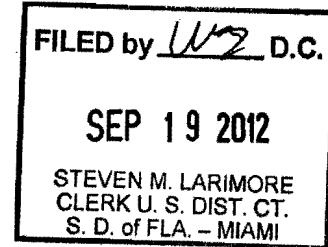


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

IN RE:

Administrative Order 2012-74

**AMENDMENTS TO THE LOCAL RULES -
NOTICE OF PROPOSED AMENDMENTS,
OF OPPORTUNITY FOR PUBLIC COMMENTS,
AND OF HEARING TO RECEIVE COMMENTS**



The Court's Ad Hoc Committee on Rules and Procedures has recommended that this Court amend the Local General Rules, including the Discovery Practices Handbook, the Admiralty and Maritime Rules, the Magistrate Rules, and the Special Rules Governing the Admission and Practice of Attorneys. In accordance with Fed. R. Civ. P. 83(a)(1) and Fed. R. Crim. P. 57(a)(1), it is hereby

ORDERED that the Clerk of the Court is directed to: (a) publish an abbreviated notice once in the Daily Business Review (in each edition published in Miami-Dade, Broward, and Palm Beach Counties, Florida) alerting the public of the opportunity to comment on the proposed rules; (b) post prominently on the Court's website this Order and the attached proposed rule amendments for the next 30 days; (c) provide notice to this Court's bar through the CM/ECF electronic noticing system; and (d) 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 proposed rule amendments for the next 30 days.

IT IS FURTHER ORDERED that the Court will conduct an *en banc* public hearing on the proposed rule amendments on November 8, 2012, at 3:00 p.m. at the Paul G. Rogers Federal Building and United States Courthouse, 701 Clematis Street, West Palm Beach, Florida 33401. Those who desire to appear and offer oral comments on the proposed rule amendments at this hearing shall file written notice to that effect with the Clerk of the Court no later than five days prior to the hearing. Those who desire to offer only written comments on the proposed rule amendments should do so in accordance with the mechanism provided on the Court's website in connection the publication of the proposed rule amendments.

DONE AND ORDERED in Chambers at Miami, Florida this 10th day of September, 2012.



FEDERICO A. MORENO
CHIEF UNITED STATES DISTRICT JUDGE

Copies furnished to:

Honorable Joel F. Dubina, Chief Judge, United States Court of Appeals for the Eleventh Circuit
All Southern District Judges and Magistrate Judges
James Gerstenlauer, Circuit Executive, Eleventh Circuit
Kevin Jacobs, Chair, Ad Hoc Committee on Rules and Procedures
All members of the Ad Hoc Committee on Rules and Procedures
Library

LOCAL RULES OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA

GENERAL RULES

Rule 3.3 Civil Cover Sheet

Every Complaint or other document initiating a civil action shall be accompanied by a completed civil cover sheet, ~~on a form available from the Clerk's Office.~~ See form available on the Court's website (www.flsd.uscourts.gov). This requirement is solely for administrative purposes, and matters appearing only on the civil cover sheet have no legal effect in the action. In the event counsel becomes aware of an error in the civil cover sheet, a written notice shall be filed identifying the error and serving same upon all counsel of record.

[Effective December 1, 1994. Amended effective April 15, 2007; December 3, 2012.]

Authority

(1993) Former Local Rule 4. Model Rule 3.1; paragraph allowing for filing certain cover sheets to be added nunc pro tunc and pro se exemption omitted.

(2012) Amended to eliminate reference to the civil cover sheet being available at the Clerk's Office and to direct readers to the Court's website instead.

Rule 7.3. Attorneys Fees and Costs

(a) Motions for Attorneys Fees and/or Non-Taxable Expenses and Costs. This rule provides a mechanism to assist parties in resolving attorneys fee and costs disputes by agreement. A motion for an award of attorneys fees and/or non-taxable expenses and costs arising from the entry of a final judgment or order shall not be filed until a good faith effort to resolve the motion, as described in paragraph (b) below, has been completed. The motion shall:

- (1) be filed within sixty (60) days of the entry of the final judgment or order giving rise to the claim, regardless of the prospect or pendency of supplemental review or appellate proceedings;
- (2) identify the judgment or other order which gives rise to the motion, as well as the statute, rule, or other grounds entitling the moving party to the award;
- (3) state the amount sought;
- (4) disclose the terms of any applicable fee agreement;
- (5) provide:
 - (A) the identity, experience, and qualifications for each timekeeper for whom fees are sought;

- (B) the number of hours reasonably expended by each such timekeeper;
 - (C) a description of the tasks done during those hours; and
 - (D) the hourly rate(s) claimed for each timekeeper;
- (6) describe and document with invoices all incurred and claimed fees and expenses not taxable under 28 U.S.C. § 1920;
- (7) be verified; and
- (8) certify that a good faith effort to resolve issues by agreement occurred pursuant to Local Rule 7.3(b), describing what was and was not resolved by agreement and addressing separately the issues of entitlement to fees and amount.

Within fourteen (14) days after filing and service of the motion, the respondent shall describe with reasonable particularity each time entry or nontaxable expense to which it objects, both as to issues of entitlement and as to amount, and shall provide supporting legal authority. If a party objects to an hourly rate, its counsel must submit an affidavit giving its firm's hourly rates for the matter and include any contingency, partial contingency, or other arrangements that could change the effective hourly rate. Pursuant to Federal Rule of Civil Procedure 54(d)(2)(C), either party may move the Court to determine entitlement prior to submission on the issue of amount. This Local Rule's requirements of disclosure are not intended to require the disclosure of privileged, immune, or protected material.

A party shall seek costs that are taxable under 28 U.S.C. § 1920 by filing a bill of costs and supporting memorandum in accordance with paragraph 7.3(c) below. The costs and expenses sought in a motion under this paragraph shall not include any cost sought in a bill of costs.

(b) Good Faith Effort to Resolve Issues by Agreement. ~~A-Except as to any aspect of a fee claim upon which the parties agree, a~~ draft motion compliant with Local Rule 7.3(a)(1)-(8) must be served but not filed at least thirty (30) days prior to the deadline for filing any motion for attorneys fees and/or costs that is governed by this Local Rule. Within twenty-one (21) days of service of the draft motion, the parties shall confer and attempt in good faith to agree on entitlement to and the amount of fees and expenses not taxable under 28 U.S.C. § 1920. The respondent shall describe in writing and with reasonable particularity each time entry or nontaxable expense to which it objects, both as to issues of entitlement and as to amount, and shall provide supporting legal authority. If a federal statute provides a deadline of fewer than sixty (60) days for a motion governed by Local Rule 7.3(a), the parties need not comply with this paragraph's requirements.

(c) Bill of Costs. A bill of costs pursuant to 28 U.S.C. § 1920 shall be filed and served within thirty (30) days of entry of final judgment or other appealable order that gives rise to a right to tax costs under the circumstances listed in 28 U.S.C. § 1920. Prior to filing the bill of costs, the moving party shall confer with affected parties under the procedure outlined in S.D.Fla.L.R.7.1(a)(3) in a good faith effort to resolve the items

of costs being sought.

An application for a bill of costs must be submitted on form (or in form substantially similar to) AO 133 of the Administrative Office of the United States Courts and shall be limited to the costs permitted by 28 U.S.C. § 1920. Expenses and costs that the party believes are recoverable although not identified in § 1920 shall be moved for as provided in paragraph 7.3(a) above. The bill of costs shall attach copies of any documentation showing the amount of costs and shall be supported by a memorandum not exceeding ten (10) pages. The prospects or pendency of supplemental review or appellate proceedings shall not toll or otherwise extend the time for filing a bill of costs with the Court.

[Effective December 1, 1994. Amended effective April 15, 1999; April 15, 2001; April 15, 2005; April 15, 2006; April 15, 2007; April 15, 2010; April 15, 2011; December 1, 2011; December 3, 2012.]

Authority

(1993) Former Local Rule 10F, renumbered per Model Rules.

Comments

(1993) There are considerable modifications to the existing Local Rule, including an attorney's certification, plus a requirement to confer in three days.

The authority of the Judges to regulate the mechanics of fee applications is clear. See *White v. New Hampshire Dept. of Employment*, 455 U.S. 445 (1982); *Knighton v. Watkins*, 616 F.2d 795 (5th Cir.1980); *Brown v. City of Palmetto*, 681 F.2d 1325 (11th Cir.1982); *Zaklama v. Mount Sinai Med. Center*, 906 F.2d 645 (11th Cir.1990).

(1994) The changes are designed to make certain portions of the Local Rule (but not the time period for filing) consistent with Federal Rule of Civil Procedure 54(d)(2)(B), as amended effective December 1, 1993, and to correct grammatical or typographical errors which appear in the current Local Rule. Local Rule 54(d)(2)(B) as amended leaves the disclosure of the fee agreement to the discretion of the Court. This Local Rule directs disclosure in every case.

(1999) This Local Rule has been amended to clarify that a motion for fees and costs must only be filed when a judgment or appealable order has been entered in the matter. A motion for fees and costs may be made before such a judgment or order has been entered where appropriate, such as when sanctions have been awarded during the course of such proceeding. However, in no event may a motion for fees or costs be made later than the date provided for in this Local Rule.

(2001) Applicability to interim fee applications clarified.

(2005) The amendments are designed to provide attorneys with more particularized information as to what must be included and filed contemporaneously with a motion for attorneys fees and/or costs. See *Norman v. Housing Auth.*, 836 F.2d 1292 (11th Cir. 1988), and progeny. The amendment to

this Local Rule separates a bill to tax costs from that of a motion for attorneys fees and/or costs. The changes also require attorneys to confer in good faith prior to the filing of a motion for attorneys fees and/or costs, which is a change from the 1993 amendment.

(2006) The amendments are designed to distinguish between a bill of costs, which is authorized by Title 28, United States Code, Section 1920, and a motion for costs, which arises in circumstances other than those listed in Title 28, United States Code, Section 1920.

(2010) Amended to conform tabulation to the style used in the federal rules of procedure and provide a new procedure for the resolution of an attorneys fees and/or costs motion, including elimination of the requirement of an expert witness.

(2011) Amended to make clear the difference between a bill of costs under 28 U.S.C. § 1920 and a motion to tax other costs, to clarify the duty to confer in good faith before submitting a bill of costs and to require a bill of costs to be supported by a memorandum of law.

(2011) Amended to make clear that the time periods required in paragraph (b) are not intended to apply where a federal statute applies shorter deadlines.

(2012) Amended to make clear that a draft fee motion need not be prepared on issues where the parties agree.

Rule 16.1. Pretrial Procedure in Civil Actions

(a) Differentiated Case Management in Civil Actions.

(1) *Definition.* "Differentiated Case Management" is a system for managing cases based on the complexity of each case and the requirement for judicial involvement. Civil cases having similar characteristics are identified, grouped and assigned to designated tracks. Each track employs a case management plan tailored to the general requirements of similarly situated cases.

(2) *Case Management Tracks.* There shall be three (3) case management tracks, as follows:

(A) *Expedited*-a relatively non-complex case requiring only one (1) to three (3) days of trial may be assigned to an expedited track in which discovery shall be completed within the period of ninety (90) to 179 days from the date of the Scheduling Order.

(B) *Standard Track*-a case requiring three (3) to ten (10) days of trial may be assigned to a standard track in which discovery shall be completed within 180 to 269 days from the date of the Scheduling Order.

(C) *Complex Track*-an unusually complex case requiring over ten (10) days of trial may be assigned to the complex track in which discovery shall be completed within 270 to 365 days from the date of the Scheduling Order.

(3) *Evaluation and Assignment of Cases.* The following factors shall be considered in evaluating and assigning cases to a particular track: the complexity of the case, number of parties, number of expert witnesses, volume of evidence, problems locating or preserving evidence, time estimated by the parties for discovery and time reasonably required for trial, among other factors. The majority of civil cases will be assigned to a standard track.

(4) The parties shall recommend to the Court in their proposed Scheduling Order filed pursuant to Local Rule 16.1(b), to which particular track the case should be assigned.

(b) Scheduling Conference and Order.

(1) *Party Conference.* Except in categories of proceedings exempted from initial disclosures under Federal Rule of Civil Procedure 26(a)(1)(B), or when otherwise ordered, counsel for the parties (or the party, if proceeding pro se), as soon as practicable and in any event at least twenty-one (21) days before a scheduling conference is held or a scheduling order is due under Federal Rule of Civil Procedure 16(b), *must* meet in person, by telephone, or by other comparable means, for the purposes prescribed by Federal Rule of Civil Procedure 26(f).

(2) *Conference Report.* The attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for submitting to the Court, within fourteen (14) days of the conference, a written report outlining the discovery plan and discussing:

(A) the likelihood of settlement;

(B) the likelihood of appearance in the action of additional parties;

(C) proposed limits on the time:

(i) to join other parties and to amend the pleadings;

(ii) to file and hear motions; and

(iii) to complete discovery.

(D) proposals for the formulation and simplification of issues, including the elimination of frivolous claims or defenses, and the number and timing of motions for summary judgment or partial summary judgment;

(E) the necessity or desirability of amendments to the pleadings;

(F) the possibility of obtaining admissions of fact and of documents, electronically stored information or things which will avoid unnecessary proof, stipulations regarding authenticity of documents, electronically stored information or things, and the need for advance rulings from the Court on admissibility of evidence;

(G) suggestions for the avoidance of unnecessary proof and of cumulative evidence;

(H) suggestions on the advisability of referring matters to a Magistrate Judge or master;

(I) a preliminary estimate of the time required for trial;

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

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

(3) *Joint Proposed Scheduling Order*. The Report shall be accompanied by a Joint Proposed Scheduling Order which shall contain the following information:

(A) Assignment of the case to a particular track pursuant to Local Rule 16.1(a) above;

(B) The detailed discovery schedule agreed to by the parties ~~including provisions for disclosure or discovery of electronically stored information;~~

(C) Any agreements or issues to be decided by the Court regarding the preservation, disclosure, and discovery of documents, electronically stored information, or things;

(D) Any agreements the parties reach for asserting claims of privilege or protection of trial preparation material after production;

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

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

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

(GH) Any proposed use of the Manual on Complex Litigation and any other need for rule variations, such as on deposition length or number of depositions;

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

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

In all civil cases (except those expressly exempted below) the Court shall enter a Scheduling Order as soon as practicable but in any event within ninety (90) days after the appearance of a defendant and within 120 days after the complaint has been served on a defendant. It is within the discretion of each Judge to decide whether to hold a scheduling conference with the parties prior to entering the Scheduling Order.

(4) *Notice of Requirement*. Counsel for plaintiff, or plaintiff if proceeding pro se, shall be responsible for giving notice of the requirements of this subsection to each defendant or counsel for each defendant as soon as possible after such defendant's first appearance.

(5) *Exempt Actions*. The categories of proceedings exempted from initial disclosures under Federal Rule of Civil Procedure 26(a)(1)(B) are exempt from the requirements of this subsection. The Court shall have the discretion to enter a Scheduling Order or hold a Scheduling Conference in any case even if such case is within an exempt category.

(6) *Compliance With Pretrial Orders*. Regardless of whether the action is exempt pursuant to Federal Rule of Civil Procedure 26(a)(1)(B), the parties are required to comply with any pretrial orders by the Court and the requirements of this Local Rule including, but not limited to, orders setting pretrial conferences and establishing deadlines by which the parties' counsel must meet, prepare and submit pretrial stipulations, complete discovery, exchange reports of expert witnesses, and submit memoranda of law and proposed jury instructions.

(c) Pretrial Conference Mandatory. A pretrial conference pursuant to Federal Rule of Civil Procedure 16(a), shall be held in every civil action unless the Court specifically orders otherwise. Each party shall be represented at the pretrial conference and at meetings held pursuant to paragraph (d) hereof by the attorney who will conduct the trial, except for good cause shown a party may be represented by another attorney who has complete information about the action and is authorized to bind the party.

(d) Pretrial Disclosures and Meeting of Counsel. Unless otherwise directed by the Court, at least thirty (30) days before trial each party must provide to the other party and promptly file with the Court the information prescribed by Federal Rule of Civil Procedure 26(a)(3). No later than fourteen (14) days prior to the date of the pretrial conference, or if no pretrial conference is held, fourteen (14) days prior to the call of the calendar, counsel shall meet at a mutually convenient time and place and:

- (1) Discuss settlement.
- (2) Prepare a pretrial stipulation in accordance with paragraph (e) of this Local Rule.
- (3) Simplify the issues and stipulate to as many facts and issues as possible.
- (4) Examine all trial exhibits, except that impeachment exhibits need not be revealed.
- (5) Exchange any additional information as may expedite the trial.

(e) Pretrial Stipulation Must Be Filed. It shall be the duty of counsel to see that the pretrial stipulation is drawn, executed by counsel for all parties, and filed with the Court no later than seven (7) days prior to the pretrial conference, or if no pretrial conference is held, seven (7) days prior to the call of the calendar. The pretrial stipulation shall contain the following statements in separate numbered paragraphs as indicated:

- (1) A short concise statement of the case by each party in the action.
- (2) The basis of federal jurisdiction.

(3) The pleadings raising the issues.

(4) A list of all undisposed of motions or other matters requiring action by the Court.

(5) A concise statement of uncontested facts which will require no proof at trial, with reservations, if any.

(6) A statement in reasonable detail of issues of fact which remain to be litigated at trial. By way of example, reasonable details of issues of fact would include: (A) As to negligence or contributory negligence, the specific acts or omissions relied upon; (B) As to damages, the precise nature and extent of damages claimed; (C) As to unseaworthiness or unsafe condition of a vessel or its equipment, the material facts and circumstances relied upon; (D) As to breach of contract, the specific acts or omissions relied upon.

(7) A concise statement of issues of law on which there is agreement.

(8) A concise statement of issues of law which remain for determination by the Court.

(9) Each party's numbered list of trial exhibits, other than impeachment exhibits, with objections, if any, to each exhibit, including the basis of all objections to each document, electronically stored information and thing. The list of exhibits shall be on separate schedules attached to the stipulation, should identify those which the party expects to offer and those which the party may offer if the need arises, and should identify concisely the basis for objection. In noting the basis for objections, the following codes should be used:

A-Authenticity

I-Contains inadmissible matter (mentions insurance, prior conviction, etc.)

R-Relevancy

H-Hearsay

UP-Unduly prejudicial-probative value outweighed by undue prejudice

P-Privileged

Counsel may agree on any other abbreviations for objections, and shall identify such codes in the exhibit listing them.

(10) Each party's numbered list of trial witnesses, with their addresses, separately identifying those whom the party expects to present and those whom the party may call if the need arises. Witnesses whose testimony is expected to be presented by means of a deposition shall be so designated. Impeachment witnesses need not be listed. Expert witnesses shall be so designated.

(11) Estimated trial time.

(12) Where attorney's fees may be awarded to the prevailing party, an estimate of each party as to the maximum amount properly allowable.

(f) Unilateral Filing of Pretrial Stipulation Where Counsel Do Not Agree. If for any reason the pretrial stipulation is not executed by all counsel, each counsel shall file and serve separate proposed pretrial stipulations not later than seven (7) days prior to the pretrial conference, or if no pretrial conference is held, seven (7) days prior to the call of the calendar, with a statement of reasons no agreement was reached thereon.

(g) Record of Pretrial Conference Is Part of Trial Record. Upon the conclusion of the final pretrial conference, the Court will enter further orders as may be appropriate. Thereafter the pretrial stipulation as so modified will control the course of the trial, and may be thereafter amended by the Court only to prevent manifest injustice. The record made upon the pretrial conference shall be deemed a part of the trial record; provided, however, any statement made concerning possible compromise settlement of any claim shall not be a part of the trial record, unless consented to by all parties appearing.

(h) Discovery Proceedings. All discovery proceedings must be completed no later than fourteen (14) days prior to the date of the pretrial conference, or if no pretrial conference is held, fourteen (14) days prior to the call of the calendar, unless further time is allowed by order of the Court for good cause shown.

(i) Newly Discovered Evidence or Witnesses. If new evidence or witnesses are discovered after the pretrial conference, the party desiring their use shall immediately furnish complete details thereof and the reason for late discovery to the Court and to opposing counsel. Use may be allowed by the Court in furtherance of the ends of justice.

(j) Memoranda of Law. Counsel shall serve and file memoranda treating any unusual questions of law, including motions in limine, no later than seven (7) days prior to the pretrial conference, or if no pretrial conference is held, seven (7) days prior to the call of the calendar.

(k) Proposed Jury Instructions or Proposed Findings of Facts and Conclusions of Law. At the close of the evidence or at an earlier reasonable time that the Court directs, counsel may submit proposed jury instructions or, where appropriate, proposed findings of fact and conclusions of law to the Court, with copies to all other counsel. At the close of the evidence, a party may file additional instructions covering matters occurring at the trial that could not reasonably be anticipated; and with the Court's permission, file untimely requests for instructions on any issue.

(l) Penalty for Failure to Comply. Failure to comply with the requirements of this Local Rule will subject the party or counsel to appropriate penalties, including but not limited to dismissal of the cause, or the striking of defenses and entry of judgment.

[Effective December 1, 1994. Amended effective April 15, 1996; April 15, 1997; April 15, 1998; April 15, 2001; April 15, 2004; April 15, 2007; April 15, 2010; April 15, 2011; December 1, 2011; December 3, 2012.]

Authority

(1993) Former Local Rule 17. Changes have been made in recognition of the fact that the call of the calendar is a benchmark for deadlines if no pretrial conference is held; the need for more specificity in expert resumes; and some modifications were needed to pretrial stipulation rule. All counsel now share responsibility to prepare a pretrial stipulation. Codes are provided for the customary objections to exhibits.

Comments

(1993) Sections A and B.7 added in accordance with recommendation of the Civil Justice Advisory Group.

(1994)[K.] This Local Rule is based in part on the disclosure requirements of Federal Rule of Civil Procedure 26(a)(2), as amended effective December 1, 1993, and in part on superseded Federal Rule of Civil Procedure 26(b)(4) concerning expert interrogatories.

(1996)[B.1.] In order to avoid uncertainty as to which documents, electronically stored information or things were produced at a scheduling conference, this Local Rule is amended to require that a party producing documents, electronically stored information or things at the conference either uniquely stamp the materials produced or provide a particularized list of what is being produced.

(1996)[K.] The change is intended to make the timing of disclosing expert witness information consistent with that prescribed by Federal Rule of Civil Procedure 26(a)(2)(c), to delete the language referring to an expert "resume" as being superfluous, and to make clear the expert witness information to be disclosed may be either a summary prepared by counsel or a report prepared by the expert (both of which are required to provide the information specified).

(1997)[B.] Letters rogatory and registrations of foreign judgment made exempt from scheduling requirements as unnecessary.

(1998) Local Rule 16.1.B.6 is modified to make clear that, at the time of the scheduling conference, counsel should discuss whether there is a need to modify any standard procedure, not just whether the Manual for Complex Litigation should be used. Local Rule 16.1.B.7(f) is modified to make clear that the Joint Proposed Scheduling Order should contain any joint or unilateral requests to exceed deposition limitations in length and number, as well as any other proposed variations from these Local Rules or the Federal Rules of Civil Procedure that are not specifically addressed in other paragraphs of this Local Rule.

(2001) Local Rules 16.1.B, D and E amended to conform with the December 2000 amendments to Federal Rule of Civil Procedure 26.

(2004) Local Rule 16.1.B.2 is amended, in conjunction with the amendment of the last sentence in Local Rule 7.1.C.2, to emphasize the need to discuss at the scheduling conference of parties and/or counsel the number and timing of motions for summary judgment or partial summary judgment, and have the

Scheduling Order address these issues. Local Rule 16.1.L is amended to conform to the December 2003 amendment to Federal Rule of Civil Procedure 51.

(2010) Amended to conform tabulation to the style used in the federal rules of procedure and change the calculation of time periods to correspond to the amendments to the various federal rules.

(2011) Amended to correct a mis-citation to Federal Rule of Procedure 26.

(2011) Amended to eliminate language regarding experts redundant of the governing Federal Rule of Civil Procedure.

(2012) Amended to add subparagraph (b)(3)(C).

Rule 16.2. Court Annexed Mediation

(a) General Provisions.

(1) *Definitions.* Mediation is a supervised settlement conference presided over by a qualified, certified, and neutral mediator, or anyone else whom the parties agree upon to serve as a mediator, to promote conciliation, compromise and the ultimate settlement of a civil action.

A certified mediator is an attorney, certified by the Chief Judge in accordance with these Local Rules, who possesses the unique skills required to facilitate the mediation process including the ability to suggest alternatives, analyze issues, question perceptions, use logic, conduct private caucuses, stimulate negotiations between opposing sides, and keep order.

The mediation process does not allow for testimony of witnesses. The mediator does not review or rule upon questions of fact or law, or render any final decision in the case. Absent a settlement, the mediator will report to the presiding Judge only as to whether the case settled (in full or in part) or was adjourned for further mediation, whether the mediator declared an impasse, and pursuant to Local Rule 16.2(e), whether any party failed to attend the mediation.

(2) *Purpose.* It is the purpose of the Court, through adoption and implementation of this Local Rule, to provide an alternative mechanism for the resolution of civil disputes leading to disposition before trial of many civil cases with resultant savings in time and costs to litigants and to the Court, but without sacrificing the quality of justice to be rendered or the right of the litigants to a full trial in the event of an impasse following mediation. Mediation also enables litigants to take control of their dispute and encourages amicable resolution of disputes.

(b) Certification; Qualification of Certified Mediators; Compensation of Mediators.

(1) *Certification of Mediators.* The Chief Judge shall certify those persons who are eligible and qualified to serve as mediators under this Local Rule, in such numbers as the Chief Judge shall deem appropriate. Thereafter, the Chief Judge shall have complete discretion and authority to withdraw the certification of any mediator at any time.

(2) *Lists of Certified Mediators.* Lists of certified mediators shall be maintained in the offices of the Clerk of the Court and shall be made available to counsel and the public upon request.

(3) *Qualifications of Certified Mediators.* An individual may be certified to serve as a mediator in this District provided that the individual shall:

(A) be an attorney who ~~is currently a member in good standing and~~ has been admitted for at least ten (10) consecutive years to one or more a State Bars or the Bar of the District of Columbia; and

(B) currently be a member in good standing of The Florida Bar ~~admitted to the and the Bar of this Court or demonstrate knowledge of the Local Rules of this Court by passing the attorney admissions examination;~~ and

(C) have substantial experience either as a lawyer or mediator in matters brought in any United States District Court or Bankruptcy Court; and

(D) have been certified and remain in good standing as a circuit court mediator under the rules adopted by the Supreme Court of Florida-; and

(E) have substantial experience as a mediator.

The advisory committee may recommend for certification an attorney to serve as a mediator in this District if it determines that, for exceptional circumstances, the applicant should be certified who is not otherwise eligible for certification under this section.

Any individual who seeks certification as a mediator shall agree to accept at least two (2) mediation assignments per year in cases where at least one (1) party lacks the ability to compensate the mediator, in which case the mediator's fees shall be reduced accordingly or the mediator shall serve pro bono (if no litigant is able to contribute compensation).

The Chief Judge shall constitute an advisory committee from lawyers who represent those categories of civil litigants who may utilize the mediation program and lay persons to assist in formulating policy and additional standards relating to the qualification of mediators and the operation of the mediation program and to review applications of prospective mediators and to recommend certification to the Chief Judge as appropriate.

(4) *Standards of Professional Conduct for Mediators.* All individuals who mediate cases pending in this District shall be governed by the Standards of Professional Conduct in the Florida Rules for Certified and Court-Appointed Mediators adopted by the Florida Supreme Court (the "Florida Rules") and shall be subject to discipline and the procedures therefor set forth in the Florida Rules. Every mediator who mediates a case in this District consents to the jurisdiction of the Florida Dispute Resolution Center and the committees and panels authorized thereby for determining the merits of any complaint made against any mediator in this District.

(5) *Oath Required.* Every certified mediator shall take the oath or affirmation

prescribed by 28 U.S.C. § 453 upon qualifying as a mediator.

(6) *Disqualification of a Mediator.* Any person selected as a mediator may be disqualified for bias or prejudice as provided in 28 U.S. C. § 144, and shall be disqualified in any case in which such action would be required of a justice, judge, or Magistrate Judge governed by 28 U.S.C. § 455.

(7) *Compensation of Mediators.* Mediators shall be compensated (a) at the rate provided by standing order of the Court, as amended from time to time by the Chief Judge, if the mediator is appointed by the Court without input or at the request of the parties; or (b) at such rate as may be agreed to in writing by the parties and the mediator, if the mediator is selected by the parties. Absent agreement of the parties to the contrary, the cost of the mediator's services shall be borne equally by the parties to the mediation conference. A mediator shall not negotiate or mediate the waiver or shifting of responsibility for payment of mediation fees from one party to the other. All mediation fees payable under this rule shall be due within forty-five (45) days of invoice and shall be enforceable by the Court upon motion.

(c) Types of Cases Subject to Mediation. Unless expressly ordered by the Court, the following types of cases shall not be subject to mediation pursuant to this rule:

- (1) Habeas corpus cases;
- (2) Motion to vacate sentence under 28 U.S.C. § 2255;
- (3) Social Security cases;
- (4) Civil forfeiture matters;
- (5) IRS summons enforcement actions;
- (6) Land condemnation cases;
- (7) Default proceedings;
- (8) Student loan cases;
- (9) Naturalization proceedings filed as civil actions;
- (10) Statutory interpleader actions;
- (11) Truth-in-Lending Act cases not brought as class actions;
- (12) Letters rogatory; and
- (13) Registration of foreign judgments.

(d) Procedures to Refer a Case or Claim to Mediation.

(1) *Order of Referral.* In every civil case excepting those listed in Local Rule 16.2(c), the Court shall enter an order of referral similar in form to the

proposed order attached hereto which shall:

(A) Direct mediation be conducted not later than sixty (60) days before the scheduled trial date which shall be established no later than the date of the issuance of the order of referral.

(B) Direct the parties, within fourteen (14) days of the date of the order of referral, to agree upon a mediator. The parties are encouraged to utilize the list of certified mediators established in connection with Local Rule 16.2(b) but may by mutual agreement select any individual as mediator. The parties shall file a "Notice of Selection of Mediator" within that period of time. If the parties are unable to agree upon a mediator, plaintiff's counsel, or plaintiff if self-represented, shall file a "Request For Clerk To Appoint Mediator," and the Clerk will designate a mediator from the list of certified mediators on a blind, random basis.

(C) Direct that, at least fourteen (14) days prior to the mediation date, each party give the mediator a confidential written summary of the case identifying issues to be resolved.

(2) *Coordination of Mediation Conference.* Plaintiff's counsel (or another attorney agreed upon by all counsel of record) shall be responsible for coordinating the mediation conference date and location agreeable to the mediator and all counsel of record.

(3) *Stipulation of Counsel.* Any action or claim may be referred to mediation upon stipulation of the parties.

(4) *Withdrawal From Mediation.* Any civil action or claim referred to mediation pursuant to this rule may be exempt or withdrawn from mediation by the presiding Judge at any time, before or after reference, upon application of a party and/or determination for any reason that the case is not suitable for mediation.

(e) Party Attendance Required. Unless otherwise excused by the presiding Judge in writing, all parties, corporate representative, and any other required claims professionals (insurance adjusters, etc.), shall be present at the mediation conference with full authority to negotiate a settlement. If a party to a mediation is a public entity required to conduct its business pursuant to Florida Statutes Chapter 286, and is a defendant or counterclaim defendant in the underlying litigation, that party shall be deemed to appear at a mediation conference by the physical presence of a representative with full authority to negotiate on behalf of the entity and to recommend settlement to the appropriate decision-making body of the entity. The mediator shall report non-attendance and may recommend that the Court enter sanctions for non-attendance. Failure to comply with the attendance or settlement authority requirements may subject a party to sanctions by the Court.

(f) Mediation Report; Notice of Settlement; Judgment.

(1) *Mediation Report.* Within seven (7) days following the mediation conference, the mediator, if an authorized user of the Court's electronic filing system (CM/ECF), shall electronically file a Mediation Report. If the mediator is not an authorized CM/ECF user, the mediator shall file the Mediation Report in the

conventional manner. The report shall indicate whether all required parties were present and whether the case settled (in full or in part), whether the mediation was adjourned, or whether the case did not settle.

(2) *Notice of Settlement.* In the event that the parties reach an agreement to settle the case or claim, counsel shall promptly notify the Court of the settlement by filing a notice of settlement signed by counsel of record within fourteen (14) days of the mediation conference. Thereafter the parties shall forthwith submit an appropriate pleading concluding the case.

(g) Trial Upon Failure to Settle.

(1) *Trial upon Failure to Settle.* If the mediation conference fails to result in a settlement, the case will be tried as originally scheduled.

(2) *Restrictions on the Use of Information Derived During the Mediation Conference.* All proceedings of the mediation shall be confidential and are privileged in all respects as provided under federal law and Florida Statutes § 44.405. The proceedings may not be reported, recorded, placed into evidence, made known to the Court or jury, or construed for any purpose as an admission against interest. A party is not bound by anything said or done at the conference, unless a written settlement is reached, in which case only the terms of the settlement are binding.

~~(h) Forms for Use in Mediation.~~

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

~~Case No. ___ Civ [Judge/Magistrate]~~

~~_____~~
~~_____ :~~
~~_____~~
~~_____ :~~
~~_____~~
~~_____ :~~
~~_____~~
~~_____ :~~
~~_____~~
~~CAPTION _____ :~~
~~_____~~
~~_____ :~~

~~ORDER OF REFERRAL~~

~~Trial having been set in this matter for _____, 20 ____, pursuant to Federal Rule of Civil Procedure 16 and Local Rule 16.2, it is hereby~~

~~ORDERED AND ADJUDGED as follows:~~

- ~~1. All parties are required to participate in mediation. The mediation shall be completed no later than sixty (60) days before the scheduled trial date.~~
- ~~2. Plaintiff's counsel, or another attorney agreed upon by all counsel of record and any unrepresented parties, shall be responsible for scheduling the mediation conference. The parties are encouraged to avail themselves of the services of any mediator on the List of Certified Mediators, maintained in the office of the Clerk of the Court, but may select any other mediator. The parties shall agree upon a mediator within fourteen (14) days from the date hereof. If there is no agreement, lead counsel shall promptly notify the Clerk of the Court in writing and the Clerk of the Court shall designate a mediator from the List of Certified Mediators, which designation shall be made on a blind rotation basis.~~
- ~~3. A place, date and time for mediation convenient to the mediator, counsel of record, and unrepresented parties shall be established. The lead attorney shall complete the form order attached and submit it to the Court.~~
- ~~4. Pursuant to Local Rule 16.2(c), the appearance of counsel and each party or representatives of each party with full authority to enter into a full and complete compromise and settlement is mandatory. If insurance is involved, an adjuster with authority up to the policy limits or the most recent demand, whichever is lower, shall attend.~~
- ~~5. All proceedings of the mediation shall be confidential and privileged.~~
- ~~6. At least fourteen (14) days prior to the mediation date, each party shall present to the mediator a confidential brief written summary of the case identifying issues to be resolved.~~
- ~~7. The Court may impose sanctions against parties and/or counsel who do not comply with the attendance or settlement authority requirements herein who otherwise violate the terms of this Order. The mediator shall report non attendance and may recommend imposition of sanctions by the Court for~~

~~non attendance.~~

~~8. The mediator shall be compensated in accordance with the standing order of the Court entered pursuant to Local Rule 16.2(b)(6), or on such basis as may be agreed to in writing by the parties and the mediator selected by the parties. The cost of mediation shall be shared equally by the parties unless otherwise ordered by the Court. All payments shall be remitted to the mediator within forty five (45) days of the date of the bill. Notice to the mediator of cancellation or settlement prior to the scheduled mediation conference must be given at least three (3) full business days in advance. Failure to do so will result in imposition of a fee for two (2) hours.~~

~~9. If a full or partial settlement is reached in this case, counsel shall promptly notify the Court of the settlement in accordance with Local Rule 16.2(f), by the filing of a notice of settlement signed by counsel of record within fourteen (14) days of the mediation conference. Thereafter the parties shall forthwith submit an appropriate pleading concluding the case.~~

~~10. Within seven (7) days following the mediation conference, the mediator shall file a Mediation Report indicating whether all required parties were present. The report shall also indicate whether the case settled (in full or in part), was adjourned, or whether the case did not settle.~~

~~11. If mediation is not conducted, the case may be stricken from the trial calendar, and other sanctions may be imposed.~~

~~DONE AND ORDERED this ___ day of _____, 20___.~~

~~_____~~

~~U.S. District Judge~~

~~Copies furnished:~~

~~All counsel of record~~

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

~~Case No. ___ Civ [Judge/Magistrate]~~

~~_____~~

~~_____:~~

~~_____~~

~~_____:~~

~~_____~~

~~_____:~~

~~_____~~

_____:

~~CAPTION~~ _____:

_____:

_____:

_____:

~~ORDER SCHEDULING MEDIATION~~

~~The mediation conference in this matter shall be held with _____ on _____, 20 ____, at ____ (am/pm) at _____, Florida.~~

~~ENTERED this ____ day of _____, 20 ____.~~

~~U.S. District Judge~~

~~Copies furnished:~~

~~All counsel of record~~

[Effective December 1, 1994. Amended effective April 15, 1996; April 15, 1997; April 15, 1999; April 15, 2004; April 15, 2005; April 15, 2007; April 15, 2009; April 15, 2010; December 1, 2011; December 3, 2012.]

Comments

(1996)[B.3(c).] Deletion of reference to Trial Bar to conform to new Local Rules 1 through 4 of the Special Rules Governing the Admission and Practice of Attorneys, effective January 1, 1996.

(1997)[C.] Letters rogatory and registrations of foreign judgment made exempt from mediation requirements as unnecessary.

(1997)[E.] Florida's "Government in the Sunshine" Law, Florida Statutes Section 286.011, as incorporated into the Florida Government Cooperation Act, Florida Statutes Section 164.016, does not permit public entities to settle litigation

against them without a public hearing preceded by due public notice. Public entities have therefore at times found themselves unable to comply with Local Rule 16.2.E. and have had to seek an exception from the rule in order to permit mediation. This amendment relaxes the requirement that parties be present with full authority to consummate a settlement where a public entity is a defendant, and provides instead that a representative be present who can negotiate settlement on the entity's behalf and recommend settlement to the entity.

(1999)[B.6] Language is added to clarify that mediators appointed by the Court without input by the parties are compensated at the rate set by the standing administrative order.

(2005)[B.3 and B.4] In addition to the requirement of completing the forty hour Florida Supreme Court Circuit Court Mediation Training course, a mediator will now also be governed by the Standards of Professional Conduct in the Florida Rules for Certified and Court-Appointed Mediators, which provide ethical standards of conduct for certified and Court appointed mediators and incorporate procedures for the discipline and/or suspension of certified mediators or non-certified mediators appointed to mediate a case pursuant to Court rules. The purpose of these Rules of discipline, specifically under Part III, is to provide a means for enforcing the ethical requirements set forth therein.

[B.7] This revision is intended to prevent the parties from using mediator fees as a negotiating wedge. The mediator is now prohibited from engaging in fee shifting negotiations. In addition, a provision was added to assist the Court in enforcing payment of mediation fees.

[C.] This revision expands the types of cases subject to mediation based on experience demonstrating the effectiveness of mediation in resolving disputes.

[F.1] Under the Florida Rules for Certified and Court-Appointed Mediators, now adopted by these Local Rules, a mediator, pursuant to Rule 10. 420(b) of the Florida Rules for Certified and Court-Appointed Mediators shall adjourn the mediation under any of five specified circumstances, four of which do not require the parties' consent.

[G.2] This revision makes "all proceedings" of the mediation confidential, leaving no room for misinterpretation of the definition of what is considered to be confidential. It is intended to broaden the confidentiality provision.

(2007) Amended to conform to CM/ECF Administrative Procedures.

[G.2] This revision is intended to make the privileges and confidentiality of mediation in the District consistent with state law. The adoption of what constitutes privileged and confidential information under Florida Statutes Section 44.405 is exclusive of any remedies.

(2009) Local Rule 16.2.B.3 is amended to prescribe new qualifications for certification as a mediator in this District. Local Rule 16.2.D.1(b) is amended to clarify procedure for mediator selection by agreement of the parties or for mediator designation by the Clerk of the Court when the parties are unable to agree on a mediator.

(2010) Amended to conform tabulation to the style used in the federal rules of procedure and change the calculation of time periods to correspond to the amendments to the various federal rules.

(2011) Local Rule 16.2(b)(4) amended to clarify the applicability of the Florida Rules for Certified and Court-Appointed Mediators adopted by the Florida Supreme Court and to provide a jurisdictional basis for imposing discipline. Local Rule 16.2(f)(1) amended to conform with Florida Mediator Ethics Advisory Committee Opinion 2010-007 ("The terms 'impasse' and 'termination' are terms of art used to signal particular outcomes of mediation. Those terms ... are not appropriate to be included in a mediation report to the court as they reveal information obtained in mediation communications.").

(2012) Local Rule 16.2(b)(3) amended to delete reference to attorney admissions examination eliminated under Administrative Order 2012-14 and to heighten qualifications for mediator certification. Local Rule 16.2(h) eliminated, and its form relocated to the Court's website.

Rule 88.1 Appointment of Counsel for Indigent Defendants in Criminal Proceedings

The appointment of counsel and counsel's obligations in the representation of indigent defendants in criminal proceedings pursuant to Federal Rule of Criminal Procedure 44 shall be in accordance with the "Plan of the United States District Court for the Southern District of Florida Pursuant to the Criminal Justice Act of 1964, as Amended." ~~Copies of the~~The current plan ~~are~~ is available on the Court's website (www.flsd.uscourts.gov). ~~in the Clerk's Office.~~

[Effective December 1, 1994. Amended effective April 15, 2007; December 3, 2012.]

Authority

(1993) Former Local Rule 17, updated.

Comment

(1993) Changes person charged with maintaining copies to Clerk of the Court.

(2012) Amended to advise readers that the Plan of the United States District Court for the Southern District of Florida Pursuant to the Criminal Justice Act of 1964 can be found on the Court's website rather than at the Clerk's Office.

APPENDICES

Appendix A. Discovery Practices Handbook

II. DEPOSITIONS

A. General Policy and Practice.

(1) *Scheduling.* A ~~courteous~~-lawyer is normally expected to be courteous and accommodate the schedules of opposing lawyers. In doing so, the attorney can either pre-arrange a deposition, or notice the deposition while at the same time indicating a willingness to be reasonable about any necessary rescheduling. Local Rule 26.1(i) requires at least seven (7) days notice in writing to every other party and to the deponent (if a non-party) for a deposition in this State, and fourteen (14) days notice for an out-of-state deposition. Noncompliance obviates the need for protective order.

Notwithstanding the foregoing, in accordance with Federal Rule of Civil Procedure 32(a)(5)(A), no deposition shall be used against a party who, having received less than fourteen (14) days notice of a deposition as computed under Federal Rule of Civil Procedure 6(a), has promptly upon receiving such notice filed a motion for protective order under Federal Rule of Civil Procedure 26(c)(1)(B) 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.

(4) *Length and Number of Depositions.* Under ~~federal~~-Federal Rule of Civil Procedure 30(d)(2), unless otherwise authorized by the Court or stipulated by the parties, a deposition is limited to one (1) day of seven (7) hours. Under Federal Rule of Civil Procedure 30(a)(2)(A), ~~absent written stipulation of the parties or leave of Court, the number of depositions being taken by each party is limited to ten (10)-a party must obtain leave from the Court, and the Court must grant leave to the extent consistent with Federal Rule of Civil Procedure 26(b)(2), if the parties have not stipulated to the deposition and the deposition would result in more than ten (10) depositions being taken under the Rule or Federal Rule of Civil Procedure 31 by the plaintiffs, by the defendants, or by the third-party defendants.~~

ADMIRALTY AND MARITIME RULES

Rule C. Action In Rem

(1) Verification Requirements. Every complaint and claim filed in an in rem proceeding pursuant to Supplemental Rule C shall be verified in accordance with Local Admiralty Rules A(5) and B(2).

(2) Pre-Seizure Requirements. In accordance with Supplemental Rule C(3), the process of arrest in rem shall issue only after one of the following conditions has been met:

(a) *Judicial Review Prior to Issuance.* Except as provided in Local Admiralty Rule 3(b)(2)*, a judicial officer shall first review the verified complaint, and any other relevant case papers, prior to the Clerk of the Court issuing the warrant of arrest and/or summons in rem. No notice of this pre-seizure judicial review is required to be given to any person or prospective party.

If the Court finds that probable cause exists for an action in rem, plaintiff shall prepare an order for the Court's signature directing the Clerk of the Court to issue a warrant of arrest and/or summons. This order shall substantially conform in format and content to the form identified as SDF 2 in the Appendix to these Local Admiralty Rules.

Upon receipt of the signed order, the Clerk of the Court shall file the order and, in accordance with Local Admiralty Rule 3(b)(3), issue the warrant of arrest and/or summons. Thereafter the Clerk of the Court may issue supplemental process without further order of the Court.

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

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

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

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

(3) Special Requirements for Actions Involving Freight, Proceeds and/or Intangible Property.

(a) *Instructions to Be Contained in the Summons.* Unless otherwise ordered by the Court, the summons shall order the person having control of the freight, proceeds and/or intangible property to either:

(i) File a claim within fourteen (14) days, beginning on the next calendar day, including Saturday, Sunday, or a legal holiday, count fourteen days after service of the summons in accordance with Local Admiralty Rule D(6)(a); or

(ii) Deliver or pay over to the Marshal, the freight, proceeds, and/or intangible property, or a part thereof, sufficient to satisfy plaintiff's claim.

The summons shall also inform the person having control of the freight, proceeds, and/or intangible property that service of the summons has the effect of arresting the property, thereby preventing the release, disposal or other distribution of the property without prior order of the Court.

(b) *Requirements for Claims to Prevent the Delivery of Property to the Marshal.* Any claim filed in accordance with Supplemental Rule E(4) and Local Admiralty Rule C(5)(a) shall describe the nature of claimant's interest in the property,

and shall articulate reasons why the seizure should be vacated.

The claim shall be served upon the plaintiff, the Marshal, and all other parties to the litigation. Additionally, the claimant shall file a Certificate of Service indicating the date and manner in which service was perfected.

(c) *Delivery or Payment of the Freight, Proceeds, and/or Intangible Property to the United States Marshal.* Unless a claim is filed in accordance with Supplemental Rule E(4)(f), and Local Admiralty Rule C(6)(a), any person served with a summons issued pursuant to Local Admiralty Rule C(2)(a) or C(2)(b), shall within fourteen (14) days, beginning on the next calendar day, including Saturday, Sunday, or a legal holiday, after execution of service, deliver or pay over to the Marshal all, or part of, the freight, proceeds, and/or intangible property sufficient to satisfy plaintiff's claim.

Unless otherwise ordered by the Court, the person tendering control of the freight, proceeds, and/or intangible property shall be excused from any further duty with respect to the property in question.

(4) Publishing Notice of the Arrest as Required by Supplemental Rule C(4).

(a) *Time for Publication.* If the property is not released within fourteen (14) days after the execution of process, the notice required by Supplemental Rule C(4) shall be published by the plaintiff in accordance with Local Admiralty Rule A(7). Such notice shall be published within twenty-one (21) days after execution of process. The notice shall substantially conform to the form identified as SDF 7 in the Appendix to these Local Admiralty Rules.

(b) *Proof of Publication.* Plaintiff shall file with the Clerk of the Court proof of publication not later than fourteen (14) days following the last day of publication. It shall be sufficient proof for the plaintiff to file the sworn statement by, or on behalf of, the publisher or editor, indicating the dates of publication, along with a copy or reproduction of the actual publication.

(5) Undertaking in Lieu of Arrest. If, before or after the commencement of an action, a party accepts any written undertaking to respond on behalf of the vessel and/or other property in return for foregoing the arrest, the undertaking shall only respond to orders or judgments in favor of the party accepting the undertaking, and any parties expressly named therein, to the extent of the benefit thereby conferred.

(6) Time for Filing Claim or Answer. Unless otherwise ordered by the Court, any claimant of property subject to an action in rem shall:

| ~~(1a)~~ File the claim within fourteen (14) days, beginning on the next calendar day, including Saturday, Sunday, or a legal holiday, after process has been executed; and

| ~~(2b)~~ Serve an answer within twenty-one (21) days after the filing of the claim.

(7) Post Arrest Proceedings. Coincident with the filing of a claim pursuant to Supplemental Rule E(4)(f), and Local Admiralty Rule C(6)(a), the claimant may also file a motion and proposed order directing plaintiff to show cause why the

arrest should not be vacated. If the Court grants the order, the Court shall set a date and time for a show cause hearing. Thereafter, if the Court orders the arrest to be vacated, the Court shall award attorney's fees, costs, and other expenses incurred by any party as a result of the arrest.

Additionally, if the seizure was predicated upon a showing of "exigent circumstances" under Local Admiralty Rule C(~~26~~)(b), and the Court finds that such exigent circumstances did not exist, the Court shall award attorneys' fees, costs and other expenses incurred by any party as a result of the seizure.

(8) Procedural Requirements Prior to the Entry of Default. In accordance with Federal Rule of Civil Procedure 55, a party seeking the entry of default judgment in rem shall first file a motion and supporting legal memorandum.

The party seeking the entry of default shall also file such other proof sufficient to demonstrate that due notice of the action and arrest have been given by:

- (a) Service upon the master or other person having custody of the property; and
- (b) Delivery, or by certified mail, return receipt requested (or international effective equivalent), to every other person, including any known owner, who has not appeared or intervened in the action, and who is known to have, or claims to have, a possessory interest in the property.

The party seeking entry of default judgment under Local Rule 3(h) may be excused for failing to give notice to such "other person" upon a satisfactory showing that diligent effort was made to give notice without success; and

- (c) Publication as required by Supplemental Rule C(4) and Local Admiralty Rule C(4).

Upon review of the motion, memorandum, and other proof, the Clerk of the Court may, where appropriate, enter default in accordance with Federal Rule of Civil Procedure 55. Thereafter, the Clerk of the Court shall serve notice of the entry of default upon all parties represented in the action.

(9) Procedural Requirements for the Entry of Default Judgment. Not later than thirty (30) days following notice of the entry of default, the moving party shall file a motion, and supporting legal documents, for the entry of default judgment pursuant to Federal Rule of Civil Procedure 55(b). The moving party may also file as exhibits for the motion such other documentation as may be required to support the entry of default judgment. Thereafter the Court will consider the motion as indicated below:

(a) *When No Person Has Filed a Claim or Answer.* Unless otherwise ordered by the Court, the motion for default judgment will be considered by the Court without oral argument.

(b) *When Any Person Has Filed an Appearance, But Does Not Join in the Motion for Entry of Default Judgment.* If any person has filed an appearance in accordance with Local Admiralty Rule C(6), but does not join in the motion for entry of default judgment, the party seeking the entry of default judgment

shall serve notice of the motion upon the party not joining in the motion, and thereafter the opposing party shall have seven (7) days from receipt of the notice to file written opposition with the Court.

If the Court grants the motion and enters the default judgment, such judgment shall establish a right on the part of the party or parties in whose favor it is entered. The judgment shall be considered prior to any claims of the owner of the defendant property against which it is entered, and to the remnants and surpluses thereof; providing, however, that such a judgment shall not establish any entitlement to the defendant property having priority over non-possessory lien claimants. Obtaining a judgment by default shall not preclude the party in whose favor it is entered from contending and proving that all, or any portion, of the claim or claims encompassed within the judgment are prior to any such non-possessory lien claims.

[Effective December 1, 1994. Amended effective April 15, 1998; April 15, 2000; April 15, 2001; April 15, 2007; April 15, 2010; April 15, 2011; December 3, 2012.]

~~* [Publisher's Note: So in original. Probably should be %CBC(2)(b)%CB.]~~

Advisory Notes

(1993) **C(2)**. Well reasoned authority has upheld Supplemental Rule C, specifically holding that a pre-seizure judicial hearing is not required where a vessel, freight, or intangible property is proceeded against to enforce a maritime lien. *Amstar Corporation v. SS Alexandros T*, 664 F.2d 904 (4th Cir.1981); *Merchants Nat'l Bank v. Dredge Gen. G.L. Gillespie*, 663 F.2d 1338 (5th Cir., Unit A, 1981); *Schiffahrtsgesellschaft Leonhardt & Co. v. A. Bottacchi S.A. de Navegacion*, 732 F.2d 1543 (11th Cir.1984).

The desirability of providing by local admiralty rule an available avenue for reasonably prompt and effective post-arrest judicial relief is indicated. See, *Merchants Nat'l Bank v. Dredge Gen. G.L. Gillespie*, supra, at 1334, 1350. This provision is incorporated in Local Admiralty Rule C(7).

This procedure made available through this rule has proven effective. *Maryland Ship Building & Dry-Dock Co. v. Pacific Ruler Corp.*, 201 F.Supp. 858 (S.D.N.Y. 1962). In fact, the procedure established by this local rule goes beyond that encountered in *Merchants Nat'l Bank v. Dredge Gen. G.L. Gillespie*, supra, or *Maryland Ship Building & Dry-Dock Co. v. Pacific Ruler Corp.*, supra.

Under this rule, the claimant or intervenor may petition the Court to order the plaintiff to establish probable cause for the arrest of the property. Therefore at an early stage of the litigation, plaintiff can be required to establish a prima facie case that he is asserting a claim which is entitled to the dignity and status of a maritime lien against the arrested property. This rule contemplates the entry of an order with conclusory findings following the post-arrest proceedings. More detailed findings may be requested by any party.

The rule is not intended to provide a method for contesting the amount of security to be posted for the release of the vessel. Once a prima facie case for the maritime lien has been established, or the question of lien status

remains uncontested, the matter of security is left to the provisions of Local Admiralty Rule E.

C(3). Supplemental Rule C(3) also addresses the less commonly encountered action in rem to enforce a maritime lien against freights, proceeds or other intangible property. The revision to this rule designates the United States Marshal to take custody of all tangible and intangible properties arrested in accordance with this rule, and to bring these properties under the control of the Court. This is the practice in many other districts, and when implemented will provide the greatest uniformity in the treatment of tangible and intangible property.

C(4). The substance of former Local Admiralty Rule 3(c) is continued.

C(5). Although this section is new to the local rules, it reflects the current local practice with respect to undertakings and stipulations in lieu of arrest. Such undertakings and stipulations have been held effective to permit a Court to exercise its in rem admiralty jurisdiction so long as either at the time the undertaking or stipulation is given, or at any subsequent time prior to the filing of the action, the vessel or other property is, or will be, present within the District.

C(6). The substance of former Local Admiralty Rule 2(b) is continued.

C(7). See the comments for Local Admiralty Rule C(2).

C(8) and (9). These sections are designed to mesh Supplemental Rule C with Federal Rule of Civil Procedure 55. For purpose of default and default judgments, the rule recognizes two distinct groups of in rem claimants.

The first category of claimants include those who by ownership or otherwise, would, but for the arrest of the property, be entitled to its possession. Pursuant to Supplemental Rule C(6), these claimants must file a claim setting forth their interest in the property, demand their right to receive possession, and to appear and defend the action. In the case of such claimants, the operation of standard default procedures foreclose their rights to contest positions of the party in whose favor the default is rendered, and the entry of default judgment is both fair and appropriate.

The second category of claimants embodies a potentially numerous and varying class of claimants. The claims of these other claimants do not give rise to a right of possession of the vessel from the marshal or other appropriate custodian, but rather invoke the power of the Court in admiralty to foreclose against the property by the ultimate rendering of a judgment in rem against property entitlements. Such judgments would be predicated upon non-possessory liens.

The time in which the second category of claimants may intervene is governed by the provisions of Local Admiralty Rule E. Such lien claimants are not obligated, and indeed are probably not entitled to file a claim of possession to the vessel, or to answer and defend in the name of the vessel. As to them, in accordance with Federal Rule of Civil Procedure 8, the essential averments of all the complaints are taken as automatically denied.

No default judgments entered pursuant to this rule will operate to adjudicate priorities among competing non-possessory lien claimants.

In attempting to reconcile the traditional notions of default and default judgments with the concept of in rem proceedings, the final language has been formulated to maintain the efficacy of the default procedure without resulting in premature adjudication effecting priorities and distributions. The default procedure establishes in favor of the holder of such a default judgment, a lien position against the proceeds of the property, resulting from any sale or disposition, or, if currency is involved, the ultimate adjudication, inferior to all other competing priorities, except the otherwise escheating right of the property owner to the remnants and surpluses after all full-claims satisfactions. At the same time, the right of a person obtaining a default judgment to contend and compete with other claimants for priority distribution remains unaffected.

(2000) Local Admiralty Rule C(9) is amended to give the party seeking entry of a default judgment up to thirty days, rather than five days, to file a motion and supporting legal memorandum.

(2001) Corrections to rule number references.

(2010) Amended to conform tabulation to the style used in the Federal Rules of Civil Procedure.

(2012) Amended to correct tabulation and internal citation errors in C(6) and C(7) and to relocate appendix of forms to the Court's website.

~~APPENDIX OF FORMS. ADMIRALTY AND MARITIME RULES~~

~~Form 1. Order Directing the Issuance of the Process of Attachment and Garnishment~~

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

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

~~"IN ADMIRALTY"~~

~~____ Plaintiff, _____~~

~~_____~~

~~v. _____~~

~~_____~~

~~____ Defendant. _____~~

~~_____~~

~~Pursuant to Supplemental Rule B(1) and Local Admiralty Rule B(3)(a), the Clerk~~

~~of the Court is directed to issue the summons and process of attachment and garnishment in the above styled action.~~

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

~~_____~~

~~United States District Judge~~

~~{Effective December 1, 1994. Amended effective April 15, 2001; April 15, 2007; April 15, 2010; April 15, 2011.}~~

~~Form 2. Process of Attachment and Garnishment~~

~~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. _____~~

~~_____~~

~~**PROCESS OF ATTACHMENT AND GARNISHMENT**~~

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

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

~~DESCRIPTION~~

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

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

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

CLERK

By: _____

~~Deputy Clerk~~

~~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)]~~

~~SPECIAL NOTICE~~

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

~~[Effective December 1, 1994. Amended effective April 15, 2001; April 15, 2007; April 15, 2010; April 15, 2011.]~~

~~Form 3. Order Directing the Issuance of the Warrant of Arrest~~

~~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. _____~~

~~_____~~

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

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

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

~~_____~~

~~United States District Judge~~

~~{Effective December 1, 1994. Amended effective April 15, 2001; April 15, 2007; April 15, 2010; April 15, 2011.}~~

~~Form 4. Warrant for Arrest In Rem~~

~~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. _____~~

~~_____~~

~~WARRANT FOR ARREST IN REM~~

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

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

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

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

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

CLERK

By: _____

~~Deputy Clerk~~

~~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~~

SPECIAL NOTICE

~~In accordance with Local Admiralty Rule C(6), any person claiming an interest in the vessel and/or property shall be required to file a claim within fourteen (14) days after process has been executed, and shall also be required to file an answer within twenty one (21) days after the filing of this claim.~~

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

~~[Effective December 1, 1994. Amended effective April 15, 2001; April 15, 2007; April 15, 2010; April 15, 2011.]~~

~~Form 5. Motion for Appointment of Substitute Custodian~~

~~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~~

~~Faeximile: (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 December 1, 1994. Amended effective April 15, 1998; April 15, 2001; April 15, 2007; April 15, 2010; April 15, 2011.]~~

~~Form 6. Consent and Indemnification Agreement for the Appointment of a Substitute Custodian~~

~~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.~~

~~CONSENT AND INDEMNIFICATION AGREEMENT FOR THE APPOINTMENT OF A SUBSTITUTE CUSTODIAN~~

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

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

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

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

~~PLAINTIFF'S ATTORNEY — SUBSTITUTE CUSTODIAN~~

~~Attorney Name (Bar Number) — Typed Name~~

~~Attorney E-mail Address — Fla. Bar ID No.~~

~~Firm name — (if admitted in Fla.)~~

~~Street Address — Firm or Business Name~~

~~City, State, Zip Code — Mailing Address~~

~~Telephone: (xxx)xxx xxxx — City, State, Zip Code~~

~~Facsimile: (xxx)xxx xxxx — Telephone Number~~

~~Attorneys for Plaintiff — [Party Name(s)] Facsimile Number~~

~~— E Mail Address~~

~~cc: Counsel of Record~~

~~{Effective December 1, 1994. Amended effective April 15, 2001; April 15, 2007; April 15, 2010; April 15, 2011.}~~

~~Form 7. Notice of Action In Rem and Arrest of Vessel~~

~~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. _____~~

~~_____~~

~~NOTICE OF ACTION IN REM AND ARREST OF VESSEL~~

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

~~Pursuant to Supplemental Rule C(6), and Local Admiralty Rule C(6), any person having a claim against the vessel and/or property shall file a claim with the Court not later than fourteen (14) days after process has been effected, and shall file an answer within twenty one (21) days from the date of filing their claim.~~

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

~~_____~~

~~SIGNED NAME OF PLAINTIFF'S ATTORNEY~~

~~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~~

~~[Effective December 1, 1994. Amended effective April 15, 2001; April 15, 2007; April 15, 2010; April 15, 2011.]~~

~~Form 8. Motion for Release of a Vessel or Property in Accordance with Supplemental Rule E(5)~~

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

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

~~"IN ADMIRALTY"~~

~~____ Plaintiff, _____~~

~~_____~~

~~v. _____~~

~~_____~~

~~____ Defendant. _____~~

~~_____~~

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

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

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

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

~~_____~~

~~SIGNED NAME OF PLAINTIFF'S ATTORNEY~~

~~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~~

~~[Effective December 1, 1994. Amended effective April 15, 2001; April 15, 2007; April 15, 2010; April 15, 2011.]~~

~~Form 9. Order Directing the Release of a Vessel or Property in Accordance with Supplemental Rule E(5)~~

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

~~Case No. ____ Civ or CR (USDJ's last name/USMJ's last name)~~

~~"IN ADMIRALTY"~~

~~____ Plaintiff, _____~~

~~_____~~

~~v. _____~~

~~_____~~

~~____ Defendant. _____~~

~~_____~~

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

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

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

~~_____~~

~~U.S. District Judge~~

~~cc: Counsel of Record~~

~~{Effective December 1, 1994. Amended effective April 15, 2001; April 15, 2010; April 15, 2011.}~~

~~Form 10. Request for Confirmation of Sale~~

~~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. _____~~

~~_____~~

~~REQUEST FOR CONFIRMATION OF SALE~~

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

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

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

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

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

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

~~_____~~

~~SIGNED NAME OF PLAINTIFF'S ATTORNEY~~

~~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~~

~~[Effective December 1, 1994. Amended effective April 15, 2001; April 15, 2007; April 15, 2010; April 15, 2011.]~~

~~Form 11. Confirmation of Sale~~

~~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. _____~~

~~_____~~

~~CONFIRMATION OF SALE~~

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

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

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

CLERK

By: _____

~~Deputy Clerk~~

~~cc: United States Marshal~~

~~Counsel of Record~~

~~{Effective December 1, 1994. Amended effective April 15, 2001; April 15, 2007; April 15, 2010; April 15, 2011.}~~

~~Form 12. Summons and Process of Maritime Attachment and Garnishment~~

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

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

~~____ Plaintiff,~~

~~_____~~

~~____ v. _____~~

~~_____~~

~~____ Defendant.~~

~~SUMMONS AND PROCESS OF MARITIME ATTACHMENT AND GARNISHMENT THE PRESIDENT OF THE UNITED STATES OF AMERICA~~

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

~~GREETING:~~

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

~~WHEREAS, this process is issued pursuant to such prayer and requires that a garnishee shall serve his answer within twenty one (21) days after service of process upon him and requires that a defendant shall serve his answer within thirty (30) days after process has been executed, whether by attachment of property or service on the garnishee,~~

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

~~WITNESS THE HONORABLE~~

~~_____~~

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

~~_____, CLERK~~

~~BY: _____~~

~~Deputy Clerk~~

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

~~{Effective December 1, 1994. Amended effective April 15, 2001; April 15, 2007; April 15, 2010.}~~

~~Form 13. Maritime Summons to Show Cause Respecting Intangible Property~~

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

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

~~____ Plaintiff,~~

~~_____~~

~~____ v. _____~~

~~_____~~

~~____ Defendant.~~

~~MARITIME SUMMONS TO SHOW CAUSE RESPECTING INTANGIBLE PROPERTY~~

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

~~You are hereby summoned to interpose in writing a claim, by attorney or in proper person, at the Clerk of the Court's Office in said District within fourteen (14) days after the service, and therewith or thereafter within twenty one (21) days following such claim or thirty (30) days after the service, whichever is less, a responsive pleading to the complaint herewith served upon you and to show cause why said property under your control should not be paid into Court to abide the judgment; and you are required so also to serve copy thereof upon _____, plaintiff's attorney(s) whose address is _____; or if you do not claim said property then to so serve and show~~

~~cause why said property under your control should not be paid into Court to abide the judgment.~~

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

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

~~WITNESS THE HONORABLE~~

~~_____~~

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

~~_____, CLERK~~

~~BY: _____~~

~~Deputy Clerk~~

~~Date:~~

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

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

~~_____~~

~~UNITED STATES DISTRICT JUDGE~~

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

~~{Effective December 1, 1994. Amended effective April 15, 2001; April 15, 2007; April 15, 2010.}~~

~~Form 14. Affidavit Foreign Attachment~~

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

~~Case No. ___ Civ or Cr (USDJ's last name/USMJ's last name)~~

~~____ Plaintiff,~~

~~_____~~

~~_____ v.~~

~~_____~~
~~— Defendant —~~

~~AFFIDAVIT~~

~~(Foreign Attachment)~~

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

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

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

~~The Clerk of the Court is hereby requested to issue a Writ of Foreign Attachment and deliver the same to the United States Marshal.~~

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

~~_____
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)]~~

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

~~Clerk, U.S. District Court~~

~~Southern District of Florida~~

By: _____

~~Deputy Clerk~~

~~{Effective December 1, 1994. Amended effective April 15, 2001; April 15, 2007; April 15, 2010.}~~

~~Form 15. Ad Interim Stipulation of Value and Stipulation for Costs~~

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

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

~~IN ADMIRALTY~~

~~IN THE MATTER OF: _____~~

~~Petitioner. _____/~~

~~**AD INTERIM STIPULATION OF VALUE AND STIPULATION FOR COSTS**~~

~~WHEREAS [name of Owner] (the "Petitioner"), as Owner of the [name of vessel] (the "Vessel"), has instituted a proceeding in this Court for limitation of or exoneration from liability with respect to all losses, damages, injuries or destruction allegedly resulting from the casualty described in the Petition, in which the Petitioner requests, among other things, that a Monition may issue to all persons or corporations asserting claims for loss, injuries or damages arising out of said accident and voyage, admonishing them to appear and make due proof of their respective claims and also to appear and answer the allegations of Petitioner herein, and that an Injunction be issued restraining commencement and prosecution of any and all actions, claims or proceedings against Petitioner, the Vessel, or any other property of the Petitioner as a result of the incident described in the Petition, except pursuant to the Monition granted herein;~~

~~WHEREAS Petitioner wishes to provide an Ad Interim Stipulation for the value of its interest in the Vessel as security for all those who may file claims herein, pending the ascertainment by reference of the amount or value of Petitioner's interest in the Vessel.~~

~~NOW THEREFORE, the Petitioner, stipulates that it will deposit no more than the sum of [amount of stipulation], in the form of a surety bond with the Court's registry with interest at the rate of 6% per annum from the date hereof and costs, and Petitioner will pay said sum and/or deposit said bond into the Court within fifteen (15) days after the demand thereof by any Claimant.~~

~~Further, Petitioner will pay and/or deposit a surety bond in the Court's registry, within fifteen (15) days after the entry of an Order confirming the~~

~~report of a commissioner to be appointed to appraise the amount of value of the Petitioner's interest in the Vessel, the amount or value of such interest is thus ascertained and ordering the posting of said bond, if demanded by any Claimant, or alternatively will file in this proceeding a Joint Stipulation for Value in the usual form, and that after giving of the Joint Stipulation for Value in the usual form, this Ad Interim Stipulation shall stand as security for all claims in the said limitation of liability proceeding in lieu of said bond, until such time as any Claimant demands the posting of a bond or the Court so orders.~~

~~THUS DONE AND EXECUTED this ___ day of [month], [year].~~

~~Respectfully submitted,~~

~~_____~~

~~Attorney in fact [Owner] Owner of [vessel]~~

~~[Effective April 15, 2011.]~~

~~Form 16. Order Approving Ad Interim Stipulation of Value, Directing Issuance of Monition and Injunction~~

~~UNITED STATES COURT FOR THE SOUTHERN DISTRICT OF FLORIDA~~

~~Case No. ___ Civ or Cr (USDJ's last name/USMJ's last name)~~

~~IN ADMIRALTY~~

~~IN THE MATTER OF: _____~~

~~_____~~

~~_____~~

~~Petitioner. _____/~~

~~**ORDER APPROVING AD INTERIM STIPULATION OF VALUE, DIRECTING ISSUANCE OF MONITION AND INJUNCTION**~~

~~A Complaint having been filed herein on the _____ day of [month], [year], by [Petitioner], as Owner of the [vessel] (the "Vessel"), for exoneration from and/or limitation of liability as provided for in the Act of Congress embodied in 46 U.S.C. §§ 30501 et seq. and pursuant to Rule F of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure, together with the statutes supplemental thereto and amendatory thereof, and also contesting its liability independently of the limitation of liability claims under said Acts, Treaty or Code for any loss, damages, deaths, personal injuries, damage or destruction of property or other occurrences arising from the incident which occurred on or about [date of incident], on the navigable waterways of [county] as further described in the Petition for Limitation, and said Complaint also stating the alleged facts and circumstances on which such exoneration from or limitation of liability is claimed;~~

~~And Petitioner having deposited with the Court as security for the benefit of Claims, an Ad Interim Stipulation of Value not less than or equal to the amount or value of its interest in the Vessel, as required by the rules of this Court and by the law;~~

~~IT IS ORDERED AND ADJUDGED that the Ad Interim Stipulation for the value of Petitioner's interest in the Vessel, for no more than the amount of [amount], including costs of court and interest at the rate of six percent (6%) per annum from date hereof, and filed herein by Petitioner, be accepted as Ad Interim Stipulation for the purpose of this action and that it be approved as to form and quantum.~~

~~IT IS FURTHER ORDERED AND ADJUDGED that Petitioner and any Claimant who may properly become a party hereto may contest the amount of value of Petitioner's interest in the Vessel as fixed in said Ad Interim Stipulation, subject to such increases or decreases in the amount of such Stipulation, together with adequate security, as the Court may from time to time order according to the rules and practices of this Court may adjudge.~~

~~IT IS FURTHER ORDERED AND ADJUDGED that if the amount of the Ad Interim Stipulation is not contested by any Claimant herein, said Stipulation shall stand as a Stipulation for Value and an appraisal by a Commissioner will not be required.~~

~~NOW, THEREFORE, it is ordered that a Monition issue out of and under the seal of this Court against all persons or corporations claiming damage for any and all loss, destruction, damage, injuries, and/or death allegedly as a result of the occurrences and happenings recited in the Complaint, to file their respective claims with the Clerk of this Court and to serve on or mail to the attorneys for Petitioner copies thereof on or before [date], and that all persons or corporations so presenting claims and desiring to contest the allegations of the Complaint shall file an answer to the Complaint in this Court and shall serve on or mail to the attorneys for the Petitioner copies thereof, or be defaulted.~~

~~IT IS FURTHER ORDERED that a public notice of said Monition be given by publication as required by Rule F of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Southern District of Florida, once each week for four successive weeks in the "Daily Business Review [county] Edition" prior to the date fixed for the filing of claims in accordance with Supplemental Rule F and that not later than the date of the second weekly publication, a copy of said notice to be mailed by Petitioner to every person or corporation known by the Petitioner to have a claim against Petitioner arising out of the accident set forth in the Complaint.~~

~~IT IS FURTHER ORDERED that the commencement or further prosecution of any action, suit or proceeding in any court whatsoever, and the institution and prosecution of any suits, actions or legal proceedings, of any nature or description whatsoever, in any court whatsoever, except in these proceedings, in respect to any claim arising out of, or connected with the casualty set forth in the Complaint herein, be and the same are hereby STAYED AND RESTRAINED~~

~~until the final determination of this proceeding.~~

~~IT IS FINALLY ORDERED that the service of this Order as a restraining order in this District may be made in the usual manner as any other district of the United States by delivery by the Marshal of the United States for such District of a certified copy of this Order on the person or persons to be restrained or to their respective attorneys, or alternatively, by mailing a conformed copy of it to the person or persons to be restrained or to their respective attorney.~~

~~DONE AND ORDERED in Chambers at ___ Florida, this ___ day of [month], [year].~~

~~_____~~

~~United States District Judge~~

~~[Effective April 15, 2011.]~~

~~Form 17. Affidavit of Value~~

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

~~Case No. ___ Civ or Cr (USDJ's last name/USMJ's last name)~~

~~IN ADMIRALTY~~

~~IN THE MATTER OF: _____~~

~~_____~~

~~_____~~

~~Petitioner. _____/~~

~~**AFFIDAVIT OF VALUE**~~

~~STATE OF FLORIDA~~

~~COUNTY OF _____~~

~~Before me, the undersigned authority, a notary public, personally came and appeared [name of expert] who, being duly sworn, did depose and state as follows:~~

- ~~1. I am [name of expert], and I am over eighteen (18) years of age.~~
- ~~2. I am a marine surveyor employed with [name of employer] located in [name of county] County, Florida.~~
- ~~3. I have been actively working as a marine surveyor in [name of county] County for more than [number of years] years and in such capacity I am familiar with and have determined the value of vessels such as the [name of vessel].~~
- ~~4. I examined the [name of vessel] on [date], immediately after the alleged-~~

~~accident as stated in the Complaint. I have reviewed certain documentation information concerning the vessel and determined that the fair market value of the vessel on [date of inspection], immediately after the accident was no more than [value].~~

~~_____~~
~~{name of expert}~~

~~STATE OF FLORIDA~~

~~COUNTY OF _____~~

~~BEFORE ME, the undersigned authority, personally appeared _____ who () is personally known to me, or () who produced a copy of _____ as proof of identification.~~

~~SWORN TO AND SUBSCRIBED before me this ___ day of _____, 20 ___.~~

~~_____~~
~~Notary Public State of Florida~~

~~My Commission Expires:~~

~~{Effective April 15, 2011.}~~

~~Form 18. Joint Stipulation of the Parties As to the Value of the [Vessel]~~

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

~~Case No. ___ Civ or Cr (USDJ's last name/USMJ's last name)~~

~~IN ADMIRALTY~~

~~IN THE MATTER OF: _____~~

~~_____~~

~~_____~~

~~Petitioner. _____/~~

~~JOINT STIPULATION OF THE PARTIES AS TO THE VALUE OF THE [VESSEL]~~

~~COME NOW the parties, [name of Petitioner] (the "Petitioner"), as Owner of the [description of vessel], the [vessel name] (the "Vessel"), by and through h[is][er] undersigned counsel, Claimants [names of Claimants], by and through their undersigned counsel, and jointly stipulate and agree as follows:~~

~~1. On or about [date of incident], Petitioner, as owner of the Vessel, timely filed a Petition for Exoneration From or Limitation of Liability in the U.S. District Court for the Southern District of Florida.~~

~~2. Pursuant to the proceeding for exoneration from or limitation of liability filed by Petitioner, Petitioner sought to be exonerated from or to limit his liability for any and all claims, losses, damages, injuries, costs, fees, or other expenses arising from an incident which occurred on or about [date of accident] on the navigable waters of the United States, pursuant to the provisions of the Shipowners Limitation of Liability Act, Title 46, U.S. Code § 30501 et sequentia.~~

~~3. Pursuant to the provisions of Rule F of the Supplemental Rules for Certain Admiralty and Maritime Claims, Petitioner filed an Ad Interim Stipulation for Value setting forth the value of the Vessel following the incident which forms the subject matter of this litigation, and at the conclusion of the voyage during which said incident occurred, as being [dollar amount].~~

~~4. Having duly considered the provisions of the Ad Interim Stipulation for Value and the documentation filed in support thereof, the parties jointly stipulate and agree that the value of the Vessel at the conclusion of the voyage of [date] occurred did not exceed the sum of [dollar amount] and, was, in fact, [amount] U.S. dollars.~~

~~5. It is further stipulated and agreed by the parties, by and through their undersigned counsel, that the entry by the parties to this Joint Stipulation is without prejudice to, and with full reservation of, all rights, claims, and defenses of the parties including, without limit, any and all defenses of Petitioner and Claimants.~~

~~6. Inasmuch as there have been no other claims filed in this Court pursuant to the Monition and Injunction entered by the Court and that there are no other creditors, claimants or alleged lienors whether in contract or in tort who have filed claims against the Petitioner, it is stipulated and agreed by the parties, by and through their undersigned counsel, that no other claims have been timely filed in this proceeding and that all other non filing claimants should be defaulted by the Court.~~

~~WHEREFORE, the parties, [owner], as owner of the [vessel], by and through h[is][er] undersigned counsel, [Claimants], by and through their undersigned counsel, stipulate and agree to the facts set forth herein and to the matters jointly set forth herein as well as the entry by the Court of appropriate Orders as stipulated thereto by the parties.~~

~~Respectfully submitted, —~~

~~_____~~

~~_____~~

~~=====~~

~~_____~~

~~Claimant's Attorney — Petitioner's Attorney~~

~~{Effective April 15, 2011.}~~

~~MAGISTRATE JUDGE RULES~~

~~MAGISTRATE FORMS~~

~~Notice of Right to Consent to Disposition of a Civil Case by a United States Magistrate Judge~~

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

~~In accordance with the provisions of 28 U.S.C. § 636(c), you are hereby notified that the fulltime Magistrate Judges of this District, in addition to their other duties, may, upon the consent of all the parties in a civil case, conduct any or all proceedings in a civil case, including a jury or non-jury trial, and order the entry of a final judgment. Copies of appropriate consent forms for this purpose are available from the Clerk of the Court.~~

~~You should be aware that your decision to consent, or not to consent, to the referral of your case to the Magistrate Judge assigned to the case for disposition is entirely voluntary and should be communicated solely to the Clerk of the Court. Only if all the parties to the case consent to the reference to the Magistrate Judge will either the District Judge or Magistrate Judge be informed of your decision.~~

~~Your opportunity to have your case disposed of by the Magistrate Judge is subject to the discretion of the Court. Accordingly, the District Judge to whom your case is assigned must approve the reference of the case to a Magistrate Judge for disposition, by Order of Reference.~~

~~{Effective December 1, 1994. Amended effective April 15, 2007; December 1, 2011.}~~

~~Comment~~

~~(2011) Amended to clarify that consent applied only to the Magistrate Judge then assigned to the case.~~

~~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 the Magistrate Judge currently assigned to the case [INSERT MAGISTRATE JUDGE'S NAME] conduct any and all further proceedings in the case (including the trial) and order the entry of judgment. The parties do not consent to the reassignment to any other or successor Magistrate Judge.~~

~~Attorney Name (Bar Number) Attorney Name (Bar Number)~~

~~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~~

~~Faesimile: (xxx)xxx xxxx Faesimile: (xxx)xxx xxxx~~

~~Attorneys for Plaintiff Attorneys for Defendant~~

~~[Party Name(s)] [Party Name(s)]~~

~~NOTE: Return this form to the Clerk of the Court only if it has been executed by all parties to the case.~~

~~ORDER OF REFERENCE~~

~~IT IS HEREBY ORDERED that the above captioned matter be referred to Magistrate~~

Judge _____ for the conduct of all further proceedings and the entry of judgment in accordance with Title 28 United States Code Section 636(c) and the foregoing consent of the parties.

Date _____ United States Magistrate Judge

[Effective December 1, 1994. Amended effective April 15, 2006; April 15, 2007; December 1, 2011.]

Comment

~~(2006) The form for Consent to Proceed Before a United States Magistrate Judge is amended to reflect the amendments to Title 28, United States Code, Section 636(c), which eliminated appeals by consent of the parties to District Judges.~~

~~(2011) Amended to clarify that consent applied only to the Magistrate Judge then assigned to the case.~~

SPECIAL RULES GOVERNING THE ADMISSION AND PRACTICE OF ATTORNEYS

Rule 1. Qualifications for Admission

An attorney is qualified for admission to the bar of this District if the attorney is ~~(1) currently a member in good standing of The Florida Bar; and (2) has received a passing score on the examination approved and adopted by the Ad Hoc Committee on Attorney Admissions, Peer Review and Attorney Grievance of the Southern District of Florida, and by the Court, testing knowledge of the Federal Rules of Criminal and Civil Procedure, the Federal Rules of Evidence, and the law of federal jurisdiction and venue. The examination shall also contain sections testing knowledge of the local rules of this District. Admission to this District requires successful completion of the examination. An applicant may take the examination three times in any calendar year. However, if the applicant fails to pass the examination after three attempts, he or she must wait a full calendar year before reapplying.~~

[Effective December 1, 1994. Amended effective January 1, 1996; April 15, 2002; April 15, 2006; April 15, 2007; December 3, 2012.]

Comment

(2007) Amended to eliminate references to a common test with the Northern District of Florida, which has been eliminated.

(2012) Amended to eliminate requirement to pass admission examination.

Rule 2. Procedure for Applying for Admission and Proof of Qualifications

Each applicant for admission shall submit a verified petition setting forth the information specified on the form available on the Court's website (www.flsd.uscourts.gov) ~~provided by the Clerk of the Court,~~ together with an

application fee in the amount set by the Court ~~and payable to "U.S. Courts."~~ .
~~A showing of good standing shall be made by The Florida Bar. The Clerk of the~~
~~Court shall examine such petition to determine that the applicant is qualified~~
~~for admission and upon successful completion of the examination~~Upon receipt of
the application fee, the Clerk of the Court shall require each qualified
practitioner ~~the applicant~~ to sign the oath of admission, ~~receive the admission~~
~~fee~~ and shall place such applicant on the roll of attorneys of the bar of this
~~District~~Court.

[Effective December 1, 1994. Amended effective January 1, 1996; April 15, 2007;
December 3, 2012.]

Comment

(2007) Amended to eliminate references to a common test with the Northern
District of Florida, which has been eliminated, and to eliminate procedures for
obtaining admission to the Northern District.

(2012) Amended to eliminate references to admission examination and to direct
practitioners to the Court's website for the petition for admission to the bar
of this Court.