

**ADMIRALTY AND MARITIME RULES
SAMPLE FORM**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. ____-Civ or Cr-(USDJ's last name/USMJ's last name)
"IN ADMIRALTY"

Plaintiff,

v.

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 _____, _____, Plaintiff initiated the above-styled action against the vessel _____, her boats, tackle, apparel, furniture and furnishings, equipment, engines and appurtenances.

(2) On _____, _____, the Clerk of the Court issued a Warrant of Arrest against the vessel _____, directing the United States 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, United States Coast Guard within twenty-four 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)(ii).

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 _____, ____.

SIGNATURE OF COUNSEL OF RECORD
Attorney Name (Bar Number)
Attorney E-mail Address
Firm Name
Street Address
City, State, Zip Code
Telephone: (xxx)xxx-xxxx
Facsimile: (xxx)xxx-xxxx
Attorneys for Plaintiff [Party Name(s)]

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.

Effective Dec. 1, 1994. Amended effective April 15, 1998; April 15, 2001; April 15, 2007; April 15, 2010; April 15, 2011.