UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 2024-89

IN RE:
AMENDMENTS TO THE LOCAL RULES
_____/

THE COURT has given notice and an opportunity to be heard in accordance with Fed. R. Civ. P. 83 and Fed. R. Crim. P. 57, has conducted an *en banc* hearing, and has considered the comments of the public and the report of the Court's Ad Hoc Committee on Rules and Procedures with regard to proposed amendments, in the form attached, that amend the Local General Rules, including the Admiralty and Maritime Rules, the Magistrate Rules and the Rules Governing the Admission, Practice, Peer Review, and Discipline of Attorneys. Upon consideration of the public comments received and the report of the Ad Hoc Committee, it is hereby

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

IT IS FURTHER ORDERED that the foregoing rule amendments shall take effect on December 2, 2024 and shall govern all proceedings thereafter commenced and, insofar as just and practicable, all proceedings then pending.

IT IS FURTHER ORDERED that the Clerk of the Court is directed to publish notice alerting the public of the newly amended local rules by; (a) posting this Order (with attachments) prominently on the Court's website for the next 60 days; and (b) providing notice of the local rule amendments to this Court's bar through the CM/ECF electronic noticing system.

DONE AND ORDERED in Miami, Florida, this 7th day of November, 2024.

Cecilia M. Altonaga

CECILIA M. ALTONAGA
CHIEF UNITED STATES DISTRICT JUDGE

c: Hon. William H. Pryor, Jr., Chief Judge, Eleventh Circuit Court of Appeals
All Southern District of Florida District Judges, Bankruptcy Judges and Magistrate Judges
Ashlyn D. Beck, Circuit Executive, Eleventh Circuit
Angela E. Noble, Court Administrator · Clerk of Court
Scott M. Dimond, Chair, Ad Hoc Committee on Rules and Procedures
All Members of the Ad Hoc Committee on Rules and Procedures
Library

RULE 5.2 PROOF OF SERVICE AND SERVICE BY PUBLICATION

(a) Certification of Service. If a pleading or paper required by Federal Rule of Civil Procedure 5 to be served on the other parties is served on any party by a method other than CM/ECF, that pleading or paper shall include a certificate of service that identifies the persons or firms served, their relationship to the action or proceeding, their street address, telephone number, and email address, and the date and method of service. *See* form available on the Court's website (www.flsd.uscourts.gov). Signature by the party or its attorney on the certificate of service constitutes a representation that service has been made.

(b) Multiple Copies Unnecessary. Any document permitted to be filed via CM/ECF, including the corporate disclosure statement required by Federal Rule of Civil Procedure 7.1, shall be deemed to have been delivered in multiple if multiple copies are required to be filed.

(c) Publication. Publication required by law or rule of court shall be made in a newspaper of general circulation in the county in which the action is pending~~, e.g., *The Daily Business Review*~~.

Effective December 1, 1994. Amended effective December 1, 2001; April 15, 2007; April 15, 2010; April 15, 2011; December 1, 2015; December 1, 2020; December 1, 2023; December 2, 2024.

RULE 5.3 FILES AND EXHIBITS

(a) Removal of Original Papers. Except as provided in this rule, no original papers in the custody of the Clerk of the Court shall be removed by anyone without order of the Court until final adjudication of the action or proceeding and disposition of the appeal, if one is filed, or expiration of the appeal period without appeal being filed, and then only with permission and on terms of the Clerk of the Court. However, official court reporters, special masters, or commissioners may remove original papers as may be necessary.

(b) Exhibits.

(1) ***Delivery to and Retention by Clerk***. Except as provided by Section 5H of the CM/ECF Administrative Procedures, each exhibit offered or introduced in evidence at any hearing or trial shall be delivered to the Clerk of the Court, who shall keep the exhibit in the Clerk of the Court's custody, until the exhibit is electronically filed and served with the Court in accordance with subsection (b)(2) of this rule. However, when a party offers or introduces into evidence an exhibit that consists of narcotics, cash, counterfeit notes, weapons, precious stones or other items which, because of size or nature, require special handling, that party shall contemporaneously deliver to the Clerk of the Court a photograph of that physical exhibit, which shall later be electronically filed and served with the Court in accordance with subsection (b)(2) of this rule, and that party shall retain that exhibit (or a representative sample in the case of narcotics and other contraband substances) during the pendency of the proceeding and any appeal, and, in a criminal case, shall retain the exhibit for an additional period of one year after the date on which the pertinent defendant's judgment of conviction becomes final. Nothing contained in this Local Rule shall prevent the Court from entering an order with respect to the handling, custody or storage of any exhibit. The Clerk of the Court shall permit United States Magistrate Judges and official court reporters to have custody of exhibits as may be necessary.

(2) ***Mandatory Electronic Filing***. Unless otherwise ordered by the Court, within ten (10) days of the conclusion of a hearing or trial, a party must file and serve in the CM/ECF system (a) an electronic version of each documentary exhibit that the party offered or introduced into evidence and (b) a digital photograph of each non-documentary physical exhibit that the party offered or introduced into evidence. Before the electronic filing and service of such exhibits, the filer must review each exhibit and redact any sensitive, confidential, or private information in accordance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and CM/ECF Administrative Procedures, Section 6, Redaction of Personal Information, Privacy Policy, and Inappropriate Materials, or seek an order from the Court either to seal the exhibit or to exempt the exhibit from electronic filing and service under subsection (b)(3)(C) of this rule. Copies of any items filed under this rule shall also be served pursuant to Fed. R. Civ. P. 5(b)(2) on any *pro se* parties.

(3) ***Exemptions from Mandatory Electronic Filing***. The following exhibits shall be exempt from mandatory electronic filing and service in the CM/ECF system:

~~• Sealed and ex parte exhibits in criminal cases, which must be conventionally filed in accordance with Rule 5.4.~~

(A) Contraband images, audio recordings, and video recordings, which must be physically filed with the Clerk of the Court within ten (10) days of the conclusion of the hearing or trial, unless otherwise ordered, in the following form: (i) on a CD, DVD, or other electronic medium containing a copy of the exhibit that included the contraband image, audio recording, or video recording, if the exhibit was offered or introduced at trial in electronic form; or (ii) in original physical form if the contraband image was not offered or introduced at trial in electronic form.

(B) When permitted by order of the Court, exhibits containing voluminous amounts of confidential information that is subject to privacy protections in accordance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, or other applicable rule or statute; within ten (10) days of the conclusion of the hearing or trial, unless otherwise ordered, such exhibits must be delivered to the Clerk of the Court either in original physical form or on a CD, DVD, or other electronic medium containing a copy of the exhibit, but such exhibits are not to be filed and served in the CM/ECF system, and the filer is not required to comply with CM/ECF Administrative Procedures, Section 6, Redaction of Personal Information, Privacy Policy, and Inappropriate Materials.

(4) ***Certification of Compliance Requirement***. When the exhibits that were offered or introduced at a trial or hearing are: (i) electronically filed and served by a party; or (ii) delivered to the Clerk of the Court in accordance with the procedures for exhibits that are exempt from electronic filing and service, the attorney for that party shall also complete and electronically file and serve a Certification of Compliance Re Admitted Evidence form, which can be found at the Court's website (http://www.flsd.uscourts.gov).

(5) ***Attorney Responsibility and Failure to Comply***. Unless otherwise ordered, the responsibility for discharging a party's obligations under subsection (b) belongs to the attorney who represented that party at the trial or hearing at which that party offered or introduced an exhibit. A party's failure to timely file and serve exhibits electronically as required by this rule or to timely file and serve its Certification of Compliance Re Admitted Evidence may result in the imposition of sanctions.

(6) ***Dismissals, Acquittals, and Voluntary Dismissals***. Unless the Court, sua sponte or on motion of a party, orders compliance with subsection (b), such compliance is not required for a criminal jury trial that has concluded in a verdict of acquittal and/or pre-verdict dismissal pursuant to Fed. R. Crim. P. 29(a)-(b) on all charges,

or for a civil case that has been dismissed pursuant to Fed. R. Civ. P. 41(a)(1).

(c) Removal of Exhibits. Within ten (10) days after a party electronically files and serves the exhibits it offered or introduced into evidence at a hearing or trial, the party shall make arrangements with the Clerk of the Court to retrieve all of the original exhibits that were electronically filed and served. Any original exhibits that have been returned to or retained by the filing party after either electronic filing and service or the submission of electronic copies pursuant to subsections (b)(3)(B) or (b)(3)(C) shall be kept for safe keeping until the conclusion of any appeals, and, in a criminal case, shall be retained for an additional period of one year after the date on which the pertinent defendant's judgment of conviction becomes final; upon order of the Court, the filing party must return the original exhibits to the Clerk of the Court. For any other original exhibit that was offered or introduced in evidence at a hearing or trial and that was retained by the Clerk of the Court because the exhibit was exempt from electronic filing and service, the party that offered or introduced that exhibit shall retrieve the exhibit from the Clerk of the Court within three (3) months after final adjudication of the action or proceeding and disposition of any appeal and, in a criminal case, shall retain the exhibit until one year after the date on which the pertinent defendant's judgment of conviction becomes final; otherwise, such original exhibit may be destroyed or otherwise disposed of as the Clerk of the Court may deem proper.

[Subsection (d) has been moved to Court's I.O.P.]

Effective December 1, 1994. Amended effective April 15, 2007; April 15, 2010; December 1, 2015; December 1, 2017; December 2, 2019; December 2, 2024.

RULE 5.4 FILINGS UNDER SEAL; DISPOSAL OF SEALED MATERIALS

(a) General Policy. Unless otherwise provided by law, Court rule, or Court order, proceedings in the United States District Court are public and Court filings are matters of public record. Where not so provided, a party seeking to file matters under seal and/or ex parte shall follow the procedures prescribed by this Local Rule and Sections 5A, 5K, 9A-D, and 10B, as applicable, of the CM/ECF Administrative Procedures. In criminal matters, the procedures prescribed by this Local Rule and by the CM/ECF Administrative Procedures concerning the filing of ex parte documents shall only apply to cases in which a person already has been charged by criminal complaint, criminal information, or indictment.

(b) Procedure for Filing Under Seal in Civil and Criminal Cases. A party seeking to file information or documents under seal in a civil or criminal case shall:

(1) In a case that is not otherwise sealed in its entirety as permitted or required by federal law, file and serve electronically via CM/ECF a motion to file under seal that sets forth the factual and legal basis for departing from the policy that Court filings are public and that describes the information or documents to be sealed (the "proposed sealed material") with as much particularity as possible, but without attaching or revealing the content of the proposed sealed material. The proposed sealed material shall not be filed unless the Court grants the motion to file under seal. The motion to file under seal shall specify the proposed duration of the requested sealing. The motion to file under seal and the docket text shall be publicly available on the docket. If, prior to the issuance of a ruling on the motion to file under seal, the moving party elects or is required to publicly file a pleading, motion, memorandum, or other document that attaches or reveals the content of the proposed sealed material, then the moving party must redact from the public filing all content that is the subject of the motion to file under seal. If the Court grants the motion to file under seal, then the moving party shall file any pleading, motion, memorandum, or other document that has been authorized to be filed under seal via CM/ECF using events specifically earmarked for sealed civil or criminal filings, but if a redacted filing previously has been made or is accompanying the sealed filing, then the material that is being filed under seal shall be filed as an attachment to a "Notice of Sealed Filing" which shall be filed via CM/ECF (using events specifically earmarked for sealed civil or criminal filings). The moving party must complete any required service of the sealed filing or Notice of Sealed Filing conventionally, indicating the corresponding docket number of the sealed filing or Notice of Sealed Filing.

(2) A party appearing pro se seeking to make a filing under seal in a civil or criminal case that is not otherwise sealed in its entirety as permitted or required by federal law must comply with the procedures set forth in Local Rule 5.4(b)(1), except that the motion to file under seal shall be filed conventionally with the Clerk of Court and, if the Court grants the motion to file under seal, the sealed filing or Notice of Sealed Filing shall be submitted to the Clerk of Court in a plain envelope clearly marked "sealed document" with the case number and style of the case noted on the outside. The pro se party must

also complete any required service of the sealed filing or Notice of Sealed Filing conventionally indicating the corresponding docket number of the sealed filing or Notice of Sealed Filing.

(3) A party or pro se party seeking to seal a case in its entirety must file a motion to seal conventionally with the Clerk of Court in a plain envelope clearly marked "sealed document" with the style of the case noted on the outside of the envelope. The motion to seal must set forth the factual and legal basis for departing from the policy that Court filings be public, describe the proposed sealed filing with as much particularity as possible without revealing the confidential information, and specify the proposed duration of the requested sealing. If the motion is granted, subsequent filings shall be filed conventionally with the Clerk of Court as sealed documents in a plain envelope clearly marked "sealed document" with the case number and style of the case noted on the outside. The filer must complete any required service of the sealed document(s) conventionally.

(c) ~~Procedure for~~ Exceptions to CM/ECF Filing ~~Under Seal~~ in Criminal Cases~~. A party seeking to make a~~ :

The following documents must be submitted to the Clerk's Office in paper form, by mail, or by hand-delivery, regardless of e- filing ~~under seal~~status:

(1) Documents in ~~a~~ criminal ~~case shall:~~cases that require the signature of a non-attorney, such as a grand jury foreperson or a third-party custodian:

~~(2) Conventionally file a motion to seal that sets forth the factual and legal basis for departing from the policy that Court filings be public and that describes the proposed sealed filing with as much particularity as possible without revealing the confidential information. The motion shall specify the proposed duration of the requested sealing. Unless the Court expressly orders otherwise, the motion to seal will itself be sealed from public view and the docket text appearing on the public docket shall reflect only that a sealed filing has been made.~~

~~(3) Conventionally file the proposed sealed filing in a plain envelope clearly marked "sealed document" with the case number and style of the case noted on the outside.~~

(2) The indictment, information, criminal data sheet, summons, and warrant; and

(3) Highly Sensitive Documents, as defined in the Eleventh Circuit's Amended Order regarding Procedures for the Filing, Service, and Management of Highly Sensitive Documents.

(d) Procedure for Filing Ex Parte. A party submitting an ex parte filing shall:

(1) Include the words "ex parte" in the title of the motion and explain the reasons for ex parte treatment. Upon submission, unless the Court directs otherwise the ex--parte filing will be restricted from public view and the docket text appearing on the public docket will reflect only that a restricted filing has been made. Counsel need not serve motions filed ex parte and related documents unless and until the Court so orders.

~~(2) In criminal matters, conventionally file the ex parte filing in a plain envelope clearly marked "ex parte" with the case number and style of the case noted on the outside.~~

~~In civil matters, electronically~~

~~(3)~~ (2) Electronically file the ex parte filing via CM/ECF as a restricted document using the events specifically earmarked for ex parte filings as described in Section 9 of the CM/ECF Administrative Procedures.

~~(4)~~(3) A party appearing pro se must file documents conventionally.

(e) Court Ruling.

(1) *Sealed Filings*. An order granting a motion to seal shall state the period of time that the sealed filing shall be sealed.

(2) *Ex Parte Filings*. Access to ex parte motions and related filings will remain restricted unless the Court orders otherwise.

(3) *Orders Sealing Identification of Parties*. If an order granting a motion to seal results in the identity of one or more parties to the action being sealed, then it is the responsibility of the moving party to add all previously sealed parties to CM/ECF within three (3) days of the identity of the sealed parties being unsealed.

(f) Filing redacted exhibits.

(1) In lieu of filing an exhibit to a pleading, motion, response brief, or reply brief under seal, a filer may file a version of the exhibit that redacts information therein that the filer in good faith believes is: (i) sensitive, confidential, or private: and (ii) irrelevant to resolution of the matter as to which the exhibit is being filed.

(A) A filer filing a redacted exhibit must contemporaneously serve a version of the exhibit upon all counsel and pro se parties that is either unredacted or that contains only those redactions authorized in connection with producing a document to another party in discovery.

(B) When a party in good faith believes that some or all the information redacted in a filed exhibit is relevant to resolution of the matter as to which the exhibit was filed, that party may file a motion within fourteen (14) days after the filing requesting that the exhibit be refiled without such information redacted.

(2) A filer must make all redactions to exhibits and other filings that are required by Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, or CM/ECF Administrative Procedures, Section 6, Redaction of Personal Information, Privacy Policy, and Inappropriate Materials.

(3) This Rule 5.4(f) is applicable to an interested non-party to the same extent as to a party.

Effective April 15, 2000. Amended effective April 15, 2001; April 15, 2005; April 15, 2007; April 15, 2010; December 2, 2013; December 1, 2014; December 1, 2015; December 1, 2017; December 2, 2019; December 2, 2024.

RULE 7.1 MOTIONS, GENERAL

(a) Filing.

(1) Every motion when filed and served shall incorporate a memorandum of law citing supporting authorities, except that the following motions need not incorporate a memorandum:

(A) petition for writ of habeas corpus ad testificandum or ad prosequendum;

(B) motion for out-of-state process;

(C) motion for order of publication for process;

(D) application for default;

(E) motion for judgment upon default;

(F) motion to withdraw or substitute counsel;

(G) motion for continuance, provided the good cause supporting it is set forth in the motion and affidavit required by Local Rule 7.6;

(H) motion for confirmation of sale;

(I) motion to withdraw or substitute exhibits;

(J) motion for extensions of time providing the good cause supporting it is set forth in the motion;

(K) motion for refund of bond, provided the good cause supporting it is set forth in the motion;

(L) application for leave to proceed in forma pauperis; ~~and~~

(M) motion for admission pro hac vice; and

(N) motion for court approval of a stipulation between any parties.

(2) Those motions listed in (a)(1) above, as well as any motion seeking emergency or ex parte relief or a temporary restraining order, shall be accompanied by a proposed order that is filed and served submitted via e-mail to the Court as prescribed by Section 3I(6) of the CM/ECF Administrative Procedures.

~~(3)~~ *Pre-filing Conferences Required of Counsel*. Prior to filing any motion in a civil case, except a motion for injunctive relief, for judgment on the pleadings, for

summary judgment, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, for pro hac vice admission, or to involuntarily dismiss an action, for garnishment or other relief under Federal Rule of Civil Procedure 64, or otherwise properly filed ex parte under the Federal Rules of Civil Procedure and these Local Rules, or a petition to enforce
or vacate an arbitration award, counsel for the movant shall confer (orally or in writing), or make reasonable effort to confer (orally or in writing), with all parties or non-parties who may be affected by the relief sought in the motion in a good faith effort to resolve by agreement the issues to be raised in the motion. Counsel conferring with movant's counsel shall cooperate and act in good faith in attempting to resolve the dispute. At the end of the motion, and above the signature block, counsel for the moving party shall certify either: (A) that counsel for the movant has conferred with all parties or non-parties who may be affected by the relief sought in the motion in a good faith effort to resolve the issues raised in the motion and has been unable to do so; or (B) that counsel for the movant has made reasonable efforts to confer with all parties or non-parties who may be affected by the relief sought in the motion, which efforts shall be identified with specificity in the statement (including the date, time, and manner of each effort), but has been unable to do so. If certain of the issues have been resolved by agreement, the certification shall specify the issues so resolved and the issues remaining unresolved. Failure to comply with the requirements of this Local Rule may be cause for the Court to grant or deny the motion and impose on counsel an appropriate sanction, which may include an order to pay the amount of the reasonable expenses incurred because of the violation, including a reasonable attorney's fee. See forms available on the Court's website (www.flsd.uscourts.gov).

(b) Hearings.

(1) No hearing will be held on motions unless set by the Court.

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

(3) Discovery motions may be referred to and heard by a United States Magistrate Judge.

(4) With respect to:

(A) any motion in a civil case or any post-conviction motion in a criminal

case that has been pending and fully briefed with no hearing set thereon for a period of ninety (90) days, and

(B) any motion in a civil case or any post-conviction motion in a criminal case as to which the Court has conducted a hearing but has not entered an order or otherwise determined the motion or matter within ninety (90) days of the hearing, the movant, whether party or non-party;

shall file and serve on all parties and any affected non-parties within fourteen (14) days thereafter a "Notice of Ninety Days Expiring," which shall contain the following information:

(i) the title and docket entry number of the subject motion, along with the dates of service and filing;

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

(iii) the title and docket entry number of any reply memoranda, or any other papers filed and served in connection with the motion, as well as the dates of service and filing; and

(iv) the date of any hearing held on the motion.

(C) any motion filed in a proceeding pursuant to 28 U.S.C. §2255 is not subject to the ninety (90) day notice provision set forth above.

(c) Memorandum of Law.

(1) *Requirements and Timing*. For all motions, except motions served with the summons and complaint, each party opposing a motion shall file and serve an opposing memorandum of law no later than fourteen (14) days after service of the motion. Failure to do so may be deemed sufficient cause for granting the motion by default. The movant may, within seven (7) days after service of an opposing memorandum of law, file and serve a reply memorandum in support of the motion, which reply memorandum shall be strictly limited to rebuttal of matters raised in the memorandum in opposition without reargument of matters covered in the movant's initial memorandum of law. No further or additional memoranda of law shall be filed and served without prior leave of Court. All materials in support of any motion, response, or reply, including affidavits and declarations, shall be served with the filing. For a motion served with the summons and complaint, the opposing memorandum of law shall be due on the day the response to the complaint is due.

Time shall be computed under this Local Rule in accordance with applicable federal rules of procedure (e.g., Fed. R. Civ. P. 6(a) and Fed. R. Crim. P. 45(a)).

(2) *Length.* Absent prior permission of the Court, neither a motion and its incorporated memorandum of law nor the opposing memorandum of law shall exceed twenty
(20) pages; a reply memorandum shall not exceed ten (10) pages. As long as no substantive part of the submission appears on the same page(s), the following items do not count toward page limitations for purposes of this rule and any other rules or orders setting forth page limitations: title pages preceding the first page of text, tables of contents, tables of citations, "request for hearing" sections, signature pages, certificates of good faith conferences, and certificates of service.

(d) Emergency Motions and Expedited Motions. The Court may, upon written motion and good cause shown, waive the time requirements of this Local Rule and grant an immediate or expedited hearing on any matter requiring such expedited procedure. A filer may seek expedited consideration through either an emergency motion or an expedited motion in accordance with the following requirements:

(1) *Emergency Motions*. A filer requesting emergency action must include the words "Emergency Motion" in the title of the motion and must set forth in detail the nature of the emergency, the date by which a ruling is necessary, and the reason the ruling is needed by the stated date. The unwarranted designation of a motion as an emergency motion may result in sanctions. The filer must certify that the matter is a true emergency by including the following certification before the motion's signature block:

> After reviewing the facts and researching applicable legal principles, I certify that this motion in fact presents a true emergency (as opposed to a matter that may need only expedited treatment) and requires an immediate ruling because the Court would not be able to provide meaningful relief to a critical, non-routine issue after the expiration of seven days. I understand that an unwarranted certification may lead to sanctions.

As prescribed by Section 10 of the CM/ECF Administrative Procedures, a party seeking to file an emergency motion must file and serve the documents electronically via CM/ECF using the events specifically earmarked for emergency matters. Motions are not considered emergencies if the urgency arises because of the attorney's or party's own dilatory conduct. Generally, unless a motion will become moot if not ruled on within seven (7) days, the motion should not be filed as an emergency motion.

(2) *Expedited Motions*. A filer whose time-sensitive motion does not qualify as an emergency motion but who nonetheless requires an expedited ruling by a date certain may file an expedited motion in lieu of an emergency motion. The motion must include the words "Expedited Motion" in the title and must set forth in detail

the date by which an expedited ruling is needed and the reason the ruling is needed by the stated date.

In criminal cases, emergency motions and expedited motions that are also ex parte or sealed must be conventionally filed.

A party appearing pro se must conventionally file emergency motions and expedited motions.

(e) Applications Previously Refused. Whenever any motion or application has been made to any Judge or Magistrate Judge and has been refused in whole or in part, or has been granted conditionally, and a subsequent motion or application is made to a different District Judge or Magistrate Judge for the same relief in whole or in part, upon the same or any alleged different state of facts, it shall be the continuing duty of each party and attorney seeking such relief to present to the District Judge or Magistrate Judge to whom the subsequent application is made an affidavit setting forth the material facts and circumstances surrounding each prior application, including: (1) when and to what District Judge or Magistrate Judge the application was made; (2) what ruling was made thereon; and (3) what new or different facts and circumstances are claimed to exist which did not exist, or were not shown, upon the prior application. For failure to comply with the requirements of this Local Rule, any ruling made on the subsequent application may be set aside sua sponte or on ex parte motion.

Effective December 1, 1994. Amended effective April 15, 1996; April 15, 1997; April 15, 2000; April 1, 2004; April 15, 2005; April 15, 2006; April 15, 2007; April 15, 2009; April 15, 2010; April 15, 2011; December 1, 2011; December 1, 2014; December 1, 2015; December 1, 2016; December 1, 2017; December 3, 2018; December 2, 2019; December 1, 2020; December 1, 2021; December 2, 2024.

RULE 88.10 CRIMINAL DISCOVERY

(a) A defendant's request to the Court for entry of the Standing Discovery Order shall constitute a discovery request by the defendant under Fed. R. Crim. P. 16(a)(1)(A), (B), (C), (D), (E), and (F), and, following entry of the Standing Discovery Order, the government shall comply with the obligations imposed upon it by Fed. R. Crim. P. 16(a)(1)(A-F), and shall permit the defendant to inspect and copy the written or recorded statements made by the defendant, or copies thereof, or supply copies thereof, which are within the possession, custody or control of the government, the existence of which is known or by the exercise of due diligence may become known to the government, all subject to the provisions of Fed. R. Crim. P. 16(a)(2).

(b) Following a defendant's request to the Court for entry of the Standing Discovery Order and the Court's entry of the Standing Discovery Order, the defendant, subject to the provisions of Fed. R. Crim. P. 16(b)(2), shall:

(1) after the government complies with Fed. R. Crim. P. 16(a)(1)(E), comply with the obligations that arise under Fed. R. Crim. P. 16(b)(1)(A); and

(2) after the government complies with Fed. R. Crim. P. 16(a)(1)(F), comply with the obligations that arise under Fed. R. Crim. P. 16(b)(1)(B).

(c) The government shall reveal to the defendant and permit inspection and copying of all information and material known to the government which may be favorable to the defendant on the issues of guilt or punishment within the scope of *Brady v. Maryland*, 373
U.S. 83 (1963), and *United States v. Agurs*, 427 U.S. 97 (1976).

(d) The government shall disclose to the defendant the existence and substance of any payments, promises of immunity, leniency, preferential treatment, or other inducements made to prospective government witnesses, within the scope of *Giglio v. United States*, 405 U.S. 150 (1972), and *Napue v. Illinois*, 360 U.S. 264 (1959).

(e) The government shall supply the defendant with a record of prior convictions of any alleged informant who will testify for the government at trial.

(f) The government shall state whether defendant was identified in any lineup, showup, photo array or similar identification proceeding, and produce any pictures utilized or resulting therefrom.

(g) The government shall advise ~~its~~ all government agents and officers involved in ~~this~~ the case to preserve all rough notes, whether in hard copy or digitally stored.

(h) The government shall comply with the notice obligations set forth in Federal Rule of Evidence 404(b).

(i) The government shall state whether the defendant was an aggrieved person, as defined in 18 U.S.C. § 2510(11), of any relevant electronic surveillance that was authorized pursuant to 18 U.S.C. § 2516 and 18 U.S.C. § 2518 and that has been unsealed in accordance with 18 U.S.C. § 2518, and if so, shall set forth in detail the circumstances thereof.

(j) The government shall have transcribed the grand jury testimony of all witnesses who will testify for the government at the trial of this cause, preparatory to a timely motion for discovery.

(k) The government shall, upon request, deliver to any chemist selected by the defense, who is presently registered with the Attorney General in compliance with 21 U.S.C. §§ 822 and 823, and 21 C.F.R. § 101.22(8), a sufficient representative sample of any alleged contraband which is the subject of this indictment, to allow independent chemical analysis of such sample.

(l) The government shall permit the defendant, his counsel and any experts selected by the defense to inspect any automobile, vessel, or aircraft allegedly utilized in the commission of any offenses charged. Government counsel shall, if necessary, assist defense counsel in arranging such inspection at a reasonable time and place, by advising the government authority having custody of the thing to be inspected that such inspection has been ordered by the court.

(m) The government shall provide the defense, for independent expert examination, copies of all latent fingerprints or palm prints which have been identified by a government expert as those of the defendant.

(n) The parties shall make every possible effort in good faith to stipulate to all facts or points of law the truth and existence of which is not contested and the early resolution of which will expedite the trial.

(o) Schedule of Discovery.

(1) Discovery which is to be made in connection with a pre-trial hearing other than a bail or pre-trial detention hearing shall be made not later than forty-eight (48) hours prior to the hearing. Discovery which is to be made in connection with a bail or pre-trial detention hearing shall be made not later than the commencement of the hearing.

(2) Discovery which is to be made in connection with trial shall be made not later than fourteen (14) days after the arraignment, or such other time as ordered by the court.

(3) When discovery concerning expert witnesses has been requested and is required to be made pursuant to Fed. R. Crim. P. 16(a)(1)(G) or Fed. R. Crim. P. 16(b)(1)(C), it shall be made as follows, or at such other time as ordered by the court:

(A) An initial written summary of the anticipated testimony that is subject to disclosure shall be provided to the requesting party within fourteen (14) days of that party's written request pursuant to Fed. R. Crim. P. 16(a)(1)(G)(i) or Fed. R. Crim. P. 16(b)(1)(C)(i), except that the summary

need not be provided to the requesting party earlier than fourteen (14) days after the arraignment. That summary must provide a synopsis of: the anticipated opinions, the bases and reasons for those opinions, and either the anticipated expert witness's qualifications, if the particular expert witness has already been selected, or the type of expert witness who will be providing the anticipated testimony.

(B) The more-detailed information required pursuant to Fed. R. Crim. P. 16(a)(1)(G) or Fed. R. Crim. P. 16(b)(1)(C) must be disclosed:

(i) no later than twenty-one (21) days before the commencement of trial for testimony that the government intends to present at trial during its case-in-chief, except that this disclosure need not be provided earlier than fourteen (14) days after the arraignment;

(ii) no later than seven (7) days before the commencement of trial for testimony that the government intends to present at trial during its rebuttal to counter testimony that the defendant has timely disclosed under Fed. R. Crim. P. 16(b)(1)(C);

(iii) no later than twenty-one (21) days before the commencement of trial for testimony that the defendant intends to present at trial during the defendant's case-in-chief, including testimony on the defendant's mental condition, except that this disclosure need not be provided earlier than fourteen (14) days after the arraignment; and

(iv) no later than seven (7) days before the commencement of trial for testimony that the defendant intends to present at trial to counter testimony that the government has timely disclosed under Fed. R. Crim. P. 16(a)(1)(G).

A defendant or the government may request, pursuant to this rule and Fed. R. Crim. P. 16(d) or Fed. R. Crim. P. 16.1(b), that the court exercise its discretion and alter the default deadlines established by this rule. Any such request shall set forth the reasons (for example, to ensure sufficient time to provide effective assistance of counsel, prepare adequately for trial, find and secure an expert witness, or prepare the required expert disclosure) and the factual circumstances that warrant the requested modification of the expert discovery timetable.

(4) Discovery which is to be made in connection with post-trial hearings (including, by way of example only, sentencing hearings) shall be made not later than seven (7) days prior to the hearing. This discovery rule shall not affect the provisions of Local Rule 88.8 regarding pre- sentence investigation reports.

(5) It shall be the continuing duty of counsel for both sides to immediately reveal to opposing counsel all newly discovered information or other material within the scope of this Local Rule.

(6) In accordance with Fed. R. Crim. P. 16.1(a), no later than fourteen (14) days after a defendant's arraignment, the attorney for the government and the defendant's attorney must confer and try to agree on:

(A) any anticipated request for modification of the timetables and procedures for pretrial disclosure prescribed by this rule and Fed. R. Crim. P. 16; or

(B) a timetable and procedures for pretrial disclosure under Rule 16 if the Standing Discovery has not been requested and entered.

In accordance with Fed. R. Crim. P. 16.1(b), to facilitate preparation for trial, one or both parties may ask the court to modify the time, place, manner, or other aspects of disclosure prescribed by this rule or Fed. R. Crim. P. 16, or to determine the time, place, manner or other aspects of disclosure that have not already been determined by this rule or Fed. R. Crim. P. 16.

Effective December 1, 1994. Amended effective April 15, 1996; April 15, 1998; April 15, 2000; April 15, 2003; April 15, 2005; April 15, 2007; April 15, 2010; December 2, 2013; December 1, 2015; December 1, 2016; December 2, 2019; December 1, 2020; December 1, 2022; December 2, 2024.

RULE 88.11 AFTER HOURS CRIMINAL DUTY ARREST PROCEDURES

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

~~Once the~~arrest. The Duty Magistrate Judge ~~sets a bond,~~may order the arrestee released on an interim bond or may order the ~~Duty Assistant United States Attorney shall transmit the bond information to the Duty Marshal and/or to the arresting agents who shall transmit the bond information to the booking officials at the receiving institution. A "permanent" bond shall be set for the defendant~~arrestee held in custody pending an initial appearance at the next available ~~prescribed~~ Duty Magistrate Judge Court session ~~when the defendant appears for initial appearance.~~

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

~~For after-hours arrests, the Duty Assistant United States Attorney shall leave a message on the Duty Magistrate Judge's beeper or cell phone. If by beeper, the call will be returned by the Duty Magistrate Judge. Once~~ the Duty Magistrate Judge sets a bond, the Duty Assistant United States Attorney shall transmit the bond information to the Duty Marshal and/or the arresting agents for transmittal to the receiving institution. ~~Routine arrests~~

Arrests occurring after 10:00 p.m. need not be communicated to the Duty Magistrate Judge that night, but shall be reported by the Duty Assistant United States Attorney to the Duty Magistrate Judge the following morning~~.~~ prior to the Duty Magistrate Judge Court session. In emergency situations, the Duty Magistrate Judge may be contacted ~~directly~~ at any hour.

~~Since a probable causes determination must be made within forty-eight (48) hours of all arrests, except as Federal Rule of Criminal Procedure 4.1 may otherwise provide,~~When a criminal complaint is required, that complaint must be presented ~~directly~~ to ~~a~~the Duty Magistrate Judge for review and approval ~~in all cases where the~~ within the earlier of forty-eight (48) hours after the arrest or the arrestee's initial appearance ~~will not take place within forty-eight (48) hours of an arrest~~.

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

Assistant United States Attorney.

If an arrested individual does not have retained counsel, court personnel will notify the Federal Public Defender of the arrest. Nothing in this Rule requires a law enforcement officer to question an arrestee about whether the person has retained counsel.

Effective April 15, 2006. Amended effective April 15, 2007; December 1, 2011; December 1, 2015; December 2, 2024.

ADMIRALTY AND MARITIME RULES

RULE A. GENERAL PROVISIONS

(1) Scope of the Local Admiralty and Maritime Rules. The Local Admiralty and Maritime Rules apply to the procedures in admiralty and maritime claims within the meaning of Federal Rule of Civil Procedure 9(h), which in turn are governed by the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure.

(2) Citation Format.

(a) *The Supplemental Rules* for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure shall be cited as "Supplemental Rule ( )".

(b) The Local Admiralty and Maritime Rules shall be cited as "Local Admiralty Rule ( )".

(3) Application of Local Admiralty and Maritime Rules. The Local Admiralty Rules shall apply to all actions governed by Local Admiralty Rule A(1), and to the extent possible should be construed to be consistent with the other Local Rules of this Court. To the extent that a Local Admiralty Rule conflicts with another Local Rule of this Court, the Local Admiralty Rule shall control.

(4) Designation of "In Admiralty" Proceedings. Every complaint filed as a Federal Rule of Civil Procedure 9(h) action shall boldly set forth the words "IN ADMIRALTY" following the designation of the Court. This requirement is in addition to any statements which may be contained in the body of the complaint.

(5) Verification of Pleadings, Claims and Answers to Interrogatories. Every complaint and claim filed pursuant to Supplemental Rules B, C and/or D shall be verified on oath or solemn affirmation by a party, or an officer of a corporate party.

If a party or corporate officer is not within the District, verification of a complaint, claim and/or answers to interrogatories may be made by an agent, an attorney-in-fact, or the attorney of record. Such person shall state briefly the source of his or her knowledge, or information and belief, and shall declare that the document affirmed is true to the best of his or her knowledge, and/or information and belief. Additionally, such person shall state that he or she is authorized to make this representation on behalf of the party or corporate officer, and shall indicate why verification is not made by a party or a corporate officer. Such verification will be deemed to have been made by the party to whom the document might apply as if verified personally.

Any interested party may move the Court, with or without a request for stay, for the personal oath or affirmation of a party or all parties, or that of a corporate officer. If required by the Court, such verification may be obtained by commission, or as otherwise provided by Court order.

(6) Issuance of Process. Except as limited by the provisions of Supplemental Rule B(1) and Local Admiralty Rule B(3) or Supplemental Rule C(3) and Local Admiralty Rule C(2); or in suits prosecuted in forma pauperis and sought to be filed without prepayment of fees or costs, or without security; all process shall be issued by the Court without further notice of Court.

(7) Publication of Notices. Unless otherwise required by the Court~~,~~ or ~~applicable~~by Local Admiralty or Supplemental Rule, whenever a notice is required to be published by any statute of the United States~~,~~ or by any Local Admiralty or Supplemental Rule ~~or Local Admiralty Rule~~, such notice shall be published at least once, without further order of Court, in ~~a~~an approved newspaper of general circulation in the county or counties where the vessel or property was located at the time of arrest, attachment, or seizure, and if different, in the county within the Southern District of Florida where the lawsuit is pending~~, e.g., *the Daily Business Review*~~.

For purposes of this subsection, an approved newspaper shall be a newspaper of general circulation, designated from time to time by the Court. A listing of these approved newspapers will be made available in the Clerk's Office during normal business hours.

(8) Form and Return of Process in In Personam Actions. Unless otherwise ordered by the Court, Federal Rule of Civil Procedure 9(h) process shall be by civil summons, and shall be returnable twenty-one (21) days after service of process; except that process issued in accordance with Supplemental Rule B shall conform to the requirements of that rule.

(9) Judicial Officer Defined. As used in these Local Admiralty Rules, the term "judicial officer" or "Court" shall mean either a United States District Judge or a United States Magistrate Judge.

(10) Forms. The forms presented on the Court's website (www.flsd.uscourts.gov) provide an illustration of the format and content of papers filed in admiralty and maritime actions within the Southern District of Florida. While the forms are sufficient, they are neither mandatory nor exhaustive.

Effective December 1, 1994. Amended effective April 15, 2007; April 15, 2010; April 15, 2011; December 1, 2015; December 1, 2023; December 2, 2024.

RULE 2. PROCEDURE FOR APPLYING FOR ADMISSION AND PROOF OF QUALIFICATIONS

Each applicant for admission shall submit a verified petition via an on-line form available ~~setting forth the information specified through the electronic application~~ on the Court's website (www.flsd.uscourts.gov) and shall also pay the application fee in the amount set by the Court. Upon receipt of the application fee, the Clerk of the Court shall require each qualified practitioner to sign the oath of admission and shall place such applicant on the roll of attorneys of the bar of this Court. In accordance with Court procedure, the Clerk of the Court shall refer to the Ad Hoc Committee on Attorney Admissions, Peer Review, and Attorney Grievance any applicant for further investigation under Rule 6.

Effective December 1, 1994. Amended effective Jan. 1, 1996; April 15, 2007; December 3, 2012; December 1, 2015; December 1, 2017; December 2, 2024.