

**OFFICE OF THE CLERK
United States District Court
Southern District of Florida**



**GENERAL CIVIL CASE FILING REQUIREMENTS
REVISED JULY 3, 2007**

**STEVEN M. LARIMORE
COURT ADMINISTRATOR/CLERK OF COURT**

The Mission of the Clerk's Office for the Southern District of Florida is to provide the support necessary to enable the Court as an institution to fulfill its constitutional, statutory, and societal responsibilities for all who seek justice.

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I. GENERAL COURT INFORMATION

A) Office Addresses

The Clerk maintains five staffed offices.

Office hours are from 8:30 A.M. to 4:30 P.M., Monday through Friday, except legal holidays, as noted below. These offices are open to the public and are located at:

400 North Miami Avenue, 8th Floor North
Miami, Florida 33128
305-523-5100

299 East Broward Boulevard, Room 108
Fort Lauderdale, Florida 33301
954-769-5400

701 Clematis Street, Room 202
West Palm Beach, Florida 33401
561-803-3400

301 Simonton Street, Room 130
Key West, Florida 33040
305-295-8100
(limited hours)

300 South Sixth Street, Second Floor
Fort Pierce, Florida 34950
772-467-2300

B) Website

The Southern District of Florida's website, located at: <http://www.flsd.uscourts.gov>, contains the Local Rules of this Court as well as other useful information. **NOTE:** *You may also subscribe to PACER, which provides current docket sheets and includes scanned images of documents on cases filed within the last three years. (See page 8 of this booklet for additional information.)*

C) Legal Holidays

If a legal holiday falls on a Saturday, it is observed on the preceding Friday. If a legal holiday falls on a Sunday, it is observed on the following Monday.

- New Years Day - January 1st
- Martin Luther King, Jr.'s Birthday - 3rd Monday in January
- Presidents Day - 3rd Monday in February
- Memorial Day - Last Monday in May
- Independence Day - July 4th
- Labor Day - 1st Monday in September
- Columbus Day - 2nd Monday in October
- Veterans Day - November 11th
- Thanksgiving Day - 4th Thursday in November
- Christmas Day - December 25th

D) Clerk's Automated Telephone System Index

The Clerk's Offices in Miami, Fort Lauderdale and West Palm Beach use an automated telephone answering and routing system to direct callers to the proper sections. To get a section directly after calling the main number, dial 1 using a touch-tone telephone and use the following extensions:

Miami: Main Telephone Number: 305-523-5100

Jury Information	1
CM/ECF, Filing Information	2
Other Clerk's Office Sections	3
Attorney Admissions	4
Addresses and Directions to Miami Courthouses	5
Mediation or Becoming a Mediator	6
Other Government Agencies	7
Other Assistance	8

Fort Lauderdale: Main Telephone Number: 954-769-5400

Jury Information	1
Docketing, Case Information, Filing Information	2
Assistance	8

West Palm Beach: Main Telephone Number: 561-803-3400

Jury Information	1
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Docketing, Case Information, Filing Information	2
Other Clerk's Office Sections	3
Address and Directions to Federal Building and Courthouse	5
Mediation or Becoming a Mediator	6
Other Government Agencies	7
Other Assistance	8

Key West: Main Telephone Number: 305-295-8100

E) Case Types and Numbering

The following are case types used in CM/ECF:

- Civil memo cases (MC) will be opened with "MC" rather than "CV." If the case is later contested, there is a docket utility for contested hearings that converts the "MC" to "CV" so that the district judge will receive credit for the case.
- Civil cases (CV).
- Magistrate cases (MJ), formerly "MG".
- Multi-district Litigation cases (MDL).
- Criminal cases (CR).
- Transfer of Probation (TP).

The case number is preceded by the current year. The following is an example of a case number: 03-21234-CV-DAVIS/BANDSTRA

03 = Last two digits of the year the case was filed

21234 = Number of the case

CV = Abbreviation denoting a civil case

DAVIS = Surname of the district judge assigned to the case

BANDSTRA = Surname of the magistrate judge assigned to the case

Fort Lauderdale

Civil/Criminal Cases: 60001 to 79999

Magistrate Cases: 6001 to 7999

Miscellaneous Cases: sequential numbers beginning with "01" to the end of year

Transfer of Probation: sequential numbers beginning with "60001" to end of year

Fort Pierce

Civil/Criminal Cases: 14001 to 19999

Magistrate Cases: 01 to 1999

Miscellaneous Cases: included in West Palm Beach numbers

Transfer of Probation: sequential numbers beginning with "14001" to end of year

Key West

Civil/Criminal Cases: 10001 to 13999

Magistrate Cases: included in Miami numbers

Miscellaneous Cases: included in Miami numbers

Transfer of Probation: sequential numbers beginning with "20001" to end of year

West Palm Beach

Civil/Criminal Cases: 80001 to 89999

Magistrate Cases: 8001 to 8999

Miscellaneous Cases: sequential numbers beginning with "01" to the end of year

Transfer of Probation: sequential numbers beginning with "80001" to end of year

F) Location of Case Files and Obtaining Case Information

Conventional case files are maintained at the location where the assigned judge is chambered. If a filed document is scanned, it is maintained in its original form by the Clerk of Court for at least 90 days at the location where it was scanned and docketed.

Cases that have been closed and are not on appeal are sent to the Federal Records Center (FRC) in East Point, Georgia. The cost to retrieve files from the FRC is \$45.00 per file if the file is retrieved from the FRC by the Court. Alternatively, the customer may contact the FRC directly at 404-763-7474.

The fees for copies are as follows:

- 50 cents per page
- \$9.00 per document for certification
- \$18.00 for exemplification *plus* 50 cents per page
- \$26.00 *per name* for a name search conducted by Clerk's Office staff (28 U.S.C. §1914)

G) Public Terminals and Public Searches

Computer terminals that allow access to the electronic case docket are available in the Miami, Fort Lauderdale, West Palm Beach, Fort Pierce and Key West Clerk's Offices. The terminals may be used to conduct case searches by party name or case number. To accommodate CM/ECF users, terminals for scanning and filing will be available at all Clerk's Office locations during regular business hours and extended hours.

The electronic docket is available for civil cases filed from August 1990 to the present and for criminal cases from January 1992 to the present. Anyone interested in accessing this electronic docket via a modem to a personal computer can subscribe to the Court's PACER system. The PACER Service Center may be contacted at **1-800-676-6856** or via its website at: <http://pacer.psc.uscourts.gov>.

All documents filed in civil cases from June 1, 1996 to the present and all documents filed in criminal cases from November 1, 1996 to the present have been scanned and are available at public terminals. Microfiche indices of civil and criminal cases filed since mid-1985 are also available at all Clerk's Office locations except Key West.

NOTE: *Most forms/documents listed within this Guide can be located on the Court's website at <http://www.flsd.courts.gov>.*

H) Location of District Judges and Magistrate Judges

<u>District Judges' Names</u>	<u>Location</u>	<u>Telephone</u>
Chief Judge Federico A. Moreno	Miami	305-523-5110
Judge William J. Zloch	Fort Lauderdale	954-769-5480
Judge Donald L. Graham	Miami	305-523-5130
Judge K. Michael Moore	Miami	305-523-5160
Judge Ursula Ungaro	Miami	305-523-5550
Judge Daniel T.K. Hurley	West Palm Beach	561-803-3450
Judge Joan A. Lenard	Miami	305-523-5500
Judge Donald M. Middlebrooks	West Palm Beach	561-514-3720
Judge Alan S. Gold	Miami	305-523-5580
Judge William P. Dimitrouleas	Fort Lauderdale	954-769-5650
Judge Patricia A. Seitz	Miami	305-523-5530
Judge Adalberto Jordan	Miami	305-523-5560
Judge Paul C. Huck	Miami	305-523-5520
Judge Kenneth A. Marra	West Palm Beach	561-514-3760

Judge Jose E. Martinez	Miami	305-523-5590
Judge Cecilia Altonaga	Miami	305-523-5510
Judge James I. Cohn	Fort Lauderdale	954-769-5490
Judge Marcia G. Cooke	Miami	305-523-5150
Senior Judge James Lawrence King	Miami	305-523-5000
Senior Judge William M. Hoeveler	Miami	305-523-5570
Senior Judge Jose A. Gonzalez, Jr.	Fort Lauderdale	954-769-5560
Senior Judge Kenneth L. Ryskamp	West Palm Beach	561-803-3420
Senior Judge Shelby Highsmith	Miami	305-523-5170

<u>Magistrate Judges' Names</u>	<u>Location</u>	<u>Telephone</u>
Chief Magistrate Judge Ted E. Bandstra	Miami	305-523-5700
Magistrate Judge William C. Turnoff	Miami	305-523-5710
Magistrate Judge Lurana S. Snow	Fort Lauderdale	954-769-5460
Magistrate Judge Linnea R. Johnson	West Palm Beach	561-803-3470
Magistrate Judge Ann E. Vitunac	West Palm Beach	561-803-3440
Magistrate Judge Stephen T. Brown	Miami	305-523-5740
Magistrate Judge Barry S. Seltzer	Fort Lauderdale	954-769-5450
Magistrate Judge Barry L. Garber	Miami	305-523-5730
Magistrate Judge Frank J. Lynch, Jr.	Fort Pierce	772-467-2320
Magistrate Judge Andrea M. Simonton	Miami	305-523-5930
Magistrate Judge John J. O'Sullivan	Miami	305-523-5920
Magistrate Judge Patrick A. White	Miami	305-523-5780
Magistrate Judge James M. Hopkins	West Palm Beach	561-514-3710
Magistrate Judge Edwin G. Torres	Miami	305-523-5750
Magistrate Judge Chris M. McAliley	Miami	305-523-5890
Magistrate Judge Peter R. Palermo	Miami	305-523-5760
Magistrate Judge Robert L. Dube'	Miami	305-523-5770

I) Duty Judge

A Duty Judge is assigned on a rotating basis for the Miami, Fort Lauderdale and West Palm Beach offices. In general, Duty Judges:

- Handle all grand jury matters.

- Preside over matters arising from magistrate judges proceedings which are not assigned to a district judge.
- Sign transfer of probation petitions from other districts.
- Swear in attorneys to practice.
- Preside over wire tap applications in matters not assigned to a district judge, with the exception that trap-and-trace and pen register orders are handled by magistrate judges.
- Approve issuances of warrants of arrest in admiralty cases in any division where the assigned district judge is out of the district or is otherwise unavailable.
- Preside over emergency petitions for writs of habeas corpus involving a petitioner claim to immediate release, where the assigned district judge is in the district, but otherwise unavailable.
- Determine the validity of juror qualifications, exemptions, or excuses.

II. GENERAL FILING REQUIREMENTS

A) Electronic Filing Requirements

Effective October 12, 2006, the United States District Court for the Southern District of Florida implemented an electronic filing system known as Case Management/Electronic Case Filing (CM/ECF), which has been designated for use nationwide by the United States Courts.

Electronic filing is mandatory for all attorneys admitted to practice in the Southern District of Florida. ([See CM/ECF Administrative Procedures.](#))

B) Pro Se Litigants

Pro se litigants, or individuals who represent themselves, will **not** be permitted to file electronically or receive notices electronically. Pro se litigants **must** file all document conventionally. ([See CM/ECF Administrative Procedures.](#)) Documents should be simple and direct; technical, legal jargon is not required. See Appendix A for a sample of document format.

Once a case has been filed, it is extremely important for a plaintiff to be diligent in pursuing the case. The plaintiff has an obligation to attempt to make the case ready for trial. All parties must make their best efforts to complete discovery as to the facts of the case within the time limits and in accordance with procedures. In addition, a plaintiff must obey all orders of the Court that may be issued in the case, and must appear for all conferences or hearings which a judge may schedule.

Failure to do so is grounds for dismissal or sanctions.

Disclaimer: This summary does not take the place of a pro se litigant's responsibility to comply with the Local Rules, the Federal Rules of Civil Procedure and all other laws. The Local Rules of this Court may be obtained at the Intake Section at of the Clerk's Offices free of charge or from our website: <http://www.flsd.uscourts.gov>. This summary is NOT legal advice.

C) Conventional (Paper) Filing

All conventional filings (as permitted in the Administrative Procedures) must show the assigned case number and may be filed at any division with the exception of emergency motions/requests for emergency hearings, which must be filed in the division where the Judge is chambered. Documents should not be filed directly with chambers unless there are instructions by chambers to do so.

Conventional filings must be filed with the Clerk's Office between the hours of 8:30 A.M. and 4:30 P.M., Monday through Friday, except on legal holidays.

New cases filed in a conventional manner may be filed and summonses issued by any divisional office in the Southern District of Florida. In accordance with Local Rule 5.1.B, **no pleadings or documents should be filed directly with chambers**, except for final versions of proposed documents or in situations in which they must be emailed to the appropriate judge as indicated in the Administrative Procedures.

All documents must be on 8½" by 11" (letter size) white paper, with a centered, standard two-hole punch at the top (Local Rule 5.1.A.3). Documents should not be bound or double sided (Local Rule 5.1.A.1).

If you want a file-stamped copy for your records, you must provide an extra copy along with a self-addressed, stamped envelope.

Filings must include a signature block identifying all counsel for the party and a certificate of service that refers to a service list attached to the filing. The signature block should contain the street address, telephone number, facsimile, e-mail address and Florida Bar identification number of all counsel (Local Rule 5.1.A.6). In matters that have been consolidated, an additional copy is required for each case in the consolidation, unless otherwise ORDERED by the Court (Local Rule 5.1.A.8).

D) Sealed Documents

[Local Rule 5.4](#). Documents and cases are sealed when it is determined by a judge that the information contained in them should not be a part of the public record. Parties seeking to file matters under seal shall follow the procedures prescribed by Local Rule 5.4.

Prepare the original (with an original signature of the filing party) and one copy for the judge of the **Motion to Seal** setting forth a reasonable basis for departing from the general policy of public filing, generally describing the matter contained in the envelope. The motion shall state the specific period of time for which the party seeks to have the matter maintained under seal. Unless permanent sealing is sought, the motion shall set forth how the matter is to be handled upon expiration of the time specified in the Court's sealing order, or returned to the filing party.

Submit an original and one copy for the judge of the [Sealed Document Tracking Form](#), and a proposed order with stamped, self-addressed envelopes for all parties.

Place the original and one copy of the proposed filing in separate plain envelopes, clearly marked as "sealed document," with the case number and style on

the outside of each envelope.

E) Motions

A motion is an application to the Court asking the Court to take certain action with respect to the conduct of the case.

Motions should be in writing (see Appendix A for format), state the action sought, and set forth the facts in support of the requested action. Motions are the primary way for litigants to ask the Court to take action in a case. Motions must be filed with the Clerk, according to the Administrative Procedures. It is the responsibility of the filing party to send a copy of every document to all opposing parties. Motions should **not** be sent directly to the judge.

NOTE: Pursuant to [Local Rule 15.1](#), **any amendment to a pleading**, whether filed as a matter of course or upon a successful motion to amend, **must reproduce the entire pleading as amended**, except by leave of the Court.

F) Certificate of Service

Every document sent to the Clerk must contain a signed statement at the end certifying that you have sent a copy of that paper to all parties in the case. You must, of course, actually send all parties a copy of every document you file.

G) Proposed Orders

A proposed order for consideration by the judge must accompany all motions specified in Local Rule 7.1A.1 and must comply with 3H(5) of the Administrative Procedures.

H) Discovery

Discovery material **in civil cases will not** be tendered for filing. This Court will only accept discovery documents that clearly indicate on a notice of filing one of the exceptions cited in Local Rule 26.1.B, to wit:

- Discovery documents that have been ordered to be filed by the Court.
- Motion before the Court or support/objection thereto.
- Discovery documents filed for trial/appellate purposes.

NOTE: *The Court reserves the discretion to refuse documents for filing that do not conform to these procedures.*

I) Civil Subpoenas

Fed. R. Civ. P. 45 was amended as of December 1, 1991 abolishing the requirement that a subpoena be issued under the seal of the Court; the only requirement under the amended rule is that the subpoena be signed by an attorney.

It is not necessary that subpoenas be issued by the Clerk's Office. Although the Clerk has the authority to do so, subpoenas may be issued by counsel as officers of the Court. Attorneys may issue subpoenas in the name of any court in which they are authorized to practice. Other parties who are *not* officers of the Court (*i.e.*, *pro se* litigants) must have subpoenas issued by the Clerk's Office.

It is not required that the attorney issuing the subpoena be a member of the bar or admitted *pro hac vice* in the district in which the subpoena is served as long as the deposition or production of documents pertains to a primary action in a court in which the attorney *is* authorized to practice.

If an attorney or party requests that the Court issue a subpoena, the Deputy Clerk shall issue a subpoena, which is signed (not sealed or dated) but otherwise blank, to the requesting party.

A subpoena may be served by any person who is not a party and who is not less than 18 years of age.

The fee for a witness being subpoenaed is \$40.00 per day and mileage is 44.5 cents per mile (28 USC § 1821).

Proof of service of the subpoena is required to be filed only in the event of a dispute or upon order of the Court.

1) Civil Subpoena for Deposition or a Subpoena for Documents (Duces Tecum)

A process by which the Court, at the request of a party, commands a witness to produce testimony (*i.e.*, deposition) or a document(s) that is pertinent to the issues of a pending action.

2) Civil Subpoena for Trial

A process by which the Court, at the request of a party, commands a witness to appear at a trial or hearing for the purpose of giving testimony before the Court.

3) Subpoena for Deposition or Documents

If the subpoena is issued for a deposition or production of documents that will take place in another district, the name of the court where the deposition or production is to take place must be indicated on the subpoena. (The location where the deposition is going to be taken and the residence of the person being deposed must be in the same district and must be located within 100 miles of each other.) In the case of a deposition or a production of documents taking place in **another** district, the name of that court and case number (where the deposition or production is to take place) should be typed at the top of said subpoena.

NOTE: *The place of taking the deposition and person being deposed must be in the Southern District of Florida.*

J) Emergency Matters

Judges are selected randomly to handle emergency filings when the assigned district judge is physically absent from the District, unavailable due to illness, or on vacation, and the matter cannot wait for the assigned district judge to return. *These matters never go to the Duty Judge.*

Emergency matters must be filed conventionally in the district where the Judge is chambered and will *not* be accepted electronically. Emergency motions contain a Certificate of Emergency, if applicable. These forms are available at all Clerk's Offices and on the Court's [website](#).

It is the filing party's responsibility to determine whether the matter *is*, in fact, an emergency that cannot wait for the assigned district judge's return. If the filing party determines that the matter cannot wait for the assigned district judge to return, he/she must complete the "Certification of Emergency Matter" attesting that the emergency was not caused by the filing party's lack of due diligence.

K) Notice of 90 Days Expiring (L.R. 7.1.B.3)

When a motion or any other matter has been fully briefed and pending for more than 90 days with no hearing set, or any motion or other matter on which the Court has conducted a hearing but has not entered an order within 90 days of the hearing, the movant or applicant shall file and serve on all parties a Notification of 90 Days Expiring.

The notice must contain the following information:

- The title and docket entry number of the subject motion or other application, along with the dates of service and filing.
- The title and docket number of any and all responses or opposing memoranda, along with the dates of service and filing, or if no such papers have been filed, the date on which such papers were due.
- The title and docket entry number of any reply memoranda, or any other papers filed in connection with the motion or other matter, as well as the dates of service and filing.
- The date of any hearing held on the motion or other matter.

The Notification of 90 Days Expiring shall be filed within ten days of the expiration of the applicable 90 day period.

III. FILING A NEW CIVIL CASE

The filing of a **complaint** with the Clerk of the Court begins the civil lawsuit. The purpose of the complaint is to commence the formal legal process and to give notice to the person(s) being sued and to the Court about the nature of the lawsuit. Generally, lawsuits should be filed in the district where the defendant resides or where the claim arose (28 U.S.C. § 1391). Civil cases are assigned at random to the judges of the district court. Assignments are made so that no party or lawyer may choose which judge will hear the case.

Complaints must contain the following information:

- Federal statute giving the Court jurisdiction. Each statement of claim should be made in separately numbered paragraphs, with each paragraph limited to a statement of a single set of facts, if possible. In this package you will also find a sample of how to style your complaint (See Appendix C).
- Caption specifying the Court in which the suit is brought and names of the parties.
- Brief statement of why the Court has jurisdiction.
- Brief statement of the facts of your case, how each defendant is involved, names of other persons involved, and dates and places.
- Brief statement of exactly what you want the Court to do for you.
- Your signature, street address, telephone number, facsimile number and e-mail address.
- Your Florida bar number, if you are an attorney.
- (*You do not need to give any legal arguments or cite any cases or citations.*)

A) Civil Cover Sheet

[The Civil Cover Sheet \(JS44\)](#). (Local Rule 3.3) (Appendix D) **ALL SECTIONS MUST BE COMPLETED:** the County Where the Action Arose, Section I(d); Basis of Jurisdiction, Section II; Citizenship of Principal Parties (*only if it is a diversity case*), Section III; Nature of Suit, Section IV; Origin, Section V; Cause of Action, Section VII; Estimated Time to Try the Case, part of Section VII; Jury Demand, Section VIII; Original Signature of Filer and other pertinent information.

B) Filing Fee

The appropriate filing fee is payable to “Clerk, United States Courts.” In the absence of the filing fee, an original Motion to Proceed In Forma Pauperis (IFP) is required; however, the Clerk’s Office *will accept pro se prisoner cases without the fee or the IFP Motion*. *Pro se prisoner fee issues will be adjudicated by the magistrate judge after the case is filed.*

NOTE: *In cases where an IFP Motion is filed, summonses are NOT issued until the IFP has been ruled on.*

The amount of the fee will be determined by the nature of the complaint:

- Civil cases: \$350.00
- Memo cases: \$39.00
- Habeas cases: \$5.00

C) Issuance of Summonses

A summons is a notice to a party that a complaint has been filed against him/her/it and requiring him/her/it to answer the complaint within a specified time period and at a specified location.

Upon filing a complaint, the plaintiff is responsible for prompt service of the summons and a copy of the complaint on each of the defendants named in the complaint (Fed. R. Civ. P. 4).

The summons must show the time within which the defendant is required to respond to the complaint. The time runs from the date the defendant is served with the complaint. The summons must be issued (signed and sealed) by the Clerk. Summonses can be issued in any divisional office in the Southern District of Florida.

The following must be adhered to:

- Prepare and file an original, signed summons and two copies for each defendant.
- Two copies will be returned to the plaintiff together with the copies of the complaint to be served. The plaintiff must then have the summons served along with a copy of the complaint to each defendant, or to a person authorized to accept them for the defendant. The summons must be served by anyone 18 years of age or over, who is not a party to the suit, or by a Process Server (Appendix H).
- After receiving the order granting such motion, you must present a copy of the order, along with the required **completed** summons, to the Clerk's Office for issuing. If the request for "Leave to Proceed In Forma Pauperis" was granted, you may move the Court to enter an order directing that service be made by the United States Marshal.
- File a Proof of Service. (See "Requirements" below.)

There is no fee for issuing a summons, *per se*; however, a summons will not be issued if the filing fee due upon the filing of the initial complaint has not been paid or if there is not an order granting leave to proceed In Forma Pauperis (IFP).

NOTE: *Plaintiffs should read the Federal Rules of Civil Procedure and the Local Rules to become thoroughly familiar with the procedures governing service of process.*

Failure to serve the summons and complaint within 120 days of filing the complaint is grounds for dismissal of each party not served.

Time Allowed for Service

It is the responsibility of the filing party to ensure that the parties (defendants) are served with the complaint within 120 days of the filing date of the action.

The filing party must allow 20 days for the defendant to answer when serving a private individual or corporation. The filing party must allow 60 days for the defendant to answer when serving a federal agency or individual acting in an official federal government capacity.

Method of Service

The decision as to service method depends on the circumstances of each case. It is the filing party's responsibility to inform the Deputy Clerk which method of service will be used.

The three methods of service are:

- Personal service: Service may be effected by any person who is not a party to the case and who is at least 18 years of age, *or* by an order of the Court directing that service be effected by the United States Marshal.
- Notice of Lawsuit & Waiver of Service of Summonses: To avoid costs, the plaintiff may notify the parties in the lawsuit of the commencement of the action, and request that they waive service by summons. If a Waiver of Service of Summons is returned signed by the defendant, the plaintiff must file it with the Clerk's Office. If the defendant does not return the waiver within the prescribed time frame, the plaintiff must prepare the summons to be issued and serve the defendant in the manner described. (See Appendix F.)
- International service and/or letter of request: Service of process in a foreign country. International Service of Summons 28 U.S.C. 1696 and Rule Fed. R. Civ. P. 4(f)(2)(B) (not via Hague Convention).

Proof of Service

The plaintiff must file with the Court proof that the defendant(s) have been served in accordance with Rule 4 of the Federal Rules of Civil Procedure. It is the responsibility of the person serving the summons to prepare and file with the Clerk's Office the forms showing proof of service (see back of Appendix G - make sure both sides are copied) once it is made (Fed. R. Civ. P. 4(1)).

Answer to Complaint

Just as the plaintiff in the complaint must make a short, plain statement of the claim, the defendant in the answer must state the defenses to the claims and either admit or deny the specific allegations contained in the complaint (Fed. R. Civ. P. 8(b) see

Appendix A for sample format). As with all other documents, the defendant must file the answer with the Clerk and serve a copy on all opposing parties. Failure to answer or otherwise defend in a timely fashion is grounds for judgment by default against the defendant (Fed. R. Civ. P. 55).

IV. SPECIFIC CIVIL ACTIONS

A) Complaint Against Private Person or Corporation

Prepare and file the original, signed Civil Cover Sheet (JS-44) (i.e., county, parties, origin, nature of suit and signature, etc). If the original is “refiled,” a copy of the order that closed/dismissed the previous case must be provided and attached to the JS-44.

Prepare a signed petition/complaint. File the original (with an original signature of the filing party) and one copy for each defendant named in the suit. The copies will be file-stamped and returned to you for service.

Prepare and file three summonses for each defendant named on the complaint (an original, *and* two copies to be served upon each defendant named in the suit). The Deputy Clerk will issue each summons (date, sign and seal).

One original will be retained by the Court. The second original and copy must be served on each defendant named in the suit, with one original being returned to the Clerk’s Office to document the Service of Process.

A filing fee of \$350.00 payable to the “Clerk, United States Courts” or an original IFP Motion in lieu of the filing fee is required.

B) Complaint Against United States or an Agency Thereof

Prepare and file the original, signed Civil Cover Sheet (JS-44) (i.e., county, parties, origin, nature of suit and signature, etc.). If the original is “refiled,” a copy of the order that closed/dismissed the previous case must be provided and attached to the JS-44.

Prepare a signed petition/complaint. File the original (with an original signature of the filing party) and one copy for each defendant named in the suit. The copies will be file-stamped and returned to you for service.

Prepare *and* file three summonses for each defendant named on the complaint (an original *and* two copies to be served upon each defendant named in the suit). The Deputy Clerk will issue each summons (date, sign and seal). One original will be retained by the Court to document the Issuance of Summons.

A filing fee of \$350.00 payable to the “Clerk, United States Courts” or an original IFP Motion in lieu of the filing fee is required.

C) Complaint Against the Secretary of the State of Florida

Any such suit or action should be brought in the district where the action arose or where the defendant is located. If the *defendant* is not within this District, the venue is the location where the *plaintiff* is located.

Prepare and file the original, signed Civil Cover Sheet (JS-44) (i.e., county, parties, origin, nature of suit and signature, etc). If the original is “refiled,” a copy of the order that closed/dismissed the previous case must be provided and attached to the JS-44.

Prepare the signed petition/complaint. File the original (with an original signature of the filing party) and one copy for each defendant named in the suit. The copies will be file-stamped and returned to you for service.

Prepare and file three summonses for each defendant named on the complaint (an original *and* two copies to be served upon each defendant named in the suit).

The Deputy Clerk will issue each summons (date, sign and seal). The summonses will only be issued if the fee is paid or an IFP Motion has been granted.

A filing fee of \$350.00 payable to “Clerk, United States Courts” or an original IFP Motion in lieu of the filing fee is required.

D) Suits Involving an Insurance Commissioner Outside of Florida

Prepare and file the original, signed Complaint *and* three copies required by the Insurance Commissioner to be served upon each defendant named in the suit.

Prepare and file the original, signed summons *and* six summonses for each defendant. They are to be served upon each defendant named in the suit. The original is to be returned to the Clerk’s Office to document the service of process.

A filing fee of \$350.00 payable to the “Clerk, United States Court” or an original IFP Motion original in lieu of the filing fee is required.

E) Motion/Petition for Return of Seized Property

A Motion/Petition for Return of Seized Property is filed to request authorization for the filing party to recover goods or chattels that have been wrongfully taken or detained.

Any such suit or action should be brought in the district where the action arose or where the defendant is located. If the *defendant* is not within this District, the venue is the location where the *plaintiff* is located.

Prepare and file the original, signed Civil Cover Sheet (JS-44) (i.e., county, parties, origin, nature of suit and signature, etc). If the original is “refiled,” a copy of the order that closed/dismissed the previous case must be provided and attached to the JS-44.

Prepare the signed petition/complaint. File the original (with an original signature of the filing party) *and* one copy for each defendant named in the suit. The copies will be file-stamped and returned to you for service.

Prepare and file two summonses for each defendant named on the complaint; one summons will be filed with the Court, the second summons must be served on the defendant and returned to the Clerk’s Office to document the Service of Process. (See Return of Service-Appendix G.)

A filing fee of \$350.00 payable to the “Clerk, United States Courts” or an original IFP Motion in lieu of the filing fee is required.

F) Motion to Enforce (Compel)/Quash Deposition Subpoena from Another District

A Motion to Enforce/Quash a Deposition Subpoena is filed as a new case, only because the subpoena is being issued from a federal court *outside* the District on a party residing *inside* the District; thus there is no existing case number.

Prepare and file the original, signed Civil Cover Sheet (JS-44) (i.e., county, parties, origin, nature of suit and signature, etc). If the original is “refiled,” a copy of the order that closed/dismissed the previous case must be provided and attached to the JS-44. Also, a copy of the Motion to Enforce/Quash Deposition Subpoena from the other District must be enclosed.

NOTE: *The place of taking the deposition and person being deposed must be in the Southern District of Florida.*

A filing fee of \$39.00 payable to “Clerk, United States Courts” is required.

G) Removal of a Case from State Court

A removal, in this instance, is the transfer of a case by the defendant from a state court to a U.S. District Court. A removal is generally carried out with an action commenced, but not finally determined.

Prepare and file the original, signed Civil Cover Sheet (JS-44) (i.e., county, parties, origin, nature of suit and signature, etc.). If the original is “refiled,” a copy of the order that closed/dismissed the previous case must be provided and attached to the JS-44.

Prepare and file the original Notice of Removal with the State Court documents attached.

A filing fee of \$350.00 payable to “Clerk, United States Courts” or an original IFP Motion in lieu of the filing fee is required.

H) Admiralty and Maritime Claims

The following are types of Admiralty and Maritime Claims:

1) Complaint for Exoneration

A Complaint for Exoneration is filed by a shipowner for the purpose of restricting his/her liability to certain parties to whatever value the ship has after an event such as a sinking or collision.

The following documents are required:

- Original, signed Affidavit of the Value of the Vessel (may be incorporated within the complaint or filed separately).
- Original, signed Affidavit of No Pending Freight (may be incorporated within the complaint or filed separately).
- Original Notice of Filing Bond for the value of the vessel (cash or surety).
- Original, signed Notice of Filing of All Claims.
- Monition (optional). (An order directing the Clerk to issue a notice of publication.)
- Original, signed Proposed Notice of Publication (L.R.5.2).

Any such suit or action should be brought in the district where the action arose or where the defendant is located. If the *defendant* is not located in this District, the venue is the location where the *plaintiff* is located.

Prepare and file the original, signed Cover Sheet (JS-44) (i.e., county, parties, origin, nature of suit, signature, etc.). If the original is “re-filed,” a copy of the order that closed/dismissed the previous case must be provided and attached to the JS-44.

Once the Monition and Order have been signed by the District Judge, they will be returned to a Deputy Clerk for issuance of the Notice of Publication to comply with the Order. The Notice must require publication *once each week for four consecutive weeks* (unless otherwise instructed) and the return date for “claims” should be set according to the Court’s Order.

Unless otherwise ordered, the Deputy Clerk will telephone the filing party to notify him/her that the Notice has been issued and that it is the responsibility of the filing party to publish the Notice as directed by the Judge’s Order.

On occasion, in lieu of publication, the judge will direct the Deputy Clerk to *mail* the notice to all individuals designated in the Notice. The Deputy Clerk will certify that the Clerk has complied with the Order by making a docket entry indicating the date the Notice was sent.

A filing fee of \$350.00 payable to the “Clerk, United States Courts” or an original IFP Motion in lieu of the filing fee is required.

2) Attachment and Garnishment: In Personam

Writ of Attachment and Garnishment In Personam involves the process of seizing and holding the money or property of a person who is allegedly in debt to another person or entity prior to receiving a judgment. (Fed. R. Civ. P. Rule B Supplemental Rules for Certain Admiralty and Maritime Claims.)

The following documents are required:

- Original, signed Civil Cover Sheet (JS-44).
- Original, signed complaint *and* one copy for each defendant named in the suit.
- Original, signed affidavit.
- Three summonses for each defendant (an original *and* two copies to be served upon each defendant named in the suit). The original is to be returned to the Clerk’s Office to document the service of process.

A filing fee of \$350.00 payable to the “Clerk, United States Courts” or an original IFP Motion in lieu of the filing fee is required.

NOTE: *If a summons and writ of attachment is to be issued, you must first obtain an Order directing the Clerk to do so. If the attachment and garnishment are to be issued under state law, the original and three copies of the Summons and Process of Attachment are required and the bond required is double the amount of the claim.*

3) Actions in Rem

An action in Rem is an arrest of a vessel or other property. The following documents are required:

- A Civil Cover Sheet (JS-44).
- An original, signed Complaint.

If a Warrant in Rem is to be issued at the time of filing, the following documents are required:

- Motion for Substitute Custodian.
- Proposed Order.

- Motion Directing the Clerk to Issue the Warrant.
- Warrant of Arrest.

Any such suit or action should be brought in the district where the action arose or where the defendant is located. If the *defendant* is not located in this District, the venue is the location where the *plaintiff* is located.

The Deputy Clerk will check the JS-44 to verify that it has been completed (*i.e.*, county, parties, origin, nature of suit and signature, etc.). If the original is “refiled,” a copy of the order that closed/dismissed the previous case must be provided and attached to the JS-44.

A filing fee of \$350.00 payable to the “Clerk, United States Courts” or an original IFP Motion in lieu of the filing fee is required.

No prepayment of the filing fee is required if filed as a Seamen Action under 28 U.S.C. §1916. However, it is the responsibility of the filing party to pay the filing fee upon termination of the case.

4) Release of Vessel/Writ of Restitution for Cause Pending

(Fed. R. Civ. P. Supplemental Rules for Admiralty and Maritime and the Local Rules.) This is the process used for the release of a vessel.

The following documents are required:

- Original, signed Claim of Owner (signature of filing party).
- Original, signed Release Bond (signature of filing party).

NOTE: *The bond required is the amount of the claim plus six percent (6%) interest per annum from the date claimed to be due to a date twenty-four (24) months after the date the claim was filed, or by filing an approved stipulation or bond for the amount alleged plus interest as computed in this subsection (Fed. R. Civ. P. Rule E (5)(a) Admiralty and Maritime Claims and Local Rule E(8)(a)(1)).*

- Original U.S. Marshals Cost Form indicating that all U.S. Marshals Service costs have been paid.
- All unliquidated items, such as attorneys fees, Court costs, interest, etc., must be satisfied, or a stipulation by both parties or a Court order is required to release the vessel.

There is no filing fee for this proceeding.

I) Registration of a Judgment from Another District

The Judicial Improvements Act of 1988, as amended, permits judgments for money or property to be registered for immediate execution in another district. Effective February 17, 1989, judgments may be registered at any time, even when an appeal is pending, when ordered by the court that entered the judgment for good cause shown.

The following documents are required:

- Original, signed Civil Cover Sheet.
- Certified copy of the Judgment form from the district court where the judgment originated (AO451), or in the alternative, an order from said Court directing the Clerk to register such.
- Certified copy of the judgment from the originating district court. A certified copy will be returned to you, without cost, to record in the appropriate county recorder's office.

A filing fee of \$39.00 payable to "Clerk, United States Courts" is required.

J) Enforcement of Judgments

Enforcement of Judgment is the process used to enforce a judgment for the payment of monies.

The following documents are required:

- Writ of Execution (see [Section L](#) of this document)
- Writ of Garnishment (see [Section M](#) of this document)

Prepare and file five proposed Writs of Execution to include one signed original, one copy for the Court, *and* three for the United States Marshals Service.

Prepare and file five proposed writs to include one signed original, one copy for the Court's financial records, one copy to serve upon the party, *and* one to be returned to the Clerk's Office to document the return of service.

Service must be provided by a private process server; therefore, submit an original and one copy of the Motion for Appointment of a Process Server (Appendix H). The absence of the filing of this motion does not preclude the writ from being issued.

K) Amended Complaint

An amended complaint is filed to change a previously-filed complaint.

The following documents are required:

- An original, signed Amended Complaint.
- Motion for Leave to File an Amended Complaint, if applicable.
- Proposed Order.

An amended complaint can be filed *without* permission of the Court *only if no answer* to the original complaint has been filed.

If an answer has *not* been filed, file the original amended complaint and one copy for each defendant named in the suit and summonses, if additional defendants have been added to the complaint.

NOTE: Pursuant to Local Rule 15.1, any amendment to a pleading, whether filed as a matter of course or upon a successful motion to amend, must reproduce the entire pleading as amended, except by leave of the Court. If an answer has been filed, the party must move the Court for an order allowing the amended complaint to be filed, or must secure written consent of the adverse party. Summonses will not be issued at this time.

L) Writ of Execution

The issuance of Writs of Execution by a federal district court is controlled by the law of the state in which the district court is located. (Fed. R. Civ. P. 69.) A Writ of Execution is an order directing an officer of the court to seize property from a debtor to satisfy a judgment.

Prepare and file an original, signed [Writ of Execution](#) setting forth the amount of the judgment and the name of the party against which the judgment is being executed.

Prepare and file five writs. The Deputy Clerk will research the case to confirm that the writ complies with the judgment and that:

- The judgment is final (*i.e.*, that 10 days have passed from the date the judgment was entered on the docket.)
- *If* the judgment is currently on appeal *and* bond has not been posted, that 30 days have passed since the date the judgment was entered on the docket. (If 30 days have not passed since the judgment was entered, the writ cannot be issued.)
- A supercedas bond has *not* been posted.
- There is *no* pending motion that would preclude the issuance of the writ (*i.e.* motion for a new trial.)
- The amount stated in the motion and in the writ does not exceed the amount of the judgment.

The Deputy Clerk will sign, date, and seal three writs and return two of the issued writs to the filing party.

M) Writ of Garnishment

The issuance of Writs of Garnishment by a federal district court is controlled by the law of the state in which the district court is located. Under Florida law, post-judgment Writs of Garnishment can be issued only after the judgment creditor files a motion. (Fed. R. Civ. P. 64.) A Writ of Garnishment is an order directing a third party to turn over property held for a debtor to a specified creditor for the purpose of satisfying a judgment.

The following documents are required:

- Motion to Issue Writ of Garnishment stating the amount of a judgment and that the movant does not believe the defendant is in possession of visible property on which a levy can be made sufficient to satisfy the judgment. (Fla. Stat. 77.03 [2003].) The latter establishes “good cause” for issuance of the writ.
- An original, signed Writ of Garnishment setting forth the amount of the judgment and the names of the parties against which a judgment has been entered.

Prepare an original, signed motion and an original, signed proposed Writ of Garnishment and five copies to include one original, one for the Court’s financial records, one to serve on the party, *and* one to be returned to the Clerk’s Office to document the Return of Service.

The Deputy Clerk will research the case to confirm that the writ complies with the judgment and that:

- The judgment is final (*i.e.*, that 10 days have passed from the date the judgment was entered on the docket).
- *If* the judgment is currently on appeal *and* bond has not been posted, that 30 days have passed since the date the judgment was entered on the docket. (If 30 days have not passed since the judgment was entered, the writ cannot be issued.)
- A supersedeas bond has *not* been posted.
- There is *no* pending motion that would preclude the issuance of the writ (*i.e.*, motion for a new trial).
- The amount stated in the motion and in the writ does not exceed the amount of the judgment.

The Deputy Clerk will sign, date, and seal three writs and return two of the issued writs to the filing party.

There is no filing fee; however, a \$100.00 deposit into the Court Registry is required when the Writ is issued. (Florida Statute 77.28 and AO - 90-104 & 98-51.)

N) Writ of Restitution

A Writ of Restitution is a form prepared by the Clerk's Office to release a vessel or property. The following documents are required:

For a Cause Pending:

- Original Claim of Owner.
- Stipulation/Consent. (If not present, it is necessary to have a Motion and Order for the Release of the Vessel.)
- Release Bond (cash or surety). If the amount of the bond is not otherwise stipulated by both parties, the bond will be in the amount of the claim plus 6% interest for two years (Principal x 6% x 2 = the amount of bond.)
- Original U.S. Marshals Cost or Release Form Notice indicating that all costs have been paid.

For a Cause Terminated:

- Original Claim of Owner.
- Original U.S. Marshals Cost or Release Form Notice indicating that all costs have been paid.
- Order for the Release of the Vessel.

V. APPEALS TO THE UNITED STATES COURT OF APPEALS

The United States District Court System is comprised of 94 judicial districts, which are divided into 12 regional circuits. Each circuit has a United States Court of Appeals (USCA) which hears appeals from all the district courts located within its circuit as well as appeals from federal administrative agencies. In addition, a Federal Circuit was created in 1982. The Court of Appeals for the Federal Circuit has nationwide jurisdiction to hear appeals in specialized cases, such as those involving patent laws and cases decided by the Court of International Trade and the Court of Federal Claims. The cases it hears are determined by subject matter, not geography.

The Southern District of Florida is part of the Eleventh Circuit, which has jurisdiction over federal cases originating in the states of Alabama, Florida and Georgia. The Eleventh Circuit is comprised of nine district courts (the three states divided into three districts each – northern, middle and southern).

Upon the conclusion of the case, the USCA will enter a written opinion. A copy of this opinion will be forwarded to the District Judge by the USCA. If any party to the appeal does not agree with the opinion entered, that party will have thirty (30) days from the date of the opinion to petition the USCA for a re-hearing. If the petition for re-hearing is granted, the USCA will take the matter under review.

A filing fee of \$455.00 payable to the “Clerk, United States Court” is required.

Appeals proceeding *in forma pauperis* or under the Criminal Justice Act (CJA)

If trial counsel was appointed for a defendant in the District Court under the Criminal Justice Act, the party is not required to prepay costs or establish the right to proceed *in forma pauperis* on appeal. The same applies in civil cases where a party was permitted to proceed in the District Court *in forma pauperis* (such as prisoner petitions). The right to proceed *in forma pauperis* on appeal does not have to be re-established. If it is a criminal appeal and the appellant has proceeded in the District Court with a Court-appointed attorney, obtain a copy of the appropriate order, and include it in the packet.

VI. ADMISSION TO THE FEDERAL BAR

A) Application and Exam

Every attorney who files on behalf of a party in the Southern District of Florida must be admitted to the Federal Bar of the Southern District of Florida. In order to be admitted, an attorney must pass the Southern District's Bar exam. The applicant must receive a passing grade on the Uniform Examination, approved and adopted by the District Examination Committees of the Southern District of Florida.

The following documents are required:

- A Petition for Admission (allows the applicant to take the Federal Bar exam).
- A Certificate of Good Standing from The Florida Bar or Supreme Court of Florida issued no more than 90 days prior to the date of the Federal Bar exam.

A filing fee of \$175.00 payable to the "Clerk, United States Courts" is required.

NOTE: *Petitions are available at all Clerk's Offices or on our [website](#).*

B) Volunteer Lawyers' Project for Southern District of Florida

All attorneys admitted to the Southern District of Florida are expected to join the Court's Volunteer Lawyers' Project (VLP). The program's goal is to provide /pro bono/ legal representation for indigent, *pro se* litigants in civil cases, to assist the court in handling *pro se* cases, and to expand opportunities for lawyers to satisfy their professional obligation to provide legal services to indigent litigants.

Note: Information on joining the VLP may be found on their [website](#) or by contacting the VLP at 305-373-4334 or volunteerlawyers@bellsouth.net.

C) Pro Hac Vice Appearance

An attorney who is a member in good standing of the bar of any United States Court or the highest court of any state or territory or insular possession of the United States, but is not admitted to practice in this District, may be permitted to appear and participate in a particular case. The attorney must certify that he/she has studied the Local Rules of this District and such application shall designate a member of the bar of this Court to serve as an advisor. An attorney who is not a member of the Southern District of Florida Bar may move the Court to make a limited appearance ("*pro hac vice*" meaning "in a particular case only").

In order to file documents or appear before the Court, an attorney who is not admitted to the Southern District of Florida Bar must *conventionally* file a Motion to Make a Limited

Appearance (*Pro Hac Vice*) for **each** case in which an appearance will be made. Such motions will *not* be accepted electronically. (A Notice of Appearance is *not* a Motion to Appear *Pro Hac Vice* and does *not* require a filing fee.) If granted, such limited appearance does not constitute formal admission to the bar of this Court. While the attorney permitted to make limited appearances will not be permitted to file electronically in CM/ECF, he or she will be able to electronically receive Notices of Electronic Filings (NEF).

A filing fee of \$75.00 payable to the "Clerk, United States Courts" is required.

D) Government Attorneys

A government attorney is any full-time U.S. Attorney, Assistant U.S. Attorney, Federal Public Defender or Assistant Federal Public Defender employed full time by and representing the United States government, or any agency thereof, and any Attorney General and Assistant Attorney General of the State of Florida.

Government attorneys may appear and participate in actions or proceedings on behalf of the attorney's employer in the attorney's official capacity without petition for admission to the Southern District of Florida Bar; however, they must file a letter with the Clerk of Court stating that they represent the government. The letter must include the attorney's Florida Bar number. If the attorney does not have a Florida Bar number, the last four digits of the attorney's social security number and year of birth must be provided. Government attorneys are required to register for CM/ECF.

VII. MEDIATION

[L.R.16.2 D](#) implemented Court-annexed mediation in the District and defined the types of cases subject to mediation and the procedures for referring a case to mediation.

Mediation is a supervised settlement conference presided over by a mediator to promote conciliation, compromise and the ultimate settlement of a civil action prior to trial.

The Clerk of Court maintains a list of certified mediators from which a mediator is randomly selected when the parties to a case cannot agree on a mediator and request that the Clerk appoint one. To become a certified mediator in the District, one must submit a written application to the Clerk's Office in Miami. The application is reviewed by an *ad hoc* committee on mediation and final approval of the committee's recommendations rests with the Chief Judge. A list of certified mediators is available on the court's website (www.flsd.uscourts.gov) and at the Intake Section at any of the Clerk's Offices.

If a request for the Clerk to appoint a mediator is filed conventionally, the request should be processed in accordance with conventional filing procedures.