandates that documents produced at the initial Scheduling Conference "must either be marked or be accompanied by an accurate list."~~ The parties also may want to use some means of listing or marking all documents produced in the litigation so that produced documents can later be differentiated from those which have not been produced. For a relatively few documents, a listing prepared by the inspecting attorney (which should be exchanged with opposing counsel) may be appropriate; when more documents are involved, the inspecting attorney may want to stamp or mark each document with a sequential number. The producing party should allow such stamping to be done so long as marking the document does not materially interfere with the intended use of the document. Such documents which would be materially altered by stamping (e.g., promissory notes) should be listed rather than marked.

* * * * * * * *

IV. INTERROGATORIES

A. Preparing and Answering Interrogatories.

(1) *Informal Requests.* Whenever possible, counsel should try to exchange information informally. The results of such exchanges, to the extent relevant, may then be made of record by requests for admissions.

(2) *Scope of Interrogatories.* The Court will be guided in each case by the limitations stated in Fed.R.Civ.P. 26(b) and 33(a). ~~(1) and Local General Rule 26.1.G., Southern District of Florida. Interrogatories initially are restricted to those seeking names of witnesses with knowledge or information relevant to the subject matter of the action, the nature and substance of such knowledge, the computation of each category of damage alleged and the existence, custodian, location and general description of relevant documents, including pertinent insurance agreements, other physical evidence, or information of a similar nature, and the names of expert witnesses and the substance of their opinions.~~ Counsel's signature on interrogatories constitutes a certification of compliance with those limitations. See Fed.R.Civ.P. 26(g)(2). Interrogatories should be brief, simple, particularized and capable of being understood by jurors when read in conjunction with the answer. ~~By the express terms of Local Rule 26.1.G.2, interrogatories~~ Interrogatories propounded in the form set forth in Appendix B to the Local Rules comply with the limitations of ~~that rule.~~ Fed.R.Civ.P. 26(b) and 33(a).

* * * * * * * *

(6) *Number of Interrogatories.* ~~Local General Rule 26.1.G.1, Southern District of Florida, does not limit the number of interrogatories that may be propounded. If a party considers the number or breadth of interrogatories to be burdensome in the context of a particular case, that party may move for a protective order.~~ Under Rule 33(a), Fed.R.Civ.P., without leave of Court or written stipulation of the parties, interrogatories are limited to 25 in number including all discrete subparts.

* * * * * * * *

(11) *Answers to Expert Interrogatories.* The Southern District of Florida has adopted a formal procedure by which expert witness reports and summaries are exchanged 90 days before the pretrial conference (or the calendar call, if no pretrial conference is to be held.) See Local General Rule 16.1.K. No deposition of an expert may be taken until the expert summary or report has been provided. See Local General Rule ~~26.1.F.1.c.~~ 26.1.F.1.b. However, initial interrogatories seeking the names of expert witnesses and the substance of their opinions may still be served. See Local General Rule ~~26.1.G.2.~~ 26.1.G.1.

* * * * * * * *

ADMIRALTY AND MARITIME RULES

RULE C. ACTION IN REM

* * * * * * * *

b) *Certification of Exigent Circumstances.* If the plaintiff files a written certification that exigent circumstances make review by the Court impracticable, the Clerk shall, in accordance with Local Admiralty Rule ~~B(2)(c)~~ B(3)(b), issue a warrant of arrest and/or summons.

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

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

The warrant of arrest shall substantially conform in format and content to the form identified as SDF ~~3~~ 4 in the Appendix to these Local Admiralty Rules, and shall in all cases give adequate notice of the post-arrest provisions of Local Admiralty Rule C(7).

Comments

(2001) Corrections to rule number references.

* * * * * * * *

APPENDIX OF FORMS.

ADMIRALTY AND MARITIME RULES

FORM 1. ORDER DIRECTING THE ISSUANCE OF THE PROCESS OF ATTACHMENT AND GARNISHMENT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
~~_____ Division~~

Case No. _____-Civ-(USDJ's last name/USMJ's last name)

"IN ADMIRALTY"

Plaintiff,

v. ~~CASE NO. _____~~

Defendant.

_____

Pursuant to Supplemental Rule (B)(1) and Local Admiralty Rule B(3)(a), the Clerk is directed to issue the summons and process of attachment and garnishment in the above-styled action.

DONE AND ORDERED at _____, Florida, this _____ day of _____, ~~19~~_____.

_____
United States ~~Magistrate~~ District Judge

FORM 2. PROCESS OF ATTACHMENT AND GARNISHMENT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
~~_____ Division~~

Case No. _____-Civ-(USDJ's last name/USMJ's last name)

"IN ADMIRALTY"

Plaintiff,

v. ~~CASE NO. _____~~

Defendant.

_____

PROCESS OF ATTACHMENT
AND GARNISHMENT

The complaint in the above-styled case was filed in the _____ Division of this Court on _____, ~~19~~_____.

In accordance with Supplemental Rule (B) of Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure and Local Admiralty Rule B, you are directed to attach and garnish the property indicated below:

DESCRIPTION

(Describe the property to be attached and garnished in sufficient detail, including location of the property, to permit the U.S. Marshal to effect the seizure.)

You shall also give notice of the attachment and garnishment to every person required by appropriate Supplemental Rule, Local Admiralty Rule, and the practices of your office.

DATED at _____ ____, Florida, this _____ day of _____, ~~19~~_____.

CLERK

By: _____
Deputy Clerk

(Name of Plaintiff's Attorney)
(Florida Bar Number, if admitted in Fla.)
(Firm Name, if applicable)
(Mailing Address)
(City, State & Zip Code)
(Telephone Number)
(Facsimile Number)
(E-Mail Address)

SPECIAL NOTICE

Any person claiming an interest in property seized pursuant to this process of attachment and garnishment must file a claim in accordance with the post-seizure review provisions of Local Admiralty Rule B(5).

FORM 3. ORDER DIRECTING THE ISSUANCE OF THE WARRANT OF ARREST

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
~~_____ Division~~

Case No. _____-Civ-(USDJ's last name/USMJ's last name)

"IN ADMIRALTY"

Plaintiff,

v. ~~CASE NO. _____~~

Defendant.

_____

ORDER DIRECTING THE ISSUANCE
OF THE WARRANT OF ARREST
AND/OR SUMMONS

Pursuant to Supplemental Rule (C)(1) and Local Admiralty Rule C(2)(a), the Clerk is directed to issue a warrant of arrest and/or summons in the above-styled action.

DONE AND ORDERED at _____, Florida, this _____ day of _____, ~~19~~_____.

_____
United States ~~Magistrate~~ District Judge

FORM 4. WARRANT FOR ARREST IN REM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
~~_____ Division~~

Case No. _____-Civ-(USDJ's last name/USMJ's last name)

"IN ADMIRALTY"

Plaintiff,

v. ~~CASE NO. _____~~

Defendant.

_____

WARRANT FOR ARREST IN REM

TO THE UNITED STATES MARSHAL
FOR THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

The complaint in the above-styled in rem proceeding was filed in the _____ Division of this Court on _____, ~~19~~_____.

In accordance with Supplemental Rule (C) for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure and Local Admiralty Rule C, you are directed to arrest the Defendant vessel, her boats, tackle, apparel and furniture, engines and appurtenances, and to detain the same in your custody pending further order of the Court.

You shall also give notice of the arrest to all persons required by appropriate Supplemental Rule, Local Admiralty Rule, and the practices of your office.

ORDERED at _____, Florida, this _____ day of _____, ~~19~~_____.

CLERK

By: _____
Deputy Clerk

(Name of Plaintiff's Attorney)
(Florida Bar Number, if admitted in Fla.)
(Firm Name, if applicable)
(Mailing Address)
(City, State & Zip Code)
(Telephone Number)
(Facsimile Number)
(E-Mail Address)

cc: Counsel of Record

SPECIAL NOTICE

In accordance with Local Admiralty Rule C(6), any person claiming an interest in the vessel and/or property shall be required to file a claim within ten (10) days after process has been executed, and shall also be required to file an answer within twenty (20) days after the filing of this claim.

Any persons claiming an interest in the vessel and/or property may also pursue the post-arrest remedies set forth in Local Admiralty Rule C(7).

FORM 5. MOTION FOR APPOINTMENT OF SUBSTITUTE CUSTODIAN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
~~_____ Division~~

Case No. _____-Civ-(USDJ last name/USMJ's last name)

"IN ADMIRALTY"

Plaintiff,

v. ~~CASE NO. _____~~

Defendant.

_____

MOTION FOR APPOINTMENT OF
SUBSTITUTE CUSTODIAN

Pursuant to Local Admiralty Rule E(10)(c), Plaintiff _____, by and through the undersigned attorney, represents the following:

(1) On _____, ~~19~~_____, Plaintiff initiated the above-styled action against the vessel _____, her boats, tackle, apparel, furniture and furnishings, equipment, engines and appurtenances.

(2) On _____, ~~19~~_____, the Clerk of the District Court issued a Warrant of Arrest against the vessel _____, directing the U.S. Marshal to take custody of the vessel, and to retain custody of the vessel pending further order of this Court.

(3)(a) Subsequent to the issuance of the Warrant of Arrest, the Marshal will take steps to immediately seize the vessel. Thereafter, continual custody by the Marshal will require the services of at least one custodian at a cost of at least $_____ per day. (This paragraph would be applicable only when the motion for appointment is filed concurrent with the complaint and application for the warrant of arrest.)

—or—

(3)(b) Pursuant to the previously issued Warrant of Arrest, the Marshal has already arrested the vessel. Continued custody by the Marshal requires the services of _____ custodians at a cost of at least $ _____ per day. (This paragraph would be applicable in all cases where the Marshal has previously arrested the vessel.)

(4) The vessel is currently berthed at _____, and subject to the approval of the Court, the substitute custodian is prepared to provide security, wharfage, and routine services for the safekeeping of the vessel at a cost substantially less than that presently required by the Marshal. The substitute custodian has also agreed to continue to provide these services pending further order of this Court.

(5) The substitute custodian has adequate facilities for the care, maintenance and security of the vessel. In discharging its obligation to care for, maintain and secure the vessel, the Substitute Custodian shall comply with all orders of the Captain of the Port, United States Coast Guard, including but not limited to, an order to move the vessel; and any applicable federal, state, and local laws, regulations and requirements pertaining to vessel and port safety. The Substitute Custodian shall advise the Court, the parties to the action, and the United States Marshal, of any movement of the vessel pursuant to an order of the Captain of the Port, within twenty-four (24) hours of such vessel movement.

(6) Concurrent with the Court's approval of the Motion for Appointment of the Substitute Custodian, Plaintiff and the Substitute Custodian will file a Consent and Indemnification Agreement in accordance with Local Admiralty Rule E(10)(c)(2).

THEREFORE, in accordance with the representations set forth in this instrument, and subject to the filing of the indemnification agreement noted in paragraph (6) above, Plaintiff requests this Court to enter an order appointing _____ as the Substitute Custodian for the vessel _____.

DATED at _____, Florida, this _____ day of _____, ~~19~~_____.

_____
SIGNATURE OF COUNSEL OF RECORD
Typed Name of Counsel
Fla. Bar ID No. (if admitted in Fla.)
Firm or Business Name
Mailing Address
City, State, Zip Code
Telephone Number
Facsimile Number
E-Mail Address

cc: Counsel of Record
Substitute Custodian

SPECIAL NOTE

Plaintiff's attorney shall also prepare for the Court's signature and subsequent filing, a proposed order for the Appointment of Substitute Custodian.

FORM 6. CONSENT AND INDEMNIFICATION AGREEMENT FOR THE APPOINTMENT OF A SUBSTITUTE CUSTODIAN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
~~_____ Division~~

Case No. _____-Civ-(USDJ's last name/USMJ's last name)

"IN ADMIRALTY"

Plaintiff,

v. ~~CASE NO. _____~~

Defendant.

_____

CONSENT AND INDEMNIFICATION AGREEMENT
FOR THE APPOINTMENT
OF A SUBSTITUTE CUSTODIAN

Plaintiff _____, (by the undersigned attorney) and _____, the proposed Substitute Custodian, hereby expressly release the U.S. Marshal for this district, and the U.S. Marshal's Service, from any and all liability and responsibility for the care and custody of _____ (describe the property) while in the hands of _____ (substitute custodian).

Plaintiff and _____ (substitute custodian) also expressly agree to hold the U.S. Marshal for this district, and the U.S. Marshal's Service, harmless from any and all claims whatsoever arising during the period of the substitute custodianship.

As counsel of record in this action, the undersigned attorney represents that he has been expressly authorized by the Plaintiff to sign this Consent and Indemnification Agreement for, and on behalf of the Plaintiff.

SIGNED this _____ day of _____, ~~19~~_____, at _____, Florida.

_____	_____
PLAINTIFF'S ATTORNEY	SUBSTITUTE CUSTODIAN
Typed Name	Typed Name
Fla. Bar ID No.	Fla. Bar ID No.
(if admitted in Fla.)	(if admitted in Fla.)
Firm or Business Name	Firm or Business Name
Mailing Address	Mailing Address
City, State, Zip Code	City, State, Zip Code
Telephone Number	Telephone Number
Facsimile Number	Facsimile Number
E-Mail Address	E-Mail Address

cc: Counsel of Record

FORM 7. NOTICE OF ACTION IN REM AND ARREST OF VESSEL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
~~_____ Division~~

Case No. _____-Civ-(USDJ's last name/USMJ's last name)

"IN ADMIRALTY"

Plaintiff,

v. ~~CASE NO. _____~~

Defendant.

_____

NOTICE OF ACTION IN REM
AND ARREST OF VESSEL

In accordance with Supplemental Rule (C)(4) for Certain Admiralty and Maritime Action of the Federal Rules of Civil Procedure, and Local Admiralty Rule C(4), notice is hereby given of the arrest of _____, in accordance with a Warrant of Arrest issued on _____, ~~19~~_____.

Pursuant to Supplemental Rule (C)(6), and Local Admiralty Rule C(6), any person having a claim against the vessel and/or property shall file a claim with the Court not later than ten (10) days after process has been ~~effective~~ effected, and shall file an answer within twenty (20) days from the date of filing their claim.

DATED at _____, Florida, this _____ day of _____, ~~19~~_____.

_____
SIGNED NAME OF PLAINTIFF'S ATTORNEY
Typed Name of Counsel
Fla. Bar ID No. (if admitted in Fla.)
Firm or Business Name
Mailing Address
City, State, Zip Code
Telephone Number
Facsimile Number
E-Mail Address

cc: Counsel of Record

FORM 8. MOTION FOR RELEASE OF A VESSEL OR PROPERTY IN ACCORDANCE WITH SUPPLEMENTAL RULE (E)(5)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
~~_____ Division~~

Case No. _____-Civ-(USDJ's last name/USMJ's last name)

"IN ADMIRALTY"

Plaintiff,

v. ~~CASE NO. _____~~

Defendant.

_____

MOTION FOR RELEASE OF A VESSEL OR
PROPERTY IN ACCORDANCE WITH SUPPLEMENTAL RULE (E)(5)

In accordance with Supplemental Rule (E)(5) and Local Admiralty Rule E(8)(b), plaintiff, on whose behalf property has been seized, requests the Court to enter an Order directing the United States Marshal for the Southern District of Florida to release the property. This request is made for the following reasons:

(Describe the reasons in sufficient detail to permit the Court to enter an appropriate order.)

DATED at _____, Florida, this _____ day of _____, ~~19~~_____.

_____
SIGNED NAME OF PLAINTIFF'S ATTORNEY
Typed Name of Counsel
Fla. Bar ID No.(if admitted in Fla.)
Firm or Business Name
Mailing Address
City, State, Zip Code
Telephone Number
Facsimile Number
E-Mail Address

cc: Counsel of Record

FORM 9. ORDER DIRECTING THE RELEASE OF A VESSEL OR PROPERTY IN ACCORDANCE WITH SUPPLEMENTAL RULE (E)(5)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
~~_____ Division~~

Case No. _____-Civ-(USDJ's last name/USMJ's last name)

"IN ADMIRALTY"

Plaintiff,

v. ~~CASE NO. _____~~

Defendant.

_____

ORDER DIRECTING THE RELEASE OF A VESSEL OR PROPERTY IN ACCORDANCE WITH SUPPLEMENTAL RULE (E) (5)

In accordance with Supplemental Rule (E)(5) and Local Admiralty Rule E(8)(a), and pursuant to the Request for Release filed on _____, ~~19~~_____, the United States Marshal is directed to release the vessel and/or property currently being held in his custody in the above-styled action.

ORDERED at _____, Florida, this _____ day of _____, ~~19~~_____.

_____
~~U.S. Magistrate~~ United States District Judge

cc: Counsel of Record

FORM 10. REQUEST FOR CONFIRMATION OF SALE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
~~_____ Division~~

Case No. _____-Civ-(USDJ's last name/USMJ's last name)

"IN ADMIRALTY"

Plaintiff,

v. ~~CASE NO. _____~~

Defendant.

_____

REQUEST FOR CONFIRMATION OF SALE

Plaintiff, by and through its undersigned attorney certifies the following:

(1) *Date of Sale:* In accordance with the Court's previous Order of Sale, plaintiff represents that the sale of _____ (describe the property) was conducted by the Marshal on _____, ~~19~~_____.

(2) *Last Day for Filing Objections:* Pursuant to Local Admiralty Rule E(17)(g)(1), the last day for filing objections to the sale was _____, ~~19~~_____.

(3) *Survey of Court Records:* Plaintiff has surveyed the docket and records of this case, and has confirmed that as of _____, ~~19~~_____, there were no objections to the sale on file with the Clerk of Court.

THEREFORE, in light of the facts presented above, plaintiff requests the Clerk to enter a Confirmation of Sale and to transmit the confirmation to the Marshal for processing.

DATED at _____, Florida, this _____ day of _____, ~~19~~_____.

_____
SIGNED NAME OF PLAINTIFF'S ATTORNEY
Typed Name of Counsel
Fla. Bar ID No. (if admitted in Fla.)
Firm or Business Name
Mailing Address
City, State, Zip Code
Telephone Number
Facsimile Number
E-Mail Address

cc: Counsel of Record

FORM 11. CONFIRMATION OF SALE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
~~_____ Division~~

Case No. _____-Civ-(USDJ's last name/USMJ's last name)

"IN ADMIRALTY"

Plaintiff,

v. ~~CASE NO. _____~~

Defendant.

_____

CONFIRMATION OF SALE

The records in this action indicate that no objection has been filed to the sale of property conducted by the U.S. Marshal on _____, ~~19~~_____.

THEREFORE, in accordance with Local Admiralty Rule E(17)(f), the sale shall stand confirmed as of _____, ~~19~~_____.

DONE at _____, Florida, this _____ day of _____, ~~19~~_____.

CLERK

By: _____
Deputy Clerk

cc: U.S. Marshal
Counsel of Record

FORM 12. SUMMONS AND PROCESS OF MARITIME ATTACHMENT AND GARNISHMENT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
~~_____ Division~~

Case No. _____-Civ-(USDJ's last name/USMJ's last name)

~~No. ___-CIV-___~~

SUMMONS AND PROCESS OF MARITIME ATTACHMENT AND GARNISHMENT

THE PRESIDENT OF THE UNITED
STATES OF AMERICA

TO: THE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF FLORIDA.

GREETING:

WHEREAS, on the _____ day of _____, ~~19~~_____, _____ filed a complaint against _____ for reasons in said complaint mentioned for the sum of _____ and praying for process of marine attachment and garnishment against the said defendant and _____,

WHEREAS, this process is issued pursuant to such prayer and requires that a garnishee shall serve his answer within twenty (20) days after service of process upon him and requires that a defendant shall serve his answer within thirty (30) days after process has been executed, whether by attachment of property or service on the garnishee,

NOW, THEREFORE, you are hereby commanded that if the said defendant cannot be found within the District you attach goods, chattels, credits and effects located and to be found at _____ and described as follows: _____, or in the hands of _____, the garnishee, up to the amount sued for, to-wit: _____ and how you shall have executed this process, make known to this Court with your certificate of execution thereof written.

WITNESS THE HONORABLE

_____
Judge of said Court at _____, Florida, in said District, this _____ day of _____, ~~19~~_____.

_____, CLERK

BY: _____
Deputy Clerk

NOTE: This process is issued pursuant to Rule B(1) of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure.

FORM 13. MARITIME SUMMONS TO SHOW CAUSE RESPECTING INTANGIBLE PROPERTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
~~_____ Division~~

Case No. _____-Civ-(USDJ's last name/USMJ's last name)

~~No. ____-CIV-____~~

MARITIME SUMMONS TO SHOW CAUSE RESPECTING INTANGIBLE PROPERTY

Plaintiff,

vs.

Defendant(s).

TO ALL PERSONS having control of the freight of the vessel _____ or control of the proceeds of the sale of said vessel or control of the proceeds of the sale of any property appurtenant thereto or control of any other intangible property appurtenant thereto.

You are hereby summoned to interpose in writing a claim, by attorney or in proper person, at the Clerk's Office in said District within ten (10) days after the service, and therewith or thereafter within twenty (20) days following such claim or thirty (30) days after the service. whichever is less. a responsive pleading to the complaint herewith served upon you and to show cause why said property under your control should not be paid into court to abide the judgment; and you are required so also to serve copy thereof upon _____, plaintiff's attorney(s) whose address is _____; or if you do not claim said property then to so serve and show cause why said property under your control should not be paid into court to abide the judgment.

The service of this summons upon you brings said property within the control of the Court.

Service of this summons is ineffective unless made in time to give notice of the required appearance or such shorter period as the Court may fix by making and signing the form of order provided below:

WITNESS THE HONORABLE

_____
Judge of said Court at _____, Florida, in said District, this _____ day of _____, ~~19~~_____.

_____, CLERK

BY: _____
Deputy Clerk

Date:

Good cause for shortening the periods required by the foregoing summons having been shown by affidavit of _____, verified the _____ day of _____, ~~19~~_____, the period of notice of the appearance in all respects required by the foregoing summons is hereby fixed as _____ days.

Dated at _____, Florida, the _____ day of _____, ~~19~~_____.

_____
UNITED STATES DISTRICT JUDGE

NOTE: This summons is issued pursuant to Rule C(3) of the Supplemental Rules for Certain Admiralty Maritime Claims of the Federal Rules of Civil Procedure.

FORM 14. AFFIDAVIT–FOREIGN ATTACHMENT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
~~_____ Division~~

Case No. _____-Civ-(USDJ's last name/USMJ's last name)

~~No. ___ CIV. ___~~

Plaintiff,

vs.

Defendant(s).

AFFIDAVIT

(Foreign Attachment)

This affidavit is executed by the undersigned in order to secure the issuance and execution of a Writ of Foreign Attachment in the above-styled in personam cause in admiralty.

As attorney for the above-styled plaintiff, the undersigned does hereby certify to the Court, the Clerk and the Marshal that the undersigned has made a diligent search and inquiry to ascertain the name and address of a person or party upon whom can be served process in personam which will bind the above-styled defendant.

That based upon such diligent search and inquiry the undersigned has been unable to ascertain the name and address of any person or party within the Southern District of Florida upon whom service of process would bind said defendant.

The Clerk of this Court is hereby requested to issue a Writ of Foreign Attachment and deliver the same to the Marshal

The Marshal is hereby directed to promptly serve said Writ of Foreign Attachment upon _____ (name of vessel) which vessel is presently located at _____.

_____
Attorney for Plaintiff

Sworn and subscribed to this _____ day of _____, ~~19~~_____.

Clerk, U.S. District Court
Southern District of Florida

By: _____
Deputy Clerk

129433.1