

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

IN RE:

AMENDMENTS TO THE LOCAL RULES

Administrative Order 2006-02

FILED by W D.C.

JAN 10 2006

CLARENCE MADDOX
CLERK U. S. DIST. CT.
FED. DIST. COURT - MIAMI

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 report of the Court's Ad Hoc Committee on Rules and Procedures with regard to proposed amendments, in the form attached, to Local General Rules 1.1.B, 3.8, 3.9, 5.1.A.6, 7.1.B, 7.1.C.1, 7.3, 12.1, 16.3, 88.3, 88.4, and 88.11; Appendix A to the Local General Rules, the Discovery Practice Handbook; the Magistrate Judge Consent Form; Rule IX.A of the Rules Governing Attorney Discipline; and Rule 1 of the Special Rules Governing the Admission and Practice of Attorneys, and with regard to the adoption of a set of Internal Operating Procedures to be published on the Court's Web site. Upon consideration of the public comments received and the reports of the Ad Hoc Committee, it is hereby

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

ORDERED that the Internal Operating Procedures are adopted in the form attached;

IT IS FURTHER ORDERED that the foregoing rule amendments and Internal Operating Procedures shall take effect on April 15, 2006, and shall govern all proceedings thereafter commenced and, insofar as just and practicable, all proceedings then pending.

IT IS FURTHER ORDERED that the Clerk of the Court is directed, 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 Miami-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.

6 **DONE AND ORDERED** in Chambers at Fort Lauderdale, Broward County, Florida this day of January, 2006.



WILLIAM J. ZLOCH
CHIEF UNITED STATES DISTRICT JUDGE

copy: Honorable J.L. Edmondson, Chief Judge
United States Court of Appeals for the Eleventh Circuit
All Southern District Judges and Magistrate Judges
Norman E. Zoller, Circuit Executive, Eleventh Circuit
Thomas Meeks, Chair, Ad Hoc Committee on Rules & Procedures
All members of the Ad Hoc Committee on Rules and 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, and each subsequent year's amendments shall take effect on April 15 of that year 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, the 2000 amendments shall take effect on April 15, 2000, the 2001 amendments shall take effect on April 15, 2001, the 2002 amendments shall take effect on April 15, 2002, the 2003 amendments shall take effect on April 15, 2003, and the 2004 amendments shall take effect on April 15, 2004, and shall govern all proceedings thereafter commenced and, insofar as just and practicable, all proceedings then pending.

* * * * *

Effective Dec. 1, 1994; amended effective April 15, 1996; April 15, 1997; April 15, 1998; April 15, 1999; April 15, 2000; April 15, 2001; April 15, 2002; April 15, 2003; April 15, 2004; April 15, 2005; April 15, 2006.

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. ~~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;~~

unnecessary duplication of judicial labor if heard by a different Judge, the Judges involved shall determine whether the newly filed action or proceeding shall be transferred to the Judge to whom the earlier filed action or proceeding is assigned.

D. — ~~Notice to Court.~~ It shall be the continuing duty of the Clerk and of the attorneys of record in every action or proceeding to bring promptly to the attention of the Court and opposing counsel the existence of other actions or proceedings as described in Section 2.15.00 of the Court's Internal Operating Procedures paragraphs A, B, and C hereof, as well as the existence of any similar actions or proceedings then pending before another court or administrative agency. Such notice shall be given by filing with the Court and serving on counsel a "Notice of Pendency of Other Actions," containing a list and description thereof sufficient for identification.

Comments

(2006) Amendment to conform to Court's adoption of Internal Operating Procedures.

RULE 5.1 FILING AND COPIES

A.

* * * * *

6. Include (a) a signature block with the name, street address, telephone number, facsimile telephone number, e-mail address, and Florida Bar identification number of all counsel for the party and (b) a certificate of service which refers to an attached Service List containing the name, street address, telephone number, facsimile telephone number, and e-mail address of all counsel for all parties, including the attorney filing the pleading, motion, or other paper. See Form following this rule.

* * * * *

SAMPLE FORM FOLLOWING RULE 5.1

[Two-hole punched at top of page]
[1" from top of page, and centered,
begin title of court]

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

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

A.B.,

Plaintiff,

vs.

[Leave space for
Clerk's filing stamp]

C.D.,

Defendant.

_____ /

TITLE OF DOCUMENT

Dated: Month day, year
City, State

Respectfully submitted,

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/Defendant [Party Name(s)]

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was served by [specify method of service] on [date] on all counsel or parties of record on the attached service list.

Attorney Name

SERVICE LIST

Case No. _____ -Civ or Cr-(USDJ’s last name/USMJ’s last name)

Attorney Name

Attorney Name

Attorney E-mail Address

Attorney E-mail Address

Firm Name

Firm Name

Street Address

Street Address

City, State zip code

City, State zip code

Telephone: (xxx) xxx-xxxx

Telephone: (xxx) xxx-xxxx

Facsimile: (xxx) xxx-xxxx

Facsimile: (xxx) xxx-xxxx

Attorneys for Plaintiff/Defendant

Attorneys for Plaintiff/Defendant

[Party Name(s)]

[Party Name(s)]

RULE 7.1 MOTIONS, GENERAL

* * * * *

B. Hearings. No hearing will be held on motions unless set by the Court. Hearings shall be set by the Court under the following circumstances:

1. A party who desires oral argument or a hearing of any motion shall request it in writing by separate request accompanying the motion or opposing memorandum. The request shall set forth in detail the reasons why a hearing is desired and would be helpful to the Court and shall estimate the time required for argument. The Court in its discretion may grant or deny a hearing as requested, upon consideration of both the request and any response thereto by an opposing party.

2. Discovery motions may be referred to and heard by a United States Magistrate Judge.

3. With respect to:

a. any motion or ~~any other~~ matter which has been pending and fully briefed with no hearing set thereon for a period of 90 days, and

b. any motion or other matter as to which the Court has conducted a hearing but has not entered an order or otherwise determined the motion or matter within 90 days of the hearing.

1 the Clerk of the Court shall send to the Court and to all parties a “Notification of 90 days
2 Expiring and Ripeness for Hearing.” Any party may request the Clerk to do so, and in that
3 event, the Clerk shall not file the request in the Court file nor indicate the identity of the
4 party making the request. When the Court receives such notification, it shall set the matter
5 for hearing within 10 days of receipt of the notification or shall issue an order resolving
6 the motion or other matter during that same 10 day period.the movant or applicant,
7 whether party or non-party, shall file and serve on all parties and any affected non-parties
8 a “Notification of 90 Days Expiring” which shall contain the following information:
9

10 (1) the title and docket entry number of the subject motion or other application,
11 along with the dates of service and filing;
12

13 (2) the title and docket entry number of any and all responses or opposing
14 memoranda, along with the dates of service and filing, or if no such papers have
15 been filed, the date on which such papers were due;
16

17 (3) the title and docket entry number of any reply memoranda, or any other
18 papers filed in connection with the motion or other matter, as well as the dates
19 of service and filing; and
20

21 (4) the date of any hearing held on the motion or other matter.
22

23 The “Notification of 90 Days Expiring” shall be filed within ten days of the expiration
24 of the applicable 90 day period.
25

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28 C.

29 * * * * *

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32 1. *Time.* Time shall be computed under this Rule as follows:

33
34 (a) If the motion or memorandum was served by mail, count ~~three (3)~~ ten (10) days
35 (five (5) days for a reply) from the date the motion, response, or memorandum to which
36 one is responding was certified as having been mailed. Do not include Saturdays,
37 Sundays, or legal holidays. Beginning on the next business calendar day, (i.e. not on
38 including Saturday, Sunday, or a legal holiday), count ten (10) ~~three~~ days, (for an opposing
39 memorandum) or five (5) days (for a reply) excluding Saturdays, Sundays and legal
40 holidays. The ~~tenth or fifth~~ third days is the due date for the opposing memorandum or
41 reply, respectively. If the third day falls on a Saturday, Sunday, or legal holiday, the due
42 date is the next business day.
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Comments

(2006) Local General Rule 7.1.B.3 is amended to assist the Court's expeditious determination of motions or other matters. Local General Rule 7.1.C.1 is amended to correspond to Fed.R.Civ.P. 6(e).

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11

RULE 7.3 ATTORNEYS FEES AND COSTS

12

A. Motions for Attorneys Fees and/or Costs Upon Entry of Final Judgment or Order.

13 Any motion for attorneys fees and/or costs: (i) must specify the judgment and the statute, rule, or
14 other grounds entitling the moving party to the award; (ii) must state the amount or provide a fair
15 estimate of the amount sought; (iii) shall disclose the terms of any agreement with respect to fees
16 to be paid for the services for which the claim is made; (iv) shall describe in detail the number of
17 hours reasonably expended, the bases for those hours, the hourly rate(s) charged, and identity of
18 the timekeeper(s); (v) shall describe in detail all reimbursable expenses; (vi) shall be verified; (vii)
19 shall be supported by an affidavit of an expert witness; and (viii) shall be filed and served within
20 30 days of entry of a final judgment or other appealable order that gives rise to a right to attorneys
21 fees and/or costs. Any such motion shall be accompanied by a certification that counsel has fully
22 reviewed the time records and supporting data and that the motion is well grounded in fact and
23 justified. ~~A bill to tax costs pursuant to 28 U.S.C. § 1920 shall be filed and served within 30 days~~
24 ~~of entry of Final Judgment or other appealable order which gives rise to a right to tax costs.~~ Prior
25 to filing a motion for attorneys fees and/or costs ~~or bill to tax costs~~, counsel shall confer with
26 opposing counsel and make a certified statement in the motion ~~or bill~~ in accordance with Local
27 General Rule 7.1.A.3. The motion ~~or bill~~ shall also state whether a hearing is requested by any party
28 and indicate the length of time desired for the hearing. The prospects or pendency of supplemental
29 review or appellate proceedings shall not toll or otherwise extend the time for filing of a motion for
30 fees and/or bill to tax costs with the district court.

31
32

B. Motions for Attorneys Fees and/or Costs Prior to Entry of Final Judgment.

33 Any motion for attorneys fees and/or ~~or bill to tax costs~~ made before entry of final judgment or other
34 appealable order must: (i) specify the statute, rule, or other grounds entitling the moving party to
35 the award; (ii) must state the amount or provide a fair estimate of the amount sought; (iii) shall
36 disclose the terms of any agreement with respect to fees to be paid for the services for which the
37 claim is made; (iv) shall describe in detail the number of hours reasonably expended, the bases for
38 those hours, the hourly rate(s) charged, and identity of the timekeeper(s); (v) shall describe in detail
39 all reimbursable expenses; (vi) shall be verified; and (vii) shall be supported by an affidavit of an
40 expert witness. Any such motion shall be accompanied by a certification that counsel has fully
41 reviewed the time records and supporting data and that the motion is well grounded in fact and
42 justified. Prior to filing a motion for attorneys fees and/or ~~or bill to tax costs~~, counsel filing the
43 motion shall confer with opposing counsel and make a certified statement in the motion ~~or bill~~ in

1 accordance with Local General Rule 7.1.A.3. The motion shall also state whether a hearing is
2 requested.

3
4 C. Bill of Costs. A bill of costs pursuant to 28 U.S.C. § 1920 shall be filed and served
5 within 30 days of entry of Final Judgment or other appealable order which gives rise to a right to
6 tax costs under the circumstances listed in 28 U.S.C. § 1920. An application for a bill of costs must
7 be submitted on form (or in a form substantially similar to) AO 133 of the Administrative Office
8 of the United States Courts. The bill of costs should attach copies of any documentation showing
9 the amount of costs. The prospects or pendency of supplemental review or appellate proceedings
10 shall not toll or otherwise extend the time for filing of a bill of costs with the district court.

11
12 Comment

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14 (2006) The amendments are designed to distinguish between a bill of costs, which
15 is authorized by 28 U.S.C. § 1920, and a motion for costs, which arises in circumstances
16 other than those listed in 28 U.S.C. § 1920.
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20 **RULE 12.1 CIVIL RICO CASE STATEMENT**

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24 5. Describe in detail the pattern of racketeering/criminal activity or collection of an unlawful
25 debt for each RICO claim. A description of the pattern of racketeering/criminal activity shall:

26
27 a. separately list the predicate acts/incidents of criminal activity and the specific statutes
28 violated by each predicate act/incident of criminal activity;

29
30 b. separately state the dates of the predicate acts/incidents of criminal activity, the
31 participants and a description of the facts surrounding each predicate act/incident of criminal
32 activity;

33
34 c. if the RICO claim is based on the predicate offenses of wire fraud, mail fraud, ~~fraud in~~
35 ~~the sale of securities,~~ fraud in connection with a case under U.S.C. Title 11, or fraud as defined
36 under Chapter 817, Fla.Stat., the “circumstances constituting fraud or mistake shall be stated with
37 particularity,” Fed.R.Civ.P. 9(b) (identify the time, place, and contents of the misrepresentation or
38 omissions, and the identity of persons to whom and by whom the misrepresentations or omissions
39 were made);

40
41 d. state whether there has been a criminal conviction for any of the predicate acts/incidents
42 of criminal activity;

1 e. describe in detail the perceived relationship that the predicate acts/incidents of criminal
2 activity bear to each other or to some external organizing principle that renders them “ordered” or
3 “arranged” or “part of a common plan”; and
4

5 f. explain how the predicate acts/incidents of criminal activity amount to or pose a threat of
6 continued criminal activity.
7

8 * * * * *

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10 **Comments**

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12 (2006) Local General Rule 12.1.5.c is amended to delete “fraud in the sale of
13 securities” as a predicate act to conform with Section 107 of the Private Securities
14 Litigation Reform Act of 1995, which amended 18 U.S.C § 1964(c) to eliminate this act
15 as a predicate for a federal civil RICO claim.
16

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19 **RULE 16.3 CALENDAR CONFLICTS**

20
21 ~~**A. Priorities.** In resolving calendar conflicts between the federal courts or~~
22 ~~between this Court and the courts of the State of Florida, the following case priorities must~~
23 ~~be considered:~~
24

25 1. ~~Criminal cases should prevail over civil cases.~~

26 2. ~~Jury trials should prevail over non-jury trials.~~

27 3. ~~Appellate arguments, hearings, and conferences should~~
28 ~~prevail over trial court proceedings.~~

29 4. ~~The case in which the trial date has been first set by written~~
30 ~~order should take precedence.~~
31

32
33
34 ~~**B. Additional Circumstances.** Factors such as cost, numbers of witnesses~~
35 ~~and attorneys involved, travel, length of trial, age of case, and other relevant matters may~~
36 ~~warrant deviation from these case priorities.~~
37

38
39 ~~**C. Notice and Agreement; Resolution by Judges.**~~
40

41 When an attorney is scheduled to appear in two courts at the same time and cannot arrange
42 for other counsel to represent the clients' interests, the attorney shall give prompt written notice of
43 the conflict to opposing counsel, the clerk of each court, and the presiding judge of each case, if
44 known, and shall present a copy of any prior written trial setting or other conflicting scheduling

1 order. If the presiding judge of the case cannot be identified, written notice of the conflict shall be
2 given to the chief judge of the court having jurisdiction over the case, or to the chief judge's
3 designee. ~~The judges or their designees shall confer and undertake to avoid the conflict by~~
4 ~~agreement among themselves. Absent agreement, conflicts should be promptly resolved by the~~
5 ~~judges or their designees in accordance with the above case priorities.~~

6
7 Authority

8
9 (2006) *Krasnow v. Navarro*, 909 F.2d 451 (11th Circuit 1990)

10
11 Comments

12
13 (2006) Portions of rule 16.3 were deleted as being duplicative of the Court's
14 Internal Operating Procedures.

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20 **RULE 88.3 PETTY OFFENSES – PUBLIC BUILDINGS**

21
22 **A. Collateral and Mandatory Appearance.**

23
24 1. Petty offenses, which as defined in 18 U.S.C. § 19, which are committed on or within
25 the perimeter of Federally-owned or controlled buildings, for which collateral may be posted
26 and forfeited in lieu of appearance by the person charged, together with the amount of collateral
27 to be posted and offenses for which a mandatory appearance is required shall be in accordance
28 with schedules which may from time to time be approved by the Court and filed with the Clerk.
29

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33 **RULE 88.4 CERTAIN OFFENSES PERTAINING TO – NATIONAL PARKS,
34 PRESERVES, GOVERNMENT RESERVATIONS, HISTORIC SITES, TREATIES,
35 AND WILDLIFE ACTS**

36
37 **A. Covered Offenses.** This Rule shall apply to petty offenses, as defined in 18 U.S.C.
38 § 19, and to certain misdemeanors as shall be identified from time to time by the Court in
39 collateral schedules. Collectively, these petty offenses and identified misdemeanors shall be
40 referred to for purposes of the Rule as covered offenses²².
41
42
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RULE 88.11 AFTER HOURS CRIMINAL DUTY PROCEDURES

When a defendant is arrested after hours (in the evening, on the weekend, on a holiday, or in the daytime during the business week at a time that does not permit an appearance at the prescribed session of Magistrate Court), the Duty AUSA shall contact the Duty Magistrate Judge for the purpose of having a bond set.

Once the Duty Magistrate Judge sets a bond, the Duty AUSA shall transmit the bond information to the Duty Marshal and/or to the arresting agents who shall transmit the bond information to the booking officials at the receiving institution. A "permanent" bond shall be set for the defendant at the next available prescribed Duty Magistrate Judge Court session when the defendant appears for initial appearance.

For arrests that occur during the business week, prior to the end of the business day but subsequent to a time when an initial appearance at the prescribed session of Magistrate Judge Court can be made, the Duty AUSA shall contact the Duty Magistrate Judge in chambers for the purpose of having a temporary bond set. As with after hours arrests, the Duty AUSA shall transmit the bond information to the Duty Marshal and/or the arresting agents. If the Duty Magistrate Judge is on the bench when a Duty AUSA calls for the purpose of having a temporary bond set, the Duty Magistrate Judge will return the Duty AUSA's call as soon as the Duty Magistrate Judge gets off the bench.

For after hours arrests, the Duty AUSA shall leave a message on the magistrate judge's beeper or cell phone. If by beeper, the call will be returned by the magistrate judge. Once the magistrate judge sets a bond, the Duty AUSA shall transmit the bond information to the Duty Marshal and/or the arresting agents for transmittal to the receiving institution. Routine arrests occurring after 10:00 p.m. need not be communicated to the Duty Magistrate Judge that night, but shall be reported by the Duty AUSA to the Duty Magistrate Judge the following morning. In emergency situations, the Duty Magistrate Judge may be contacted directly at any hour.

Since a probable cause determination must be made within forty-eight hours of all arrests, a criminal complaint must be presented directly to a magistrate judge for review and approval in all cases where the initial appearance will not take place within forty-eight hours of an arrest.

All after-hours Duty arrests (including but not limited to arrests on warrants where bonds have already been endorsed/set) shall be reported to the Duty Magistrate Judge by the Duty AUSA.

Comments

(2006) The Duty AUSA shall transmit the bond information to assure that any interested party can readily ascertain the temporary bond which has been set for a particular defendant. The Duty AUSA (evening or weekend) should contact the Duty Magistrate Judge the Friday before the Duty AUSA's tour of duty, to discuss the Duty Magistrate

Judge's preference regarding taking duty calls. Some magistrate judges may prefer to have the Duty AUSA contact them directly, rather than by beeper. All after-hours Duty matters should be coordinated through the Duty AUSA. For example, when an arrest is authorized by a non-Duty AUSA, that arrest should be coordinated through and/or with the Duty AUSA. At a minimum, the Duty AUSA should be made aware of all after-hours Duty activities by other AUSA's. There are at least two reasons for the procedure that all after-hours Duty arrests must be reported to the Duty Magistrate Judge. First, there may be confusion as to whether an "endorsed" bond is a judge-set bond or an AUSA recommended bond. Second, the Duty Magistrate Judge must be made aware of all arrests occurring after hours, to enable the Duty Magistrate Judge to respond to related inquiries.

APPENDICES

APPENDIX A. DISCOVERY PRACTICES HANDBOOK

* * * * *

I. DISCOVERY IN GENERAL

* * * * *

B. Filing of Discovery Materials.

* * * * *

(3) *Filing Under Seal.* Documents and things may be filed under seal in accordance with the procedures set forth in Local General Rule ~~5.4~~–5.4.

D. Timeliness and Sanctions.

* * * * *

(3) *Objections.* When objections are made to discovery requests, all grounds for the objections must be specifically stated. When objections are untimely made, they are waived. See Local General Rule ~~26.1.G.6.a.~~ 26.1.G.3.a.

II. DEPOSITIONS

A. General Policy and Practice.

(1) *Scheduling.* A courteous lawyer is normally expected to accommodate the schedules of opposing lawyers. In doing so, the attorney can either prearrange a deposition, or notice the deposition while at the same time indicating a willingness to be reasonable about any necessary rescheduling. Local General Rule ~~26.1.J.~~ 26.1.J requires at least five (5) working days’ notice in writing to every other party and to the deponent (if a non-party) for a deposition in this State, and ten (10) working days’ notice for an out-of-state deposition. Noncompliance obviates the need for protective ~~Order~~order.

Notwithstanding the foregoing, in accordance with ~~Rule FED.R.CIV.P. 32(a)(3),~~ 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 ~~FED.R.CIV.P. Rule 6(a),~~ 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.

* * * * *

E. Depositions of Experts. A party may depose any person who has been identified as an expert whose opinions may be presented at trial. FED.R.CIV.P. 26(b)(4)(A). However, Local General Rule ~~26.1.F.(1)(c)~~26.1.F.1.b provides that an expert’s deposition may not be conducted until after the expert summary or report required by Local General Rule ~~16.1.K.~~16.1.K is provided.

III. PRODUCTION OF DOCUMENTS

A. Preparation and Interpretation of Requests for Documents.

* * * * *

(5) *Objections.* Absent compelling circumstances, failure to assert objections to a request for production within the time period for a response constitutes a waiver of grounds for objection, and will preclude a party from asserting the objection in a response to a motion to compel. Objections should be specific, not generalized. See Local General Rule ~~26.1.G.6.a.~~26.1.G.3.a.

V. PRIVILEGE

A. Invocation of Privilege in Other Discovery.

Where a claim of privilege is asserted in responding or objecting to other discovery devices, including interrogatories, requests for documents and requests for admissions, and information is not provided on the basis of such assertion, the ground rules set forth above shall also apply. Local General Rule ~~26.1.G.6(b)~~, 26.1.G.3, Southern District of Florida. The attorney seeking disclosure of the information withheld may, for the purpose of determining whether to move to compel disclosure, serve interrogatories or notice the depositions of appropriate witnesses to establish other relevant information concerning the assertion of the privilege, including (a) the applicability of the privilege being asserted, (b) circumstances which may constitute an exception to the assertion of the privilege, (c) circumstances which may result in the privilege having been waived, and (d) circumstances which may overcome a claim of qualified privilege.

VI. MOTIONS TO COMPEL OR FOR A PROTECTIVE ORDER

* * * * *

C. Time for Filing. Local General Rule ~~26.1.H(1)~~ 26.1.H.1 requires that all motions related to discovery, including but not limited to motions to compel discovery and motions for protective order, be filed within thirty (30) days, absent a showing of reasonable cause for a later filing, may constitute a waiver of the relief sought.

**MAGISTRATE JUDGE RULES
FORMS**

CONSENT TO PROCEED BEFORE A UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. _____

_____))
Plaintiff,

vs.

_____))
Defendant.

CONSENT TO PROCEED BEFORE A UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of 28 U.S.C. § 636(c), the parties to the above-captioned civil matter hereby waive their right to proceed before a District Judge of this Court and consent to have a United States Magistrate Judge conduct any and all further proceedings in the case (including the trial) and order the entry of judgment.

~~Any appeal shall be taken to the United States Court of Appeals for this Judicial Circuit, in accordance with 28 U.S.C. § 636(c)(3), unless all parties further consent, by signing below, to take any appeal to a District Judge of this Court, in accordance with 28 U.S.C. § 636(c)(4).~~

* * *

Comments

(2006) The form for Consent to Proceed Before a United States Magistrate Judge is amended to reflect the amendment to 28 U.S.C. § 636(c), which eliminated appeals by consent of the parties to district judges.

RULES GOVERNING ATTORNEY DISCIPLINE

RULE IX. REINSTATEMENT

A. After Disbarment or Suspension. An attorney suspended for three months or less shall be automatically reinstated at the end of the period of suspension upon the filing with this Court of an affidavit of compliance with the provisions of the order. An attorney suspended for

1 more than three months or disbarred may not resume the practice of law before this Court until
2 reinstated by order of the Court. An attorney seeking reinstatement after reciprocal disbarment or
3 suspension must meet the same criteria as an attorney seeking original admission under Rule 1 of
4 the Special Rules Governing the Admission and Practice of Attorneys, in that he or she must first
5 seek and obtain reinstatement by the Florida Bar.

6
7 Effective Dec. 1, 1994. Amended effective April 15, 20026.

8
9 Comments

10
11 (2006) Section A amended to clarify that a petitioner seeking reinstatement after
12 reciprocal disbarment must first be reinstated in Florida.

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14
15
16 **SPECIAL RULES GOVERNING THE ADMISSION AND PRACTICE OF**
17 **ATTORNEYS**

18
19 **RULE 1. QUALIFICATIONS FOR ADMISSION**

20
21 An attorney is qualified for admission to the bar of this district if the attorney is (1)
22 currently a member in good standing of The Florida Bar; and (2) has received a passing score on
23 the ~~Uniform Examination~~; approved and adopted by the ~~District Examination Committee of the~~
24 ~~Northern District of Florida~~, the Ad Hoc Committee on Attorney Admissions, Peer Review and
25 Attorney Grievance of the Southern District of Florida, and by the ~~respective Courts~~, testing
26 knowledge of the Federal Rules of Criminal and Civil Procedure, the Federal Rules of Evidence,
27 and the law of federal jurisdiction and venue. The ~~E~~examination shall also contain sections testing
28 knowledge of the local rules of ~~the Southern and Northern Districts~~this District. Admission to the
29 ~~Southern and Northern~~ this Districts requires successful completion of the ~~applicable local rules~~
30 ~~section either at the time the Uniform Examination is given or at such subsequent time that the~~
31 ~~applicant takes the applicable local rules section(s)~~. An applicant may take the ~~E~~examination three
32 times in any calendar year. However, if the applicant fails to pass the ~~E~~examination after three
33 attempts, he or she must wait a full calendar year before reapplying.

34
35 Effective Dec. 1, 1994; amended effective Jan. 1, 1996; April 15, 20026.

36
37 Comments

38
39 (2006) Amended to eliminate references to a common test with the Northern District of
40 Florida, which has been eliminated.

**INTERNAL OPERATING
PROCEDURES
OF THE
UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF FLORIDA**



Adopted July 1991
Revised August 12, 2005

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INTERNAL OPERATING PROCEDURES

INTRODUCTION

These are the procedures for the Court's internal operations, compiling in summary form various administrative orders, minutes of Executive Committee and Judges' meetings, and previously unwritten customs and practices of the Court. They set out the procedures generally to be used by chambers and the Office of the Clerk of the Court in performing certain administrative tasks.

While the procedures are public and available on request, litigants acquire no rights under them. A current copy of these procedures is also available at the Court's web site <http://www.flstd.uscourts.gov/>. The judges of the Court have agreed to observe all Local Rules and these internal operating procedures in the conduct of Court business.

IOP 1.00.00 ADMINISTRATIVE ORDERS

The Clerk of Court, who is responsible for the care, custody and safekeeping of court records, shall, upon receipt of originals of administrative orders signed by the Chief Judge, file stamp and log them in. Original administrative orders shall be maintained in binders in the Clerk's Office. Copies shall be maintained by the Circuit Librarian and made available to the public.

When an administrative order is sent to the Chief Judge for signature, it must include a date and a sequential number obtained from the Clerk of Court.

The Clerk of Court will make distribution of the orders, unless the Chief Judge elects to do so. The Clerk's Office will publicize administrative orders by providing them to the Daily Business Review, as appropriate, and posting them on the Court's website and in public areas of the Clerk's Office.

IOP 1.01.00 Internal Operating Procedures

The Clerk of Court is responsible for maintaining the original Internal Operating Procedures ("IOPs"), notifying the Court of all subsequent changes in the IOPS, and making sure all new judges receive copies of the IOPs.

IOP 2.00.00 RANDOM ASSIGNMENT OF NEW CASES

IOP 2.01.00 Wheel Consolidation

In an effort to ensure equitable distribution of cases, the criminal and civil wheels were consolidated effective January 1, 2002, as follows: (1) The civil A & B wheels are combined into a single wheel from which all new civil cases, but for capital habeas petitions, will now be assigned; (2) The criminal categories I-II, III, IV, and V wheels are likewise consolidated into a single criminal wheel from which all new criminal cases will now be assigned.

IOP 2.02.00 "One Division" Rule

In the interest of reducing the expense and inconvenience to litigants and counsel associated with holding and attending court in distant locations, the Court will, to the extent possible, limit the assignment of cases outside of the division of their origination. Although the distribution of judges and filings across the District rules out a system in which each judge's caseload is equal and is composed entirely of cases originating in the division in which the judge sits, it is possible to limit case assignments to the originating division or an immediately contiguous division. Stated more simply, under this rule, when a newly-filed case must be assigned to a judge outside of the division of its origination, it will be assigned to a judge who sits in a neighboring division. Under this rule, hereafter referred to as the "one division

rule,” no Miami cases will be assigned to a judge who sits in the Palm Beach division, and vice versa. When, for example, there is a need to assign a Palm Beach case to a Judge outside that division, only Fort Lauderdale Judges will be chosen for assignment.

IOP 2.02.01 Implementation of One Division Rule

The “One Division Rule” will commence with the first wheel replenishments occurring after January 1, 2002. Thereafter, every attempt will be made to assign the maximum numbers of cases arising in a particular venue to the judges who preside in that venue.

IOP 2.02.02 Exceptions to the One Division Rule

The rule does not consider the Key West and Fort Pierce wheels, in which participation is voluntary, nor does it prohibit senior judges from taking assignments in any division they might prefer. Moreover, as an accommodation to the Court, active Judges may from time to time be authorized to accept new assignments in a manner contrary to the rule. For example, Judge Middlebrooks is currently, as an accommodation to the Court, taking a fixed percentage of criminal cases originating in Miami, although he now presides in West Palm Beach. Finally, there may well be unanticipated emergencies which might require some limited two-division spillover assignment to maintain equality of caseload. The existence of an emergency sufficient to require varying from the rule, however, will be determined only by the Clerk in consultation with the Court.

IOP 2.03.00 Calculation of Senior Judge Participation

Senior judge participation in the case assignment system shall be calculated as a percentage of an active judge’s average.

IOP 2.04.00 Assignment of Cases to Newly Appointed Judges

Newly appointed judges shall be placed on the case assignment wheel no later than fifteen (15) days after they are first sworn to perform their judicial duties.

IOP 2.05.00 Transfer of Cases to Newly Appointed Judges

IOP 2.05.01 Civil

The average number of pending civil cases per active judge shall be determined by dividing all civil cases pending before active judges as of a given date by the number of active judges. **Example:** 1000 pending civil cases divided by 15 judges, equals 67 cases per judge.

The same process is then applied after adding the number of new judges to the number of active judges. Example: Two new judges are appointed. 1000 pending civil cases divided by 17 judges, equals 59 cases per judge.

Each active judge will transfer the difference in the average number of pending cases after accounting for the new judges. Example: Using the above formula, four new cases are transferred to each new judge, for a total of eight transferred cases.

The Clerk's Office will randomly select the cases to be transferred in consideration of the new judge's divisional location. Every attempt will be made to give the new judge the same proportion of “home” division cases as the other active judges in that division, as appropriate.

IOP 2.05.02 Criminal

Each judge shall transfer to the new judge a number of criminal cases to be determined by the Court.

IOP 2.05.03 Cases Excluded from Reassignment

Criminal cases which the United States Attorneys' Offices has declared or which the judge anticipates will require more than 21 days to try, as well as cases involving bond jumping, are not subject to reassignment. Habeas corpus death cases, consolidated cases including multi-district litigation cases, 2255s, Fort Pierce and Key West cases, sealed cases, civil cases pending 18 months or longer, and cases received via transfer or recusal are also excluded from the reassignment process. In addition the transferring judge may exclude from transfer any case that has involved a substantial amount of judicial effort or in which any motion is pending that is ripe for disposition by that judge.

IOP 2.05.04 Procedures after Reassignment

The Clerk of Court shall furnish each transferring judge with a list of cases to be transferred as of a date certain (the “transfer date”).

After receiving the list of cases to be transferred, the transferring judge shall, within 30 days, rule upon all pending motions and transfer those cases selected by the Clerk to the newly-appointed judge. If any case on the list is excluded from transfer, pursuant to Rule 2.05.03, or is for other reasons not an appropriate case for transfer, the transferring judge shall select the next case in sequence on his or her list that is eligible for transfer and transfer it to the new judge. Thereafter, the transferring judge shall make no adjustments.

Judges shall not issue “boiler-plate” orders denying pending motions without prejudice to review same before the new judge.

All transferring judges must complete a status sheet in the form prepared by the Clerk for every case transferred.

IOP 2.05.05 Recusals After Transfer

New judges receiving transferred cases should make reasonable efforts within the first 120 days following transfer to determine if grounds exist requiring recusals. If, within the first 120 days following transfer, a new judge determines that he or she must recuse, the new judge shall enter an order of recusal, and send the case back to the transferring judge. The transferring judge shall select and transfer a substitute case. If, after the expiration of 120 days following transfer, a new judge determines that he or she must recuse, the new judge shall enter an order of recusal, and the case shall be reassigned by the Clerk following normal procedures.

IOP 2.06.00 Transfer of Higher-Numbered Cases

Each division in the Southern District of Florida has its own series of numbers which are sequentially assigned to cases. Therefore, for the purpose of higher-numbered transfers, the “lower-numbered” case refers to the earlier-filed case. The judge assigned the higher-numbered case shall prepare a proposed Order of Transfer and a Notice to the parties that the higher-numbered case is transferred to the docket of the judge having the lower-numbered case, effective upon that judge’s consent to the transfer.

The transferring judge shall forward a copy of the transfer order to the transferee judge for review. The transferee judge must respond to the proposed transfer within thirty days from the date the transferring judge forwards the file. A case will be automatically assigned to the receiving judge if that judge has not responded to the transfer request within thirty days. The transferring judge shall use a form providing for signature by the accepting judge.

Subject to the above time limitation, the transfer of the higher-numbered case must be with the consent and approval of the receiving judge.

No higher-numbered transfer shall be initiated by a judge ordering the Clerk of Court to reassign the case to another judge.

IOP 2.07.00 Miscellaneous Transfers and Reassignments

Judges may confer and directly transfer all or any part of a case on the judge's docket to any consenting judge. Notice shall be provided to all parties.

IOP 2.08.00 Assignment of Cases and Referrals to Magistrate Judges

IOP 2.08.01 Magistrate Judge Pairing Plan

The judges shall be paired to individual magistrate judges by the Chief Judge in consideration of the following:

- 1) the equal distribution of workload among the magistrate judges and,
- 2) the preferences of the district judges, including senior judges, taking into consideration their seniority and their past referral practices.

The pairing shall be for a period of three years in order to promote continuity in the processing of cases, while allowing each magistrate judge to have exposure to several district judges during his or her term.

As of April 1, 2002, and subsequently at the end of each three year period in all cases assigned to district judges with whom the magistrate judge is not paired, each magistrate judge shall retain until disposition all previously referred fully briefed motions. In addition, each magistrate judge shall dispose of all other referred motions that become ripe for disposition in such cases until all fully briefed motions have been ruled upon by the magistrate judge. Upon the magistrate judge's disposition of all fully briefed motions in any case assigned to a district judge with whom the magistrate judge is not paired, the magistrate judge shall certify to the district judge to whom the case is assigned that all such motions have been ruled upon and the district judge will then issue an order directing the clerk of court to transfer the case to the "paired magistrate judge." The magistrate judges shall use their best efforts to dispose of all motions in cases assigned to district judges with whom they are not paired within 60 days of the commencement of the three year rotation.

1. In the event of a higher-numbered case transfer or a recusal by a district judge within 30 days of a case assignment, the Clerk's Office shall concurrently reassign the case to a district judge and the magistrate judge with whom the newly-assigned district judge is paired. In the case of all other district judge recusals, the procedures set forth above with respect to the disposition of fully briefed motions prior to transfer shall apply.
2. In any case filed after April 1, 2002, from which a magistrate judge recuses himself or herself, the Clerk's Office shall randomly assign another

magistrate judge to the case. For any case filed before April 1, 2002, which is subject to transfer pursuant to the Court's Magistrate Judge Pairing Plan, but with respect to which the transferee magistrate judge recuses himself or herself, the case shall be returned to the transferor magistrate judge.

3. District judges shall retain full discretion concerning the type and volume of matters referred. However, referrals shall be only to the "paired" magistrate judge, unless a district judge after conferring with and obtaining the agreement of the district judges with whom another magistrate judge is paired determines that a case or motions should be assigned to or remain with such other magistrate judge (e.g., because of a prior related case, because a magistrate judge has devoted substantial time to an unusually complex case, or for some other meritorious reason), and so notify the Clerk's Office in writing.
4. Any consent trial, consent motion for summary judgment, and other "consent motion" shall remain with the magistrate judge who was assigned to the case when the consent was given.

IOP 2.09.00 Motions for Travel Referrals to a Magistrate Judge

Any motion for travel by a defendant released on bond will be ruled on by the district judge to whom the defendant's case is assigned unless that district judge specifically refers the matter to the magistrate judge with whom the district judge is paired for criminal matters. Magistrate judges must have an order of referral prior to acting on such a motion.

IOP 2.10.00 Assignment by Reason of Disability, Disqualification, or Death of a Judge

Reassignments necessitated by the death, retirement, resignation, or incapacity of any judge, or by any other circumstances, shall be determined at the discretion of the Chief Judge.

IOP 2.11.00 Assignment to Visiting Judges

Cases may be assigned to visiting judges at the discretion of the Chief Judge.

IOP 2.12.00 Death Penalty/Habeas Corpus Cases

Each active judge shall have one case assignment ballot in the death penalty/habeas corpus wheel and may not be assigned another death penalty/habeas corpus case until every other judge has received one and the wheel has been refilled. In the event the judge whose ballot is drawn is out of the district, his ballot will be reinserted into the wheel and another ballot will be drawn.

Once the Governor signs a death warrant, but before the case is filed, a judge will be drawn from the capital wheel. If the case does not come to federal court, that judge's ballot will be reinserted in the wheel.

In all death cases, an initial status conference shall be scheduled within five business days after assignment to a judge. If an evidentiary hearing is required, or if additional oral argument is scheduled, that hearing shall be conducted no later than thirty days after the initial hearing. In addition, the assigned judge will, in appropriate circumstances, enter the following:

1. An order directing the respondent to file a response and furnish transcripts of the trial and other hearings within five days from the date the petition is filed;
2. An order directing the parties to complete the habeas corpus check list recommended by the Eleventh Circuit Court of Appeals within twenty-four hours of the filing of the petition.
3. The judge shall render a final written opinion within five months of the conclusion of the last hearing held. All habeas corpus death cases shall be decided in the Southern District of Florida within a maximum period of six months and five days from the date of the filing of the petition. If a judge is unable to complete a final written opinion within five months of the final hearing, that judge will notify the Chief Judge in writing. The notification shall describe the reasons for the delay and the expected completion date.

The Chief Judge may assist the assigned judge by reassigning any other criminal cases assigned to that judge until the completion of the death case. If a petition for rehearing is filed, it shall be ruled on within sixty days from the date of filing. The Clerk shall notify the assigned judge and the Chief Judge in the event the deadline is not met.

IOP 2.13.00 Court Policy for Scheduling Trials and Calendar Conflicts Arising in the Southern District of Florida

In resolving any calendar conflicts among the judges of this district and between judges of this district and state judges, the following procedures and priorities are established:

1. Criminal cases shall prevail over civil cases.
2. Jury trials shall prevail over non-jury trials.
3. Court of Appeals arguments and hearings shall prevail over trials.

4. The case in which the trial date has been first scheduled in writing shall take precedence over any later written or oral order scheduling trial.
5. A trial in progress prevails over those that have not yet begun.
6. Circumstances such as cost, number of witnesses and attorneys involved, travel, length of trial, age of case, and other relevant matters may warrant deviation from this policy. Such matters should be resolved through communication between the judges involved.
7. Unless precluded by constitutional or statutory considerations, scheduling conflicts of Criminal Justice Act (CJA) attorneys should be given priority during any given calendar. Judges should be sensitive to the competing commitments of a Criminal Justice Act attorney's caseload absent compelling circumstances which militate against accommodating that attorney's scheduling request.
8. The Court should entertain motions for continuances, timely notices of scheduling conflicts, and/or notices of emergency proceedings in another court, either federal or state, on a timely basis and grant such relief when requested.

IOP 2.14.00 Emergency Matters

Any emergency matter arising in a case pending before a judge who is physically absent from the Southern District of Florida, or who is on vacation, may, upon written certification of unavailability from the judge's chambers, be referred to the Clerk for reassignment under a blind random assignment procedure. Such reassignment shall be limited only to the immediate relief sought, and the case for all other purposes and proceedings shall remain on the docket of the judge to whom it was originally assigned.

IOP 2.15.00 Transfer of Refiled and Similar Actions and Procedures

A. Refiled. Whenever an action or proceeding previously dismissed without prejudice is refiled without a substantial change in issues or parties, judges should confer and discuss whether the case should be transferred to the judge who previously dismissed the action or proceeding and, upon agreement, it shall be transferred to the judge who previously dismissed the action or proceeding.

B. Post-conviction Relief, Criminal. Whenever a second or subsequent action seeking post-conviction or other relief petition for writ of habeas corpus is filed by the same applicant involving the same offense, the action shall be transferred to the Judge who took the action from which review is sought, or any successor Judge. All

motions under 28 U.S.C. § 2255 shall be assigned to the Judge who took the action from which review is sought, or any successor Judge.

C. Similar. Whenever an action or proceeding is filed in the Court which involves subject matter which is a material part of the subject matter of another action or proceeding then pending before this Court, or for other reasons the disposition thereof would appear to entail the unnecessary duplication of judicial labor if heard by a different Judge, the Judges involved shall determine whether the newly filed action or proceeding shall be transferred to the Judge to whom the earlier filed action or proceeding is assigned.

IOP 2.16.00 Recusals

Recusal orders may refer to Title 28 U.S.C. § 455 as grounds for recusal. Whether to recite additional reasons for recusal shall be left to the sound discretion of the recusing judge.

IOP 2.16.01 Recusals in Cases Pending Two Years or More

When a judge receives a case on reassignment from a recusing judge and the case has been in the recusing judge's inventory two years or more, the receiving judge may transfer a like case to the recusing judge.

IOP 2.17.00 Assignment of Cases to Chief Judge

The Chief Judge may elect to take a reduced caseload in consideration of the increased administrative duties for which the Chief Judge is responsible.

IOP 3.00.00 ADMINISTRATIVE DUTIES AND RESPONSIBILITIES OF THE CHIEF JUDGE

IOP 3.01.00 Judicial Administration

The Chief Judge shall have the following powers and duties:

- To convene and preside at the meetings of the judges, regular and special.
- To set and preside over all en banc and ceremonial sessions of the Court.
- To be an ex officio, voting member of each Standing or Ad Hoc Court Committee.
- To be the spokesperson for the Court to the public, the Bar, other government agencies and the judicial establishment.

- To appoint the Chief Bankruptcy Judge and the Chief Magistrate Judge and to determine the term for each.
- To promulgate duty rosters for all duty positions established by the Court.
- In the event of natural disaster or other serious emergency, to close all operations of the Court at any or all of the facilities in which the Court operates.
- To exercise such other powers and duties as may be assigned to the Chief Judge from time to time by the Court or by statute.
- Whenever an active judge retires from the Court, or a courtroom and chambers becomes available in any division of the Court, the Chief Judge shall poll the active judges to determine which, if any of them, seek assignment to the vacant position. When more than one active judge seeks assignment to a vacant or newly available position, the Chief Judge shall assign the position to the most senior active judge seeking it.
- The Chief Judge provides direction and supervision for the District's component offices including:
 - United States Bankruptcy Court
 - United States Magistrate Judges
 - Clerk's Office
 - United States Probation Office
 - United States Pretrial Services Office
- The Chief Judge is responsible for implementing and enforcing all administrative policies of the United States District Court for the Southern District of Florida, the Eleventh Circuit Judicial Council, and the Judicial Conference of the United States, and all statutes and regulations pertaining to administrative matters of the Court.
- The Chief Judge may appoint "any officer of the Court" (i.e., Clerk of Court and Chief Probation Officer) when a majority of the Court cannot agree on the appointment.
- The Chief Judge, or his designee, shall consider and approve annual and sick leave requests and authorize travel for the Clerk of Court, Chief Probation Officer, Chief Pretrial Services Officer and other employees as may be required by law or Judicial Conference policy.

- The Chief Judge is responsible for the review and approval of all construction projects for the Court and all architectural plans and drawings for such construction.
- In emergency situations, the Chief Judge, after consulting with the Early Dismissal Committee, will implement the Emergency Notification Procedures. Emergency situations are those deemed by the Chief Judge to be of sufficient magnitude to cause serious and hazardous conditions to the health and safety of Federal employees. **The decision for early dismissal or closure will be at the sole discretion of the Chief Judge.** A decision by the Chief Judge for early dismissal or closure related to weather conditions affecting Miami, Fort Lauderdale, or West Palm Beach will apply to all Court locations in the District. Once the decision is made for early dismissal or closure, all Clerk's Office staff must be released.
- The Chief Judge monitors, reviews, and recommends amendments to the Local Rules of Court as well as the following District operating plans:
 - Jury Utilization
 - Jury Selection and Service Act
 - Court Reporter Management Plan
 - Speedy Trial Act
 - Attorney Admissions
 - Automation
 - Equal Employment Opportunity
 - Emergency Notification Procedures
- The budgeting process contemplates that spending plan requests submitted by judges will be solicited, compiled, and submitted to the Committee on Budget and Fiscal Management for consideration in a timely fashion.
- The Chief Judge chairs the District's Standing Committee on Court Security and Hurricane Preparedness. The United States Marshal, the Federal Bureau of Investigation, the Drug Enforcement Administration, and all other federal agencies are required to immediately notify the Chief Judge concerning any threat to the person, property, welfare, or security of any judge or court employee.
- The Chief Judge is responsible for approving requests of probation and pretrial services officers, submitted through the chiefs of those departments, for approval to carry firearms.
- The Chief Judge, in concert with the Eleventh Judicial Council, is responsible for providing Congress with specific data supporting any request to establish a location for holding court.

- The Chief Judge, or his designee, reviews the Employment Dispute Resolution Coordinator's findings as to complaints of discrimination and presides over any necessary proceedings. The Chief Judge, or his designee, sits as the appeals officer for EDR actions and terminations.
- The Chief Judge must concur in any request to the Circuit Judicial Council for additional temporary assistance based on a declaration of a judicial emergency by a district judge, bankruptcy judge, or magistrate judge.
- The Chief Judge reviews complaints of judicial misconduct or disability pursuant to Addendum Three, Local Rules of the Eleventh Circuit Court of Appeals.
- The Chief Judge certifies to the Chief Judge of the Eleventh Circuit and the Inter-Circuit Assignment Committee of the Judicial Conference of the United States, the need for visiting judges in the Southern District of Florida, and prepares and supervises the fair and equitable distribution of cases to visiting judges. The Clerk of Court shall arrange for staff, chambers, and trial-ready cases pursuant to the directions of the Chief Judge. The Chief Judge, or a designee, may conduct calendar calls for visiting judges.
- The Chief Judge is responsible for making all committee appointments. Traditionally, the Chief Judge has sought the advice and counsel of other judges respecting membership on the Court Committees.

IOP 3.02.00 Bankruptcy

The Chief Judge designates a Chief Bankruptcy Judge whenever a majority of the district judges are unable to agree in the designation.

IOP 3.02.01 Implementation of Set Term for Chief Bankruptcy Judge

The Chief Judge shall set the term for the Chief Bankruptcy Judge.

IOP 3.03.00 Case Assignments and Case Management

The Chief Judge, or his designee, (together with the Circuit's Judicial Council and the Administrative Office) receives and reviews the Circuit Executive's separate quarterly reports on district, magistrate, and bankruptcy cases and motions held under advisement for more than sixty days.

The Chief Judge ensures the case assignment system promotes the effective disposition of protracted, difficult, or unusual cases.

The Chief Judge should be informed about and should inform the other district judges when matters concerning the district are before the Eleventh Circuit Judicial Council.

The Chief Judge oversees implementation of the Court's rules for case assignment, and ensures an equal division of the business of the Court among the judges insofar as the Court's rules and orders do not otherwise prescribe.

IOP 3.04.00 Jury Administration

The Chief Judge, or his designee, is responsible for reviewing from time to time and supervising the implementation of the Court's Jury Plan.

The Chief Judge signs all orders for the summoning of jury pools for grand and petit juries in Miami, Fort Lauderdale, West Palm Beach, Key West, and Fort Pierce.

IOP 3.04.01 Jury Policy

The Court has agreed that the below guidelines will be followed in connection with the utilization of jury panels:

1. Any judge who is willing to volunteer to commence jury selection in the afternoon (noon or later) should advise the Jury Administrator.
2. Judges should only request the number of jurors that can reasonably be inquired of on a particular day (e.g. with a "high-profile" case, or one that will involve extensive jury voir dire do not request all the jurors that may eventually be necessary). For example, even though a large or special panel of 200 or more may be necessary for a particular case, usually no more than 50 jurors can usually be questioned on a single day.
3. Judges should not unnecessarily direct the excusal of jurors (e.g., if some jurors are excused or challenged during voir dire, they should not be instructed to go home, go to lunch, or come back on a day certain as the jury staff may want to utilize those jurors in another way).

4. No jury panel should be summoned on Fridays. Additionally, if judges compress their jury selections on Monday through Wednesday, the Jury Administrator can more effectively “pool” jury panels for use by more than one judge.
5. During the winter months, the Court should be mindful of releasing jurors after dark.

IOP 3.05.00 United States Magistrate Judges

The Chief Judge may appoint or reappoint United States magistrate judges if there is no concurrence among the judges.

The Chief Judge must certify that no full-time magistrate judge is available when parties request a part-time magistrate judge to preside over a civil proceeding in accordance with 28 U.S.C. § 636(c)(1).

The Chief Judge must agree to a temporary emergency assignment of a magistrate judge from one district to another.

The Chief Judge shall take such actions as the Court considers appropriate in the case of a magistrate judge whose conduct becomes the object of an official circuit council committee investigation.

The Chief Judge is responsible for certifying to the Administrative Office the names of persons selected to be United States magistrate judges and requesting FBI or other background security checks on the individuals selected by the Court.

IOP 4.00.00 DUTIES AND RESPONSIBILITIES OF MAGISTRATE JUDGES

IOP 4.01.00 Duties of the Chief Magistrate Judge

Serves as liaison between the district judges and magistrate judges.

Schedules and presides over meetings of the magistrate judges.

Serves on committees as the Chief Judge may determine.

Coordinates magistrate judge leave requests, duty responsibilities, and emergency assignments as necessary.

IOP 4.02.00 Magistrate Judges

Conditions of Employment:

The United States magistrate judges are appointed by the Court in accordance with the provisions of 28 U.S.C. § 631. Full-time magistrate judges serve a term of eight years and part-time magistrate judges serve for four years. The procedures for the appointment or removal of a magistrate judge are governed by statute. The district judges may select one full-time magistrate judge to serve as the Chief Magistrate Judge performing administrative functions.

Duties:

The United States magistrate judges of the Southern District of Florida are authorized to perform the full range of functions permitted by the jurisdictional statute, 28 U.S.C. § 636, as implemented by the Magistrate Section of the Local Rules of Court.

In Miami, when a civil or criminal case is filed, the Clerk of Court assigns a magistrate judge for the purpose of handling matters referred by the assigned district judge pursuant to the Miami Magistrate Judge Pairing Assignment Plan.

When a civil case is filed in Fort Lauderdale, West Palm Beach, or Fort Pierce, the Clerk of Court assigns a magistrate judge for the purpose of handling matters referred by the assigned district judge pursuant to the Central (Fort Lauderdale) and Northern (West Palm Beach, Fort Pierce) Divisions Pairing Plan.

In civil and criminal matters not yet filed with the Clerk of Court, such as applications for seizure warrants, pen register and trap and trace, administrative inspection warrants, electronic transponders, and search warrants, the magistrate judges shall perform all functions within their jurisdiction.

A Duty Magistrate Judge shall be available at all times to perform such functions. The Duty Magistrate Judge shall be reasonably available at the Courthouse during regular business hours and by telephone at all other times. The Duty Magistrate Judge should handle *emergency* arrest warrants in connection with pretrial supervision matters rather than referring such matters to the judge to whom the case is assigned.

IOP 5.00.00 COMMITTEE ASSIGNMENTS

The size of each Court Committee shall be determined and the Chair of each Committee shall be appointed by the Chief Judge. To create greater participation and collegiality within the Court, magistrate judges may serve as voting members of both Standing and Ad Hoc Committees.

The Chief Judge shall be an ex-officio voting member of all of the Standing Committees.

IOP 5.01.00 Standing Committees

There shall be certain Standing Committees as an integral part of the Court's operation. Standing Committees shall remain in existence and operate continuously provided, however, that the Chief Judge, at any time, may terminate the existence of a Standing Committee, create one or more new Standing Committees, or combine the functions of Standing Committees already in existence.

IOP 5.02.00 Ad Hoc Committees

There shall be such Ad Hoc Committees as the Chief Judge and/or the Court shall from time to time create. At the time of the creation of an Ad Hoc Committee, its purpose and function shall be defined. It shall remain in existence until the Chief Judge determines that its purpose and function have been completed or for the term set for its existence.

IOP 6.00.00 COURT REPORTERS

The official court reporters of the Southern District of Florida will comply with the requirements of the Court Reporter Plan established by the Court December 1, 1982, and revised March 14, 2002, and by the Guide to Judiciary Policies and Procedures, Volume I, Chapter IV, part A, effective January 1, 1983.

Court reporters who are "in trial" should be left in trial rather than assigned to other judges.

Court reporters who are not certified for "real time" reporting cannot be paid the real time rate.

IOP 7.00.00 COURTROOM SCHEDULING

The Clerk of Court will maintain a master list of courtroom assignments wherein each district judge shall be assigned his or her own courtroom.

Should a judge be involved in a trial in which his or her courtroom space is inadequate, the judge shall immediately contact the Clerk of Court and request a larger courtroom.

When a Southern District judge finds he or she must try a case in another division of the district, the judge will contact the Clerk of Court to obtain an available courtroom. If the case is expected to be protracted, the request must be in writing and signed by the judge. In the event the particular space requested has already been reserved by another judge, the Clerk of Court shall notify the requesting judge, both orally and in writing, that the space is not available.

It shall be the responsibility of any judge who has reserved space to immediately notify the Clerk of Court of the cancellation of such reservation in the event that the space is not needed.

A judge may be assigned to only one courtroom at a given time. There will be no double reservation of courtrooms unless a judge is simultaneously presiding over separate trials.

Any judge requiring additional temporary space for use by trial counsel, or for storage of sensitive trial materials, irrespective of the courtroom assigned for his or her use, shall request temporary assignment of additional space through the Chief Judge.

IOP 8.00.00 DUTY JUDGE

On a monthly rotating basis, the Court shall designate from, the active resident judges, a Duty Judge for the Miami, Fort Lauderdale, and West Palm Beach Divisions.

The Duty Judge should be present in the district and available for handling Duty Judge matters at all times during the month assigned. If it is necessary for the Duty Judge to be out of the district for a short period of time during the assignment month, it is the Duty Judge's responsibility to make arrangements with another judge to handle all Duty Judge matters, and to notify the Chief Judge and Clerk of Court of his or her absence.

IOP 8.01.00 The Duty Judge's functions are as follows:

- Handle all grand jury matters. This includes convening grand juries and ruling on matters affecting those grand juries during each month's duty. Grand jury matters, and all matters reasonably related to the original grand jury matter, will be handled by the district judge before whom the original matter was filed. The Clerk's Office will call the offices of the Duty Judge to attempt to arrange a time convenient to the Judge for the empanelment of the grand jury (if one is scheduled for that month), but if the jurors have already been summoned, the date will be firm and the Judge will adjust his or her schedule accordingly. Once the date for the empanelment is set by the Duty Judge in consultation with the clerk, the date will be firm and not subject to change. Rule 6(f) of the Federal Rules of Criminal Procedure makes provisions for a grand jury return to be taken by a United States Magistrate Judge. However, whether the District Judge or the Magistrate Judge will take a return will be determined by the Duty Judge. Until Rule 6(f) is further construed, a District Judge should handle immunization of witnesses and all matters that pertain to contempt.
- Preside over all court naturalization ceremonies and emergency naturalization matters in the Duty Judge's Division.
- Preside over matters arising from Magistrate Judges' proceedings which are not assigned to a District Judge, including but not limited to, applications for review of bonds and competency examinations.
- Transfer of Probation from foreign districts.
- Swearing in of attorneys to practice.
- Preside over wire tap applications in matters not assigned to any District Judge, with the exception that trap-and-trace and pen register orders will continue to be handled by the Magistrate Judges. All extensions, including all matters reasonably related to the original investigation, will be handled by the District Judge who granted the original application.
- Approval of issuance of warrants of arrest in admiralty cases in any division where the assigned judge is out of the district or is otherwise unavailable.
- The Duty Judge may preside over 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. After ruling on the emergency relief sought, and for all other purposes and proceedings, the case shall remain on the docket of the judge to whom it was originally assigned.

- The Duty Judge, his or her designee, or the Clerk's designee, as appropriate, determines the validity of juror qualifications, exemptions, or excuses.

IOP 10.00.00 INTERNET POLICY

Pursuant to the Internet Policy adopted by the Court, judges are asked to look after use of the Internet resource by their staff, and to be aware of the need to adhere to the District's policy.