

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA**

Proposed Revisions to the Local Rules

February 28th, 2005

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RULE 5.1 Files and Filing

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(4D) Form of documents which are filed electronically or in paper form.

(a 1) Style and case number. The names of the parties (the style of the case) shall be clearly set forth in the upper left-hand corner on the first page of all pleadings, motions, briefs, applications, and other papers tendered for filing. To the right of the style shall be the case number, including judges' initials, if a case number and a judge or judges has have been assigned.

(2) Title and purpose of the document. The title of the pleading, motion, or other paper shall immediately follow the style of the case and shall include a clear, concise and specific identification of the document being filed, the filing party, and in the case of responsive filings, the document to which the response is made.¹

(3) Format. Except for forms provided by this court, all documents tendered for filing or filed electronically shall be double-spaced, if typewritten, no smaller than 12 point font, and on plain white letter-sized (8 ½ " x 11") paper with approximately one and one-fourth (1 1/4) inch margins. The first page of every pleading or document filed ~~with the court in paper form~~ shall, however, allow approximately a two (2) inch margin at the bottom of the page where the clerk may date stamp such pleading or document filed.

¹This language reflects the comments from the November 20th meeting.

(4) Fasteners. Each separate pleading, motion, brief, application, or other paper of more than one page which is intended by the party to be filed as a separate document shall be fastened by a staple in the upper left-hand corner.^[2]

~~(5) If the document is to be filed in more than one case, the party shall provide sufficient originals for filing in each case. In every case in which the convening of a three-judge district court is sought, or has been convened, parties shall file the original and three (3) copies of every pleading, motion, or other paper filed in the case until it is determined either that a three-judge court will not be convened or the three-judge court which has been convened is dissolved and the case is remanded to a single judge.³~~

(B 5) Signature Blocks. The typed or printed name, The Florida Bar or other state bar number of the attorney, address (including the nine-digit zip code), telephone, FAX⁴ number of the attorney filing ~~attorney or party signing~~ the document, and a notation of which party the attorney represents (counsel for plaintiff or defendant) shall be included in the signature block directly under the original signature. An original signature must be affixed to any document which is filed in paper form. The electronic signature, which is the equivalent of an original written signature, is described above.

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(E F) Execution of Civil Cover Sheet. A complete and executed Civil Cover Sheet, currently AO Form JS 44, shall be filed by counsel for the filing party in each civil case at the time of filing, unless for good cause shown an additional time for such filing is allowed. Persons filing civil cases pro se are exempt from the requirements of this subsection.

(F G) Notice of pendency of other or prior similar actions. Whenever the newly filed case involves issues of fact or law common with such issues in another case currently pending in this district, or if the case was previously terminated by any means and has now been refiled without substantial change in issues or parties, the party filing the case

² The last word in the last sentence in the current version of the local rules is misspelled "comer" rather than "corner." This language reflects the comments from the November 20th meeting.

³ This does not appear to be needed any longer since electronic documents are available to each of the judges. A different procedure could be imposed by order for a specific case.

⁴ This was suggested by the deputy clerks to help with current practices. Clerk's Office staff note that judges may still require staff, even with electronic notification, to fax an order immediately to an attorney. Given that most chambers have chosen to have the Clerk's Office post their orders, there will be delays in the posting of the order and the notice of electronic filing. The additional information will be helpful to the deputy clerks, and law offices can simply create a signature block macro for their pleading with this information.

shall file a "Notice of Pendency of Other or Prior Similar Actions" containing a list and description thereof.

(G H) Filing and Payment of Fees; In Form Pauperis Applications. A civil action shall not be filed by the clerk until the fee is paid as required by 28 U.S.C. § 1914, unless the complaint or petition is accompanied by a motion for leave to proceed in forma pauperis. When accompanied by a motion for leave to proceed in forma pauperis, the clerk shall file the complaint or petition and the motion, shall assign a case number, and shall refer the same to the appropriate judicial officer pursuant to 28 U.S.C. § 1915. Forms for motions and financial affidavits to proceed in forma pauperis for prisoners or for non-prisoners are available in the offices of the clerk of this court and will be provided upon request without charge. The forms are also available on the Internet Website for this District. All persons seeking leave to proceed in forma pauperis must use the financial affidavit forms, and persons who represent themselves (pro se) must use the motion forms.

(H I) Withdrawal of Files. The clerk shall maintain all files, and no files shall be removed from the clerk's office without order of the court. ~~The clerk may, however, permit counsel of record to withdraw transcripts for a limited period of time and may set conditions for such withdrawal. Counsel shall be personally responsible for returning the transcripts in the same condition as when withdrawn.~~

(J K) Applications for Writs of Habeas Corpus Pursuant to 28 U.S.C. §§ 2241 and 2254, Motions Pursuant to 28 U.S.C. § 2255, and Civil Actions Commenced by Pro Se Litigants Pursuant to 42 U.S.C. §§ 1983 or 2000e (Title VII), or 28 U.S.C. §§ 1331 and 1346.

(1) All proceedings instituted in this court pursuant to 28 U.S.C. §§ 2254 and 2255 shall be governed by the rules pertaining to such proceedings as prescribed by the Supreme Court of the United States.

(2) Form petitions or complaints are available in the offices of the clerk of this court relevant to each of the above types of cases and will be provided upon request without charge. No application for writ of habeas corpus under 28 U.S.C. §§ 2254 or 2241, motion under 28 U.S.C. § 2255, or civil action commenced by pro se litigants under 42 U.S.C. §§ 1983 or 2000e (Title VII), 28 U.S.C. §§ 1331 or 1346, shall be considered by the court unless the appropriate forms have been properly completed, signed, and filed by the litigant.

(3) A petition or complaint filed on a form must set forth specific claims and supporting facts and may not make reference to a memorandum. A memorandum may also be filed with a petition or complaint, but a memorandum is not necessary. No petition, complaint, or memorandum may exceed 25 pages absent leave of court upon a showing of good cause.

(K L) Special Procedural and Filing Requirements Applicable to Habeas Corpus Involving the Death Penalty.

(1) In habeas corpus cases involving the death penalty, it is the responsibility of the party who first makes reference in a pleading or instrument to a deposition or an exhibit to:

(a) Obtain either the original or a certified copy of that deposition and include that deposition or exhibit as an exhibit to their pleading or instrument; or

(b) To file a certificate indicating why the deposition or exhibit is not included as an exhibit to the pleading or instrument.

(2) It is the responsibility of the party offering for filing any portion of a prior state or federal court record or transcript to:

(a) Obtain from the clerk's office a habeas corpus checklist and review the various phases of court proceedings identified on the checklist.

(b) Review each prior state or federal court record to be submitted and identify, within each record, the first page of every portion of the submitted record identified on the checklist, using the colored tabs and numbering scheme as indicated below:

(i) Petitioner shall use red index tabs and shall sequentially number the index tabs commencing with the number "P-1," "P-2," etc.

(ii) Respondent shall employ blue index tabs and shall sequentially number the index tabs commencing with the number "R-1," "R-2," etc.

(iii) Amicus curiae or other parties permitted to intervene or otherwise participate shall employ green index tabs and shall sequentially number the index tabs commencing with the number "X-1," "X-2," etc.

(c) Cross-reference the index tab number to the checklist.

(d) File a completed checklist concurrently with the filing of the first pleading or instrument which makes reference to any portion of a prior state or federal court record or transcript.

(e) Serve a copy of the checklist on all parties and file a certificate of service along with the checklist, indicating service upon all parties.

(3) In order to facilitate the timely and efficient processing of habeas corpus capital cases, checklists and index tabs may be obtained in advance of filing from the clerk's office.

~~(L) **Certificate of Interested Persons.** At the time of filing its first pleading, motion, or other paper, each party that is not a governmental entity or natural person shall file (as a separate document) a certificate of interested persons that contains a complete list in alphabetical order of all persons, associations of persons, firms, partnerships, or corporations that have an interest in the outcome of the particular case, including subsidiaries, affiliates, parent corporations, and other identifiable legal entities related to a party. In bankruptcy appeals, the certificate shall also identify the debtor, the members of the creditor's committee, any entity which is an active participant in the proceedings, and other entities whose stock or equity value may be substantially affected by the outcome of the proceedings:~~

~~— Any filing that does not include a certificate required under this provision shall be accepted and filed by the Clerk, pending supplementation with the required certificate. Failure to comply with this paragraph shall be considered by the Court under N. D. Fla. Loc. R. 41.1(B) and not under N. D. Fla. Loc. R. 5.1(I).~~

RULE 5.2 Exhibits - Disposition

(A) All exhibits offered or received in evidence during any proceedings in this court shall be delivered to the clerk who shall keep them in custody unless otherwise ordered by the court, except:

(1) Sensitive exhibits, such as, but not limited to, illegal drugs, explosives, weapons, currency, articles of high monetary value, exhibits of a pornographic nature, or the like, shall be retained by the submitting law enforcement agency or party who shall then be responsible to the court for maintaining custody and the integrity of such exhibits, and

(2) The clerk may, without special order, permit an official court reporter to retain custody pending preparation of the transcript.

(B) All models, diagrams and exhibits remaining in the custody of the clerk shall be retrieved by the parties within three (3) months after the case is finally decided, unless an appeal is taken. In all cases in which an appeal is taken, all exhibits shall be retrieved within thirty (30) days after the filing and recording of the mandate of the appellate court finally disposing of the case.

~~(C) If exhibits are not retrieved as required by this rule, the clerk may destroy them or make such other disposition as may be authorized by the court.~~

RULE 7.1 Motions, General

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(B) Conference Required. Counsel for the moving party, or a party who proceeds pro se, shall confer with counsel for the opposing party and shall file with the court, at the time of filing a motion, a statement certifying that counsel or the pro se party has

conferred with counsel for the opposing party in a good faith effort to resolve by agreement the issues raised or has attempted to so confer but, for good cause stated, was unsuccessful. If certain of the issues have been resolved by agreement, the certificate shall specify the issue so resolved and those remaining for resolution. Counsel shall clearly identify those motions which are consented to in their entirety. Counsel for the moving party, or a party proceeding pro se, need not confer with counsel for all other parties before making the following motions:

* * *

(3) Motions in civil cases for judgment as a matter of law, for summary judgment, and for new trial;

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(F) Correspondence to the court.⁵ Unless invited or directed by a judicial officer, attorneys and any party represented by an attorney shall not: (a) address or present to the Court in the form of a letter or the like any application requesting relief, citing authorities, or presenting arguments; and (b) shall not furnish the Court with copies of correspondence between or among counsel, or any party represented by an attorney, except when necessary as an exhibit when seeking relief from the court.

RULE 11.1 Attorneys

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(C) Appearances.

(1) **Who May Appear Generally.** Only members of the bar of this district may appear as counsel of record in this district.

(2) **Pro Hac Vice Appearance.** Prior to any appearance, any attorney who is not a member of the bar of this district must request permission in writing to appear, certifying that he or she has successfully completed the computer-based tutorial on local rules of the Northern District of Florida and the computer-based tutorial on this court's CM/ECF System, available on the district's Internet home page, www.flnd.uscourts.gov. In addition, a copy of a certificate of good standing dated within the last six months from The Florida Bar, from the bar of any state, or from the United States district court to which said attorney has been admitted, together with an admission fee in the amount set by the court by administrative order, shall accompany

⁵ This is taken from S.D. Fla. Rule 7.7. The phrase "judicial officer" has been substituted for "presiding judge" to empower magistrate judges handling discovery disputes to accept letters on occasion. Fed.R.Civ.P. 8(b) provides that an "application to the court for an order shall be by motion . . . ," so the practice of seeking relief from the court by means of a letter should not occur. Nonetheless, it does.

said request. Upon completion of these requirements the attorney will be admitted to the bar of this district. With the advent of electronic case filing, this court no longer draws any substantive distinction between membership in the bar of this district and pro hac vice admission. An attorney admitted pro hac vice will be treated as a member of the bar of this district and will remain a member, even after termination of the case, until such time as the attorney affirmatively withdraws from the bar of this district or no longer meets the admission qualifications.

RULE 15.1 Amendments of Pleadings

When leave is sought to amend a pleading pursuant to a motion, the motion and the proposed amended pleading shall each be filed and docketed separately. The proposed amended pleading shall not take effect unless and until the motion to amend is granted. ~~a copy of the proposed amended pleading in its entirety shall accompany the motion. If the court grants the motion to amend, the clerk shall forthwith file the proposed amended pleading attached to the motion as the amended pleading, and it will be deemed filed as of the date of the order granting the motion.~~

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RULE 16.1 Scheduling Orders

(A) In order to set out the parameters of discovery at the earliest opportunity, an initial scheduling order will be entered in civil cases as soon as at least one of the defendants has appeared, but in no event later than the times set out in Rule 16(b). Upon consideration of the parties' joint report filed in accordance with Rule 26(f), or after consultation with the parties, the court may modify the initial scheduling order as appropriate or continue the initial scheduling order, so that a final scheduling order will be in effect as contemplated by Fed. R. Civ. P. 16(b).

(B) Magistrate judges of this court may enter and modify scheduling orders in cases assigned to them by consent, in cases referred to them by a district judge, and in all cases in which they conduct the Fed. R. Civ. P. 16(b) scheduling conference.

(C) Except as otherwise ordered by a judge of the court in a particular case, a scheduling order need not be entered in the categories of actions exempted under N.D. Fla. Loc. R. 26.1.

(D) As a substitute for a scheduling order and an initial period of discovery in pro se suits by prisoners concerning conditions of confinement, an order may be entered staying discovery and requiring the defendants to submit a special report setting forth the undisputed facts and including: (1) sworn statements of all persons having knowledge and relevant information of the subject matter of the complaint; (2) copies of any written reports prepared as a result of the incident alleged in the complaint, or of any investigation of the inmate's allegations; (3) all defenses, including immunity

defenses; (4) where relevant, copies of medical or psychological or disciplinary records; (5) where applicable, copies of relevant administrative rules, regulations, or guidelines; and (6) such other information as the judicial officer may direct. The special report may then, if appropriate, be deemed to be a motion for summary judgment and the plaintiff given an opportunity to respond. For good cause, limited discovery may be permitted as to evidence not provided by the special report. Similarly, for good cause, defendants may be permitted to file a motion to dismiss before filing a special report.⁶

RULE 26.2 Discovery - Civil

[eliminate introduction]

(A) Discovery Not To Be Filed. In accordance with Federal Rule of Civil Procedure 5(d), discovery materials (including notices of deposition, deposition transcripts, interrogatories, interrogatory responses, production requests and responses, and admissions requests and responses) and disclosures under Federal Rules of Civil Procedure 26(a)(1) and 26(a)(2) shall not be filed, unless and until needed for consideration of pending motions by the court. Separate notices of service of any such materials, if any, also shall not be filed.

~~**(B) Discovery To Be Filed.** Requests for admissions under Fed. R. Civ. P. 36, and responses thereto, as well as notices of taking depositions shall continue to be filed with the clerk.~~

~~**(C) Number of Interrogatories or Requests for Admission.** In any case, the combined total number of interrogatories or requests for admission from one party to another shall not exceed fifty (50), including subparts. For good cause shown, the court may allow a larger number of interrogatories or requests for admission on motion of a party or *sua sponte*.~~

~~**(D) Motions To Compel.** Motions to compel discovery in accordance with Fed. R. Civ. P. 33, 34, 36, and 37 shall (1) quote verbatim each interrogatory, request for admission, or request for production to which objection is taken, (2) quote in full the opponent's specific objection, and (3) state the reasons such objection should be overruled and the motion granted.~~

~~**(E) Objections to Discovery and Motions for a Protective Order.**~~

(1) Objections and grounds for objections shall be addressed to the specific interrogatory, request for admission, or request for production, and may not be made generally.

⁶ This is intended to give formal approval for the special report method of handling prison conditions cases, a procedure we have used very successfully for a number of years.

(2) For the guidance of counsel in either preparing or opposing motions for a protective order, it is the policy in this district that the deposition of a non-resident plaintiff may be taken at least once in this district. Otherwise, depositions of parties should usually be taken as in the case of other witnesses pursuant to the Federal Rules of Civil Procedure.

RULE 26.3 Discovery - Criminal

(A) **Policy.** It is the court's policy to rely on the standard discovery procedure as set forth in this rule as the sole means for the exchange of discovery in criminal cases except in extraordinary circumstances. This rule is intended to promote the efficient exchange of discovery without altering the rights and obligations of the parties, but at the same time eliminating the practice of routinely filing voluminous and duplicative discovery motions.

(B) **Discovery Upon Defendant's Request.** At the earliest opportunity and no later than five (5) working days after the date of arraignment, the defendant's attorney shall contact the government's attorney and make a good faith attempt to have all properly discoverable material and information promptly disclosed or provided for inspection or copying. In addition, upon request of the defendant, the government shall specifically provide the following within five (5) working days after the request:

(1) **Defendants Statements Under Fed. R. Crim. P. 16(a)(1)(A), (B), and (C).**

Any written or recorded statements made by the defendant; the substance of any oral statement made by the defendant before or after the defendant's arrest in response to interrogation by a then known-to-be government agent which the government intends to offer in evidence at trial; and any recorded grand jury testimony of the defendant relating to the offenses charged.

(2) **Defendant's Prior Record Under Fed. R. Crim. P. 16(a)(1)(B) (D).**
The defendant's complete arrest and conviction record, as known to the government.

(3) **Documents and Tangible Objects Under Fed. R. Crim. P. 16(a)(1)(C)(E)**

Books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which the government intends to use as evidence-in-chief at trial, which are material to the preparation of the defendant's defense, or which were obtained from or belong to the defendant.

(4) **Reports of Examinations and Tests Under Fed. R. Crim. P. 16(a)(1)(D)(E).** Results or reports of physical or mental examinations and of scientific tests or experiments, or copies thereof, which are material to the preparation of the defendant's defense or are intended for use by the government as evidence-in-chief at trial.

(5) **Expert Witnesses Under Fed. R. Crim. P. 16(a)(1)(E)(G).** A written summary of testimony the government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence.

(E) Obligations of the Government.

(1) The government shall advise all government agents and officers involved in the case to preserve all rough notes.

(2) The government shall advise the defendant of its intention to introduce evidence ~~in its case-in-chief~~ at trial, pursuant to Rule 404(b), Federal Rules of Evidence.

* * *

(F) Obligations of the Defendant.

(1) Insanity. If a defendant intends to rely upon the defense of insanity at the time of the alleged crime, or intends to introduce expert testimony relating to a mental disease, defect, or other mental condition bearing upon the issue of guilt, or, in a capital case, punishment, the defendant shall give written notice thereof to the government within ten (10) working days after arraignment.⁷

RULE 41.1 Dismissal for Failure To Prosecute or To Comply With the Rules or a Court Order

(A) Whenever it appears that no activity by filing of pleadings, orders of the court or otherwise has occurred for a period of more than 90 days in any civil action, the court may, on motion of any party or on its own motion, enter an order to show cause why the case should not be dismissed. If no satisfactory cause is shown, the case may then be dismissed by the court for want of prosecution.

RULE 54.1 Motions for Attorneys' Fees

⁷ From S.D. Fla. 88.10B.3, which conforms to the 2002 amendments to Fed.R.Crim.P. 12.2.

(A) Time for Filing. A motion for an award of attorneys' fees and related nontaxable expenses (not otherwise taxable as costs) shall be filed and served within the time specified in the scheduling order entered in the case and as otherwise provided in Fed. R. Civ. P. 54(d). The pendency of an appeal from the judgment shall not toll the time for filing the motion. (see also, Fed. R. Civ. P. 58).

(B) Attorneys' Fees Records. In any proceeding in which any party is seeking an award of attorneys' fees from the opposing party pursuant to any statute, contract, or law, the party seeking such an award of attorneys' fees shall:

(1) Maintain a complete, separate, and accurate record of time (to the nearest 1/10 of an hour) devoted to the particular action, recorded contemporaneously with the time expended, for each attorney and each specific activity involved in the action (i.e., not just "research" or "conference"); and

(2) File electronically a summary of such time record with the clerk by the fifteenth (15th) day of each month during the pendency of the action, for work done during the preceding month.

(3) If claim will be made for services performed by any person not a member of the bar, a separate time record shall be maintained for each such individual, together with the hourly rate at which such person is actually reimbursed.

(4) These records may be filed electronically under seal. ~~simply by placing the records in a sealed envelope no larger than 8 ½ by 11 inches and writing thereon "ATTORNEY TIME RECORDS - FILE UNDER SEAL." However, if the time records are sealed, then the attorney must, at the time of such filing, also file a summary of the time records and serve a copy thereof on opposing parties or their counsel, which summary shall state the total of the hours represented by the sealed filing, i.e., "TOTAL ATTORNEY HOURS THIS FILING," "TOTAL NON-ATTORNEY HOURS THIS FILING."~~

If the attorney does not file ~~place~~ these time records under seal, ~~in a sealed envelope~~, such records will remain unsealed. ~~Attorney time records will not be placed in the general case action file but will be maintained in a separate folder in the clerk's office.~~ Attorney time records will be maintained electronically and will not be included in the electronic case file. Upon termination of the case or the determination of attorneys' fees, whichever occurs later, all time records in the case will be destroyed.

(5) Failure to comply with these requirements will result in attorneys' fees being disallowed for the omitted period.

RULE 54.2 Costs: Security for, Taxation, Payment

(A) Procedure for Filing Bill of Costs. Costs shall be taxed as provided in Rule 54(d), Federal Rules of Civil Procedure. A party entitled to costs shall, within ten (10) days

after the entry of final judgment, unless time is extended under Rule 6(b), Federal Rules of Civil Procedure, file with the Clerk of Court and serve upon all parties, a bill of costs on a form provided by the Clerk, together with a notice of application to have the costs taxed. The notice of application to have the costs taxed shall contain a date for taxation (normally one (1) month after the date of filing the bill of costs), which shall be secured from the Clerk. This bill of costs shall include a memorandum of costs, and necessary disbursements, so itemized that the nature of each can be readily understood, and, where available, documentation of requested costs in all categories must be attached. The bill of costs shall be verified by a person acquainted therewith.

(B) Objections, Appearance Not Required. Within ten (10) days after service of the bill of costs, a party objecting to any cost item may file with the Clerk and serve itemized objections in writing, presenting any affidavits or other evidence he or she has in connection with the costs and the grounds for the objection. On the date set for taxation neither the parties nor their attorneys shall appear, and not later than ten (10) days thereafter, the Clerk shall proceed to tax the costs and shall allow such items as are properly allowable. In exceptional cases a party may request, by written motion, that a taxation hearing with parties present may be held before the Clerk. The Clerk, on his or her own motion, may also order the parties to appear for a taxation hearing. In the absence of objection, any item listed may be taxed in the discretion of the Clerk. The Clerk shall thereupon enter judgment for costs. Notice of the Clerk's taxation shall be given by mailing or by electronically transmitting a copy of the taxation order to all parties in accordance with Rule 5, Federal Rules of Civil Procedure. The taxation of costs thus made shall be final unless modified on review by the Court on motion served within five (5) days thereafter, pursuant to Rule 54(d), Federal Rules of Civil Procedure.

(C) Taxable items. Taxable items shall be specified by administrative order.

RULE 56.1 Motions for Summary Judgment

(A) Any motion for summary judgment filed pursuant to Fed. R. Civ. P. 56 [or Fed. R. Civ. P. 12(b)(6) which requires reference to matters outside the pleading] shall be accompanied by a separate, short and concise statement of the material facts as to which the moving party contends there is no genuine issue to be tried. Failure to submit such a statement constitutes grounds for denial of the motion.

The statement shall reference the appropriate deposition, affidavit, interrogatory, admission, or other source of the relied upon material fact, by page, paragraph, number, or other detail sufficient to permit the court to readily locate and check the source.

The party opposing a motion for summary judgment shall, in addition to other papers or matters permitted by the rules, file and serve a separate, short and concise statement of the material facts as to which it is contended that there exists a genuine issue to be tried, in the format set forth above.

All material facts set forth in the statement required to be served by the moving party will be deemed to be admitted unless controverted by the statement required to be filed and served by the opposing party.

(B) Motions for summary judgment will be taken under advisement by the court twenty-one (21) calendar days after the motion is filed or seven (7) calendar days after the responsive memorandum is required to be filed under N.D. Fla. Loc. R. 7. 1(C)(1), whichever is later, unless the court specifically sets the motion for hearing or sets a different advisement date. Parties are required to file and serve affidavits and any other documents or materials authorized to be filed under the Federal Rules of Civil Procedure prior to the advisement date. Only those documents and evidentiary materials in the record prior to the advisement date will be considered in ruling on the motion.

Note: The advisement procedures for filing evidentiary material do not alter the requirements and time limits for filing responsive memoranda under Local Rule 7.1.

RULE 72.1 Authority of United States Magistrate Judges

(A) Duties Under 28 U.S.C. § 636; effect of a ruling by a Magistrate Judge.

(1) A magistrate judge is a judicial officer of the district court.⁸ All United States magistrate judges serving within the territorial jurisdiction of the Northern District of Florida have the authority conferred by 28 U.S.C. § 636 and may exercise all other powers and duties conferred or imposed by law and the federal procedure rules.

(2) A magistrate judge's ruling or order in a matter heard and determined by a magistrate judge is the court's ruling and will remain in effect unless and until reversed, vacated, modified, or stayed. The filing of a motion for reconsideration does not stay the magistrate judge's ruling or order.⁹

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RULE 72.2 Referral of Matters to Magistrate Judges by this Rule

(E) Civil Cases Filed by Non-Prisoner Pro Se Litigants. All civil cases filed where one or more of the parties is a non-prisoner pro se litigant shall be assigned to a district judge and, unless otherwise ordered, shall be referred by the clerk to a full time magistrate judge for all proceedings, including preliminary orders, conduct of necessary

⁸ From sample local rules from the magistrate's division of the AO.

⁹ From sample local rules from the magistrate's division of the AO.

hearings, and filing of a report and recommendation containing proposed findings of fact and conclusions of law and recommending disposition of the case.

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(E F) Additional Duties.

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4) Issue warrants and orders as authorized by 18 U.S.C. § 2703 (disclosure of customer communications or records), 18 U.S.C. § 3123 (a pen register or a trap and trace device), or orders and writs pursuant to 28 U.S.C. § 1651(a) (all writs necessary or appropriate in aid of jurisdiction) ~~Authorize the installation of pen registers and direct telephone company assistance to the government for such installations,~~¹⁰

* * *

(27) Determine actions to be taken regarding non-complying documents submitted for filing under N.D. Fla. Loc. R. 5.1(4-H) or the Federal Rules of Civil or Criminal Procedure.

RULE 73.1 Procedures for Consent to Trial Before a Magistrate Judge

(A) Civil Cases.

(1) Notice. In all civil cases, as may be provided by Administrative Order, the clerk shall notify the parties that, pursuant to 28 U.S.C. § 636(c), they may consent to have a full-time magistrate judge conduct any or all proceedings in the case and order the entry of a final judgment. ~~Such notice shall be given or mailed to the plaintiff or his representative at the time an action is filed and to other parties as attachments to copies of the complaint and summons, when served. Additional notice may thereafter be provided to the parties upon direction or order by either a district judge or magistrate judge pursuant to 28 U.S.C. § 636(c)(2).~~¹¹ The notice shall state that the parties are free to withhold their consent without adverse substantive consequences.

* * *

(3) Reference. Cases in which the parties have timely filed a fully executed consent form shall be referred ~~by the clerk~~ to the a full-time magistrate judge assigned to the case, and notice thereof shall be made a part of the file, with copies furnished to the

¹⁰ This conforms the local rule to the current practice of magistrate judges entering orders and search warrants for the release of information under these statutes.

¹¹ This change is intended to allow the consent notice procedure to be modified by Administrative Order and to discontinue the procedure of sending consent forms out too early in the case.

parties. Cases docketed in the Pensacola or Panama City division shall be referred to a magistrate judge resident in Pensacola, and cases docketed in Tallahassee or Gainesville shall be referred to a magistrate judge resident in Tallahassee. Upon reference to a magistrate judge, the magistrate judge shall have the authority to conduct any and all proceedings, including a jury or non-jury trial, and to direct the clerk of court to enter a final judgment in the same manner as if a district judge had presided.¹²

RULE 77.3 Release of Information in Criminal and Civil Cases

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(E) Sealed indictments in criminal cases. Sealed indictments will be automatically unsealed by the clerk at the first appearance of any defendant named in that indictment unless otherwise ordered by a judicial officer.

(F) Disposition of sealed documents in civil cases at the conclusion of the case. Thirty days after the conclusion of a civil case (expiration of the time to appeal, if no appeal is filed, or voluntary dismissal of the appeal, or receipt of the mandate after an appeal and expiration of the time in which to seek certiorari review in the Supreme Court, if an appeal is taken) all sealed documents maintained in paper form will be returned to the party who submitted them, and the party shall retain the documents for 3 years thereafter.

RULE 88.1 Presentence Investigation Reports; Presentencing Procedures; Provisions of Pretrial Services

(A) Ordinarily, sentencing will occur approximately seventy (70) calendar days following the defendant's plea of guilty or *nolo contendere*, or upon being found guilty, subject to the time limitations and other provisions of Fed. R. Crim. P. 32, and following the preparation of a presentence report by the probation officer.

(B) The presentence report shall be disclosed only as permitted under Fed. R. Crim. P. 32; however, the probation officer's recommendation, if any, on the sentence, shall be disclosed only to the sentencing judge.

(C) The presentence report shall be deemed to have been disclosed (1) when a copy of the report is physically or electronically delivered; or (2) one (1) day after the report's availability for inspection is orally communicated; or (3) three (3) days after a copy of the report or notice of its availability is mailed.

(D) No person shall otherwise disclose, copy, reproduce, deface, delete from or add to any report within the purview of this rule.

¹² The reference of the case is by the presiding district judge. Cases are to be assigned to a magistrate judge pursuant to administrative order as the cases are filed, and the case should then be referred to that magistrate judge if consent is obtained.

(E) No confidential records of the court maintained at the probation office, including presentence reports and probation supervision reports, shall be sought by any applicant except by written request to the court establishing with particularity the need for specific information believed to be contained in such records. When a demand for disclosure of such information or such records is made by way of subpoena or other judicial process served upon a probation officer of this court, the probation officer may file a petition seeking instruction from the court with respect to the manner in which that officer should respond to such subpoena or such process.

(F) Any party filing an appeal or cross appeal in any criminal case in which it is expected that an issue will be asserted pursuant to 18 U.S.C. § 3742 concerning the sentence imposed by the court shall immediately notify the probation officer who shall then file with the clerk for inclusion in the record *in camera* a copy of the presentence investigation report. The probation officer shall also furnish, at the same time, a copy of the presentence report to the United States and to the defendant.

(G) Pretrial services within the purview of 18 U.S.C. § 3152 *et seq.* shall be supervised and provided by the chief probation/pretrial services officer of this court pursuant to 18 U.S.C. § 3152(a). Any federal officer taking or receiving custody of a defendant in the Northern District of Florida shall immediately notify the probation office of such detention, the name of the defendant, the charge(s) against the defendant, and the place in which the defendant is being detained. A pretrial services officer shall then interview the defendant as soon as practicable at this place of confinement or, if the defendant has been released, at such other places as the pretrial services officer shall specify.

ADMIRALTY AND MARITIME RULES

RULE A. GENERAL PROVISIONS¹³

(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 Fed.R.Civ.P. 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 Rules of the Northern District of Florida shall be cited as “Local Rule (____)”.

(c) 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.

¹³These Rules are substantially similar to the Local Rules for the Middle District and Southern District and therefore provide for consistency and uniformity in admiralty and maritime claims in the state. For explanatory commentary about the substance of these rules, refer to the advisory notes of the rules of those courts. The advisory notes have not been adopted as a part of these rules, but may serve as a useful guide to understanding the rules.

The Local Admiralty and Maritime Rules are promulgated pursuant to this Court’s rule making authority under Fed.R.Civ.P. 83, and have been drafted to complement the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure. The Court has arranged these Local Admiralty Rules to correspond generally with the ordering of the Supplemental Rules, e.g., Local Admiralty Rule A corresponds generally with Supplemental Rule A, and each sequentially lettered Local Admiralty Rule addresses the subject matter of the corresponding next-in-order Supplemental Rule.

(4) Designation of “In Admiralty” Proceedings. Every complaint filed as a Fed. R. Civ. P. 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 Local Admiralty or Supplemental Rule, whenever a notice is required to be published by any statute of the United States, or by any Supplemental Rule or Local Admiralty Rule, such notice shall be published at least once, without further order of Court, in an approved newspaper 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 Northern District of Florida where the lawsuit is pending. Publication of Notice of Sale shall be as provided in Local Admiralty Rule E(16). Upon a showing of good cause, the Court may require additional publications if necessary to provide reasonable notice. The newspaper of largest circulation in a county in the Northern District is rebuttably presumed to be a newspaper of general circulation in that same county.

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, Fed.R.Civ.P. 9(h) process shall be by civil summons, and shall be returnable twenty (20) 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) Appendix of Forms. The forms presented in the Appendix provide an illustration of the format and content of papers filed in admiralty and maritime actions within the Northern District of Florida. While the forms are sufficient, they are neither mandatory nor exhaustive.

RULE B. ATTACHMENT AND GARNISHMENT: SPECIAL PROVISIONS

(1) Definition of “Not Found Within the District”. In an action in personam filed pursuant to Supplemental Rule (B), a defendant shall be considered “not found within the district” if the defendant cannot be served within the Northern District of Florida with the summons and complaint as provided by Fed.R.Civ.P. 4(d)(1), (2), (3), or (6).

(2) Verification of Complaint Required. In addition to the specific requirements of Local Admiralty Rule A(5), whenever verification is made by the plaintiff’s attorney or agent, and that person does not have personal knowledge, or knowledge acquired in the ordinary course of business of the facts alleged in the complaint, the attorney or agent shall also state the circumstances which make it necessary for that person to make the verification, and shall indicate the source of the attorney’s or agent’s information.

(3) Pre-seizure Requirements. In accordance with Supplemental Rule (B)(1), the process of attachment and garnishment 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 B(3)(b), a judicial officer shall first review the verified complaint, and any other relevant case papers, prior to the Clerk issuing the requested process of attachment and garnishment. No notice of this pre-arrest judicial review is required to be given to any person or prospective party.

If the Court finds that probable cause exists to issue the process of attachment and garnishment, plaintiff shall prepare an order for the Court’s signature directing the Clerk to issue the process. This order shall substantially conform in format and content to the form identified as NDF 1 in the Appendix of these Local Admiralty Rules.

Upon receipt of the signed order, the Clerk shall file the order and, in accordance with Local Admiralty Rule B(3)(c), issue the summons and process of attachment and garnishment. Thereafter the Clerk may issue supplemental process without further order of Court.

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

Thereafter at any post-attachment proceedings under Supplemental Rule (E)(4)(f) and Local Admiralty Rule B(5), 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 B(3)(a).

(c) *Preparation and Issuance of the Process of Attachment and Garnishment.* Plaintiff shall prepare the summons and the process of attachment and garnishment, and deliver the documents to the Clerk for filing and issuance.

The process of attachment and garnishment shall substantially conform in format and content to the form identified as NDF 2 in the Appendix to these Local Admiralty Rules, and

shall in all cases give adequate notice of the postseizure provisions of Local Admiralty Rule B(5).

(d) *Marshal's Return of Service.* The Marshal shall file a return of service indicating the date and manner in which service was perfected and, if service was perfected upon a garnishee, the Marshal shall indicate in the return the name, address, and telephone number of the garnishee.

(4) Notification of Seizure to Defendant. In an in personam action under Supplemental Rule (B), it is expected that plaintiff and/or garnishee will initially attempt to perfect service of the notice in accordance with Supplemental Rule (B)(2)(a) or (b).

However, when service of the notice cannot be perfected in accordance with Supplemental Rule (B)(2)(a) or (b), plaintiff and/or garnishee should then attempt to perfect service in accordance with Supplemental Rule (B)(2)(c). In this regard, service of process shall be sufficiently served by leaving a copy of the process of attachment and garnishment with the defendant or garnishee at his or her usual place of business.

(5) Post-attachment Review Proceedings.

(a) *Filing a Required Answer.* In accordance with Supplemental Rule (E)(4)(f), any person who claims an interest in property seized pursuant to Supplemental Rule (B) must file an answer and claim against the property. The answer and claim shall describe the nature of the claimant's interest in the property, and shall articulate reasons why the seizure should be vacated. The claimant shall serve a copy of the answer and claim upon plaintiff's counsel, the Marshal, and any other party to the litigation. The claimant shall also file a Certificate of Service indicating the date and manner in which service was perfected.

(b) *Hearing on the Answer and Claim.* The claimant may be heard before a judicial officer not less than three (3) days after the answer and claim has been filed and service has been perfected upon the plaintiff.

If the Court orders that the seizure be vacated, the judicial officer shall also award attorney's fees, costs, and other expenses incurred by any party as a result of the seizure.

If the seizure was predicated upon a showing of "exigent circumstances" under Local Admiralty Rule B(3)(b), and the Court finds that such exigent circumstances did not exist, the judicial officer shall award attorney's fees, costs, and other expenses incurred by any party as a result of the seizure. Upon an award of attorney's fees under this rule, the parties will be directed to comply with Local Rule 54.1(E)

(6) Procedural Requirement for the Entry of Default. In accordance with Rule 55, Fed.R.Civ.P., a party seeking the entry of default in a Supplemental Rule (B) action shall file a motion and supporting legal memorandum and shall offer other proof sufficient to demonstrate that due notice of the action and seizure have been given in accordance with Local Admiralty Rule B(4).

Upon review of the motion, memorandum, and other proof, the Clerk shall, where appropriate, enter default in accordance with Rule 55(a), Fed.R.Civ.P. Thereafter, the Clerk shall serve notice of the entry of default upon all parties represented in the action.

(7) Procedural Requirements for the Entry of Default Judgment. Not later than thirty (30) days following notice of the entry of default, the party seeking the entry of default judgment shall file a motion and supporting legal memorandum, along with other appropriate exhibits to the motion sufficient to support the entry of default judgment. The moving party shall serve these papers upon every other party to the action and file a Certificate of Service indicating the date and manner in which service was perfected.

A party opposing the entry of default judgment shall have five (5) days from the receipt of the motion to file written opposition with the Court. Thereafter, unless otherwise ordered by the Court, the motion for the entry of default judgment will be heard without oral argument.

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 which 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.

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 C(2)(b), a judicial officer shall first review the verified complaint, and any other relevant case papers, prior to the Clerk 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 to issue a warrant of arrest and/or summons. This order shall substantially conform in format and content to the form identified as NDF 2 in the Appendix to these Local Admiralty Rules.

Upon receipt of the signed order, the Clerk shall file the order and, in accordance with Local Admiralty Rule C(2)(c), issue the warrant of arrest and/or summons. Thereafter the Clerk 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 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 for filing and issuance.

The warrant of arrest shall substantially conform in format and content to the form identified as NDF 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:

(1) File a claim within ten (10) days after service of the summons in accordance with Local Admiralty Rule C(6)(a); or

(2) 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(6)(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 U.S. 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 (b), shall within ten (10) days 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 ten (10) 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, unless otherwise ordered by the Court, shall be published within seventeen (17) days after execution of process. The notice shall substantially conform to the form identified as NDF 7 in the Appendix to these Local Admiralty Rules.

(b) *Proof of Publication.* Plaintiff shall file proof of publication with the Clerk not later than ten (10) 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:

- (a) File the claim within ten (10) days after process has been executed; and
- (b) Serve an answer within twenty (20) 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(6)(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. Upon an award of attorney's fees under this rule, the parties will be directed to comply with Local Rule 54.1(E).

(8) Procedural Requirements Prior to the Entry of Default. In accordance with Rule 55, Fed.R.Civ.P., 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;
 - (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 C(8) 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 may, where appropriate, enter default in accordance with Rule 55, Fed.R.Civ.P. Thereafter, the Clerk 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 Rule 55(b), Fed.R.Civ.P. 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 five (5) 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.

RULE D. POSSESSORY, PETITORY AND PARTITION ACTIONS

(1) Establishing Dates for the Return of Process. In possessory actions filed pursuant to Supplemental Rule (D), the Court may order that process be returnable at a time shorter than that prescribed by Rule 12(a), Fed.R.Civ.P.

If the Court shortens the time, the Court shall specify the date upon which the answer must be filed, and may also set a hearing date to expedite the disposition of the possessory action. When possible, possessory actions shall be given preference on a judicial officer's calendar.

RULE E. ACTIONS IN REM AND QUASI IN REM: GENERAL PROVISIONS

(1) Statement of Itemized Damages and Expenses Required. Every complaint in a Supplemental Rule (B) and (C) action shall state the amount of the debt, damages, or salvage for which the action is brought. In addition, the statement shall also specify the amount of any unliquidated claims, including attorneys' fees.

(2) Requirements and Procedures for Effecting Intervention. Whenever a vessel or other property is arrested or attached in accordance with any Supplemental Rule, and the vessel or property is in the custody of the U.S. Marshal or duly authorized substitute custodian, any other person having a claim against the vessel or property shall be required to present their claim as indicated below:

(a) Intervention of Right When No Sale of the Vessel or Property Is Pending. Except as limited by Local Admiralty Rule E(2)(b), any person having a claim against a vessel or property previously arrested or attached by the Marshal may, as a matter of right, file an intervening complaint at any time before an order is entered by the Court scheduling the vessel or property for sale.

Coincident with the filing of an intervening complaint, the offering party shall prepare and file a supplemental warrant of arrest and/or a supplemental process of attachment and garnishment.

Upon receipt of the intervening complaint and supplemental process, the Clerk shall conform a copy of the intervening complaint and shall issue the supplemental process. Thereafter, the offering party shall deliver the conformed copy of the intervening complaint and supplemental process to the Marshal for execution. Upon receipt of the intervening complaint and supplemental process, the Marshal shall re-arrest or re-attach the vessel or property in the name of the intervening plaintiff.

Counsel for the intervening party shall serve a copy of the intervening complaint, and copies of all process and exhibits upon all other counsel of record, and shall thereafter file a certificate of service with the Clerk indicating the manner and date of service.

(b) Permissive Intervention When the Vessel or Property Has Been Scheduled for Sale by the Court. Except as indicated below, and subject to any other rule or order of this Court, no person shall have an automatic right to intervene in an action where the Court has ordered the sale of the vessel or property, and the date of the sale is set within fifteen (15) days from the date the party moves for permission to intervene in accordance with this subsection. In such cases, the person seeking permission to intervene must:

- (1) File a motion to intervene and indicate in the caption of the motion a request for expedited hearing when appropriate;
- (2) Include a copy of the anticipated intervening complaint as an exhibit to the motion to intervene;
- (3) Prepare and offer for filing a supplemental warrant of arrest and/or a supplemental process of attachment and garnishment;
- (4) Serve copies of the motion to intervene, with exhibits and proposed supplemental

process upon every other party to the litigation; and
(5) File a certificate of service indicating the date and manner of service.

Thereafter, the Court may permit intervention under such conditions and terms as are equitable to the interests of all parties; and if intervention is permitted, shall also direct the Clerk to issue the supplemental process.

Upon receipt of the order permitting intervention, the Clerk shall file the originally signed intervening complaint, conform a copy of the intervening complaint and issue the supplemental process.

Thereafter, the offering party shall deliver the conformed copy of the intervening complaint and supplemental process to the Marshal for execution. Upon receipt of the intervening complaint and supplemental process, the Marshal shall re-arrest or re-attach the vessel or property in the name of the intervening plaintiff.

Counsel for the intervening party shall also serve a copy of the intervening complaint, exhibits, and supplemental process upon every other party of record and shall thereafter file a Certificate of Service with the Clerk indicating the manner and date of service.

(3) Special Requirements for Salvage Actions. In cases of salvage, the complaint shall also state to the extent known, the value of the hull, cargo, freight, and other property salvaged, the amount claimed, the names of the principal salvors, and that the suit is instituted in their behalf and in behalf of all other persons associated with them.

In addition to these special pleading requirements, plaintiff shall attach as an exhibit to the complaint a list of all known salvors, and all persons believed entitled to share in the salvage. Plaintiff shall also attach a copy of any agreement of consortium available and known to exist among them collegially or individually.

(4) Form and Amount of Stipulation or Bonds. Stipulations or bonds in admiralty and maritime actions need not be under seal and may be executed by the agent or attorney of the stipulator or obligor. Stipulations for costs with corporate surety need not be signed or executed by the party, but may be signed by the party's agent or attorney.

(a) Seaman's Wage Claims: Actions initiated by seamen pursuant to 28 U.S.C. 1916 may be filed without prepaying fees or costs or furnishing security therefor.

(b) Security for Costs: In an action under the Supplemental Rules, other than an action solely in personam, the plaintiff, and any intervenor, shall file with its initial pleading a stipulation for costs in the principal sum of \$500.00 as security for all costs awarded against the plaintiff or intervenor by this court or any appellate court which shall be deposited into the registry of the court. No motion made by a plaintiff or intervenor will be considered by the Court until the security for costs is deposited. A party may move for an order increasing the amount of security for costs or for return of the balance upon conclusion of the action. In an action for limitation of liability, the amount of security for costs under Supplemental Rule F(1) may be combined with the security for value and interest unless otherwise ordered.

(c) Actions in Forma Pauperis: An action under these rules may be maintained in forma pauperis by express allowance of the court upon motion by the party. Where a party is allowed to proceed in forma pauperis, no stipulation for costs shall be required.

(5) Deposit of Marshal's Fees and Expenses Required Prior to Effecting Arrest, Attachment and/or Garnishment.

(a) *Deposit Required Before Seizure.* Any party seeking the arrest or attachment of property in accordance with Supplemental Rule (E) shall deposit a sum with the Marshal sufficient to cover the Marshal's estimated fees and expenses of arresting and keeping the property for at least ten (10) days. The Marshal is not required to execute process until the deposit is made.

(b) *Proration of Marshal's Fees and Expenses Upon Intervention.* When one or more parties intervene pursuant to Local Admiralty Rule E(2)(a) or (b), the burden of advancing sums to the Marshal sufficient to cover the Marshal's fees and expenses shall be allocated equitably between the original plaintiff, and the intervening party or parties as indicated below:

(1) *Stipulation for the Allocation and Payment of the Marshal's Fees and Expenses.* Immediately upon the filing of the intervening complaint, counsel for the intervening plaintiff shall arrange for a conference between all other parties to the action, at which time a good faith effort shall be made to allocate fees and expenses among the parties. Any resulting stipulation between the parties shall be codified and filed with the Court and a copy served upon the Marshal.

(2) *Allocation of Costs and Expenses in the Event That Counsel Cannot Stipulate.* The Court expects that counsel will resolve the allocation of costs and expenses in accordance with the preceding paragraph. In the event that such an arrangement cannot be made, the parties shall share in the fees and expenses of the Marshal in proportion to their claims as stated in the original and intervening complaints.

In order to determine the proportionate shares of each party, counsel for the last intervening plaintiff shall determine the total amounts claimed by each party. The individual claims shall be determined from the original and amended complaint, and all other intervening complaints subsequently accepted and processed by the Marshal in accordance with Local Admiralty Rule E(2)(a) or (b).

Thereafter, counsel for the last intervening plaintiff shall deliver to the Marshal a list which summarizes each party's claim, and the proportion which each party's claim bears to the aggregate claims asserted in the litigation, determined to the nearest one-tenth of one percentage point.

Upon receipt of this listing, the Marshal shall determine the total expenses incurred to date and shall estimate the expenses to be incurred during the next ten (10) days. For the purpose of making this calculation, the total fees and expenses shall be calculated from the date when continuous and uninterrupted arrest or attachment of the property began, and not prorated from the date a particular party's intervening complaint was filed.

The Marshal shall then apply the percentages determined in the listing, and shall compute the amount of the intervening party's initial deposit requirements. The Marshal shall also utilize this listing to compute any additional deposit requirements which may be necessary pursuant to Local Admiralty Rule E(5)(c).

The Marshal need not re-arrest or re-attach the vessel and/or property until the deposit is received from the intervening plaintiff.

(c) *Additional Deposit Requirements.* Until the property arrested or attached and garnished has been released or otherwise disposed of in accordance with Supplemental Rule (E), the Marshal may require from any original and intervening party who has caused the arrest or attachment and garnishment of a vessel or property, to post such additional deposits as the Marshal determines necessary to cover any additional estimated fees or expenses.

(d) *Judicial Relief From Deposit Requirements.* Any party aggrieved by the deposit requirements of Local Admiralty Rule E(5)(b) may apply to the Court for relief. Such application shall be predicated upon a showing that owing to the relative priorities of the claims asserted against the vessel or other property, the deposit requirements operate to impose a burden disproportionate to the aggrieved party's recovery potential.

The judicial officer may adjust the deposit requirements, but in no event shall the proportion required of an aggrieved party be reduced to a percentage less than that imposed upon the claimant whose claim is the smallest among that of claims which the aggrieved party stipulates as having priority over its claim; or, in the absence of such stipulation, the greatest percentage imposed upon any claimant participating in the deposit requirements.

(e) *Consequence of Failing to Comply With Additional Deposit Requirements.* Any party who fails to make the additional deposit as requested by the Marshal may not participate further in the proceeding, except for the purpose of seeking relief from this rule. Additionally, the Marshal shall notify the Court in writing whenever any party fails to make additional deposits as required by Local Admiralty Rule E(5)(c).

In the event that a party questions its obligations to advance monies required by this rule, the Marshal may apply to the Court for instructions concerning that party's obligation under the rule.

(6) Property in Possession of a United States Officer. Whenever the property to be arrested or attached is in custody of a U.S. officer, the Marshal shall serve the appropriate process upon the officer or employee; or, if the officer or employee is not found within the district, then to the custodian of the property within the district. The Marshal shall direct the officer, employee or custodian not to relinquish custody of the property until ordered to do so by the Court.

(7) Process Held in Abeyance.

(a) *When Permitted.* In accordance with Supplemental Rule (E)(3)(b), a plaintiff may ask the Clerk not to issue process, but rather to hold the process in abeyance. The Clerk shall

docket this request, and thereafter shall not be responsible for ensuring that process is issued at a later date.

(b) *When Intervention Is Subsequently Required.* It is the intention of these rules that a vessel or other property should be arrested or attached pursuant to process issued and effected in only one civil action. Therefore, if while process is held in abeyance on one action, the vessel or property is arrested or attached in another action, it shall be the responsibility of the plaintiff who originally requested process be held in abeyance in the first action to voluntarily dismiss without prejudice the first action, insofar as that action seeks to proceed against the property arrested or attached in the second action, and promptly intervene in the second action pursuant to Local Admiralty Rule E(2)(a) or (b).

In order to prevent undue hardship or manifest injustice, motions to consolidate in rem actions against the same vessel or property will be granted only in exceptional circumstances.

(8) Release of Property in Accordance With Supplemental Rule (E)(5).

(a) *Release by Consent or Stipulation.* Subject to the limitations imposed by Supplemental Rule (E)(5)(c), the Marshal may release any vessel, cargo or property in the Marshal's possession to the party on whose behalf the property is detained. However, as a precondition to release, the Marshal shall require a stipulation, bond, or other security, expressly authorizing the release. The authorizing instrument shall be signed by the party, or the party's attorney, on whose behalf the property is detained.

The stipulation, bond, or other security shall be posted in an amount equal to, or greater than, the amount required for the following types of action:

(1) *Actions Entirely for a Sum Certain.* The amount alleged to be due in the complaint, with interest at six percent (6%) per annum from the date claimed to be due to a date twenty-four (24) months after the date the claim was filed, or by filing an approved stipulation, or bond for the amount alleged plus interest as computed in this subsection.

The stipulation or bond shall be conditioned to abide by all orders of the Court, and to pay the amount of any final judgment entered by this Court or any appellate Court, with interest.

(2) *Actions Other Than Possessory, Petitory or Partition.* Unless otherwise ordered by the Court, the amount of the appraised or agreed value of the property seized, with interest. If an appraised value cannot be agreed upon by the parties, the Court shall order an appraisal in accordance with Local Admiralty Rule F(3).

The stipulation or bond shall be conditioned to abide by all orders of the Court, and to pay the amount of any final judgment entered by this Court or any appellate Court, with interest.

The person consenting or stipulating to the release shall also file a claim in accordance with Local Admiralty Rule E(2)(a) or (b).

(3) Possessory, Petitory or Partition Actions. The Marshal may release property in these actions only upon order of Court, and upon the subsequent deposit of security and compliance with such terms and/or conditions as the Court deems appropriate.

(b) *Release Pursuant to Court Order.* In accordance with Supplemental Rule (E)(5)(c), a party may petition to release the vessel pursuant to Court order. A party making such application shall file a Request for Release which shall substantially conform in format and content to the form identified as NDF 8 in the Appendix to these Local Admiralty Rules. Additionally, the party shall prepare, and offer for filing, a proposed order directing the release. This order shall substantially conform in format and content to the form identified as NDF 9 in the Appendix to these Local Admiralty Rules.

However, as a precondition to the release, the Marshal shall require a stipulation, bond, or other security, as specified in Local Admiralty Rule E(8)(a)(1), (2) or (3), as appropriate.

(c) *Upon the Dismissal or Discontinuance of an Action.* Upon dismissal of an action by an order of the Court or upon filing a notice of voluntary dismissal, a party may obtain release of any vessel, cargo, or property by coordinating with the Marshal to ensure that all costs and charges of the Court and its officers have first been paid.

(d) *Release Subsequent to the Posting of a General Bond.*

(1) Requirements of a General Bond. General bonds filed pursuant to Supplemental Rule (E)(5)(b) shall identify the vessel by name, nationality, dimensions, official number or registration number, hailing port and port of documentation.

(2) Responsibility for Maintaining a Current Listing of General Bonds. The Clerk shall maintain a current listing of all general bonds. This listing should be maintained in alphabetical order by name of the vessel. The listing will be available for inspection during normal business hours.

(3) Execution of Process. The arrest of a vessel covered by a general bond shall be stayed in accordance with Supplemental Rule (E)(5)(b), however, the Marshal shall serve a copy of the complaint upon the master or other person in whose charge or custody the vessel is found. If neither the master nor another person in charge of custody is found aboard the vessel, the Marshal shall make the return accordingly.

Thereafter, it shall be plaintiff's responsibility to advise the owner or designated agent, at the address furnished in the general bond, of (1) the case number, (2) nature of the action and the amount claimed; (3) the plaintiff and name and address of plaintiff's attorney; and (4) the return date for filing a claim.

(9) Application to Modify Security for Value and Interest. At any time, any party having an interest in the subject matter of the action may move the Court, on due notice and for cause, for greater, better or lesser security, and any such order may be enforced by attachment or as otherwise provided by law.

(10) Custody and Safekeeping.

(a) *Initial Responsibility.* The Marshal shall initially take custody of any vessel, cargo and/or other property arrested, or attached in accordance with these rules. Thereafter, and until such time as substitute custodians may be authorized in accordance with Local Admiralty Rule E(10)(c), the Marshal shall be responsible for providing adequate and necessary security for the safekeeping of the vessel or property. In the discretion of the Marshal, adequate and necessary security may include the placing of keepers on or near the vessel and/or the appointment of a facility or person to serve as a custodian of the vessel or property.

(b) *Limitations on the Handling, Repairing and Subsequent Movement of Vessels or Property.* Subsequent to the arrest or attachment of a vessel or property, and except as provided in Local Admiralty Rule E(10)(a), no person may handle cargo, conduct repairs, or move a vessel without prior order of Court. Notwithstanding the foregoing, the custodian or substitute custodian is obligated to comply with any orders issued by the Captain of the Port, United States Coast Guard, including an order to move the vessel; and to comply with any applicable federal, state, or local laws or regulations pertaining to vessel and port safety. Any movement of a vessel pursuant to such requirements must not remove the vessel from the Northern District of Florida and shall be reported to the Court within twenty-four (24) hours of the vessel's movement.

(c) *Procedures for Changing Custody Arrangements.* Any party may petition the Court to dispense with keepers, remove or place the vessel, cargo and/or other property at a specified facility, designate a substitute custodian for the vessel or cargo, or for other similar relief. The motion shall substantially conform in format and content to the form identified as NDF 5 in the Appendix of these Local Admiralty Rules.

(1) *Notification of the Marshal Required.* When an application for change in custody arrangements is filed, either before or after the Marshal has taken custody of the vessel or property, the filing party shall serve notice of the application on the Marshal in sufficient time to permit the Marshal to review the indemnification and insurance arrangements of the filing party and substitute custodian. The application shall also be served upon all other parties to the litigation.

(2) *Indemnification Requirements.* Any motion for the appointment of a substitute custodian or facility shall include as an exhibit to the motion, a consent and indemnification agreement signed by both the filing party, or the filing party's attorney, and the proposed substitute custodian.

The consent and indemnification agreement shall expressly release the Marshal from any and all liability and responsibility for the care and custody of the property while in the hands of the substitute custodian; and shall expressly hold the Marshal harmless from any and all claims whatsoever arising from the substitute custodianship. The agreement shall substantially conform in format and content to the form identified as NDF 6 in the Appendix to these Local Admiralty Rules.

(3) Court Approval Required. The motion to change custody arrangements, and indemnification and consent agreement shall be referred to a judicial officer who shall determine whether the facility or substitute custodian is capable of safely keeping the vessel, cargo and/or property.

(d) *Insurance Requirements.*

(1) Responsibility for Initially Obtaining Insurance. Concurrent with the arrest or attachment of a vessel or property, the Marshal shall obtain insurance to protect the Marshal, the Marshal's deputies, keepers, and custodians from liability arising from the arrest or attachment.

The insurance shall also protect the Marshal and the Marshal's deputies or agents from any liability arising from performing services undertaken to protect the vessel, cargo and/or property while that property is in the custody of the Court.

(2) Payment of Insurance Premiums. It shall be the responsibility of the party applying for the arrest or attachment of a vessel, cargo and/or property to promptly reimburse the Marshal for premiums paid to effect the necessary insurance.

The party applying for change in custody arrangements shall be responsible for paying the Marshal for any additional premium associated with the change.

(3) Taxation of Insurance Premiums. The premiums charged for the liability insurance will be taxed as an expense of custody while the vessel, cargo and/or property is in *custodia legis*.

(11) Preservation, Humanitarian and Repatriation Expenses.

(a) *Limitations on Reimbursement for Services and/or Supplies Provided to a Vessel or Property in Custody.* Except in cases of emergency or undue hardship, no person will be entitled to claim as an expense of administration the costs of services or supplies furnished to a vessel, cargo and/or property unless such services or supplies have been furnished to the Marshal upon the Marshal's order, or pursuant to an order of this Court.

Any order issued pursuant to this subsection shall require the person furnishing the services or supplies to file a weekly invoice. This invoice shall be set forth in the format prescribed in Local Admiralty Rule E(11)(e).

(b) *Preservation Expenses for the Vessel and Cargo.* The Marshal, or substitute custodian, is authorized to incur expenses reasonably deemed necessary in maintaining the vessel, cargo and/or property in custody for the purpose of preventing the vessel, cargo and/or property from suffering loss or undue deterioration.

(c) *Expenses for Care and Maintenance of a Crew.* Except in an emergency, or upon the authorization of a judicial officer, neither the Marshal nor substitute custodian shall incur expenses for feeding or otherwise maintaining the crew.

Applications for providing food, water and necessary medical services for the maintenance of the crew may be submitted, and decided *ex parte* by a judicial officer, providing such an application is made by some person other than the owner, manager or general agent of the vessel.

Such applications must be filed within thirty (30) days from the date of the vessel's initial seizure. Otherwise, except in the case of an emergency, such applications shall be filed and served upon all parties, who in turn shall have ten (10) days from receipt of the application to file a written response. Expenses for feeding or otherwise maintaining the crew, when incurred in accordance with this subsection, shall be taxed as an expense of administration and not as an expense of custody.

(d) *Repatriation Expenses.* Absent an order of Court expressly ordering the repatriation of the crew and/or passengers, and directing that the expenses be taxed as a cost of administration, no person shall be entitled to claim these expenses as expenses of administration.

(e) *Claim by a Supplier for Payment of Charges.* Any person who claims payment for furnishing services or supplies in compliance with Local Admiralty Rule E(11), shall submit an invoice to the Marshal's office for review and approval.

The claim shall be presented in the form of a verified claim, and shall be submitted within a reasonable time after furnishing the services or supplies, but in no event shall a claim be accepted after the vessel, or property has been released. The claimant shall file a copy of the verified claim with the Marshal, and also serve the substitute custodian and all other parties to the litigation.

The Marshal shall review the claim, make adjustments or recommendations to the claim as are appropriate, and shall thereafter forward the claim to the Court for approval. The Court may postpone the hearing on an individual claim until a hearing can be set to consolidate other claims against the property.

(12) Property in Incidental Custody and Otherwise Not Subject to the Arrest or Attachment.

(a) *Authority to Preserve Cargo in Incidental Custody.* The Marshal, or an authorized substitute custodian, shall be responsible for securing, maintaining and preserving all property incidentally taken into custody as a result of the arrest or attachment of a vessel or property. Incidental property may include, but shall not be limited to, laden cargo not itself the subject of the arrest or attachment.

The Marshal or other custodian shall maintain a separate account of all costs and expenses associated with the care and maintenance of property incidentally taken into custody.

Any person claiming entitlement to possession of property incidentally taken into custody shall be required, as a precondition of receiving possession, to reimburse the Marshal for

such separately accounted expenses. Funds received by the Marshal will be credited against both the expense of custody and administration.

(b) *Separation, Storage and Preservation of Property in Incidental Custody.* Any party, or the Marshal, may petition the Court to permit the separation and storage of property in incidental custody from the property actually arrested or attached.

When separation of the property is ordered to protect the incidentally seized property from undue deterioration; provide for safer storage; meet an emergency; reduce the expenses of custody; or to facilitate a sale of the vessel or other property pursuant to Local Admiralty Rule E(16); the costs of such separation shall be treated as an expense of preservation and taxed as a cost of custody.

(c) *Disposal of Unclaimed Property.* Property incidentally in custody and not subsequently claimed by any person entitled to possession, shall be disposed of in accordance with the laws governing the disposition of property abandoned to the United States of America.

Except when prohibited by prevailing federal statute, the resulting net proceeds associated with the disposition of abandoned property shall be applied to offset the expense of administration, with the remainder escheating to the United States of America as provided by law.

(13) Dismissal.

(1) *By Consent.* No action may be dismissed pursuant to Fed.R.Civ.P. 41(a) unless all costs and expenses of the Court and its officials have first been paid.

Additionally, if there is more than one plaintiff or intervening plaintiff, no dismissal may be taken by a plaintiff unless that party's proportionate share of costs and expenses has been paid in accordance with Local Admiralty Rule E(6).

(2) *Involuntary Dismissal.* If the Court enters a dismissal pursuant to Fed.R.Civ.P. 41(b), the Court shall also designate the costs and expenses to be paid by the party or parties so dismissed.

(14) Judgments.

(1) *Expenses of Sureties as Costs.* If costs are awarded to any party, then all reasonable premiums or expenses paid by the prevailing party on bonds, stipulations and/or other security shall be taxed as costs in the case.

(2) *Costs of Arrest or Attachment.* If costs are awarded to any party, then all reasonable expenses paid by the prevailing party incidental to, or arising from the arrest or attachment of any vessel, property and/or cargo shall be taxed as costs in the case.

(15) Stay of Final Order.

(a) *Automatic Stay for Ten (10) Days.* In accordance with Fed.R.Civ.P. 62(a), no execution shall issue upon a judgment, nor shall seized property be released pursuant to a judgment or dismissal, until ten (10) days after the entry of the judgment or order of dismissal.

(b) *Stays Beyond the Ten (10) Day Period.* If within the ten (10) day period established by Fed.R.Civ.P. 62(a), a party files any of the motions contemplated in Fed.R.Civ.P. 62(b), or a notice of appeal, then unless otherwise ordered by the Court, a further stay shall exist for a period not to exceed thirty (30) days from the entry of the judgment or order. The purpose of this additional stay is to permit the Court to consider an application for the establishment of a supersedeas bond, and to order the date upon which the bond shall be filed with the Court.

(16) Notice of Sale.

(a) *Publication of Notice.* In an action in rem or quasi in rem, and except in suits on behalf of the United States of America where other notice is prescribed by statute, the Marshal shall publish notice in any of the newspapers approved pursuant to Local Admiralty Rule A(7).

(b) *Duration of Publication.* Unless otherwise ordered by the Court, applicable Supplemental Rule, or Local Admiralty Rule, publication of the notice of sale shall be made at least twice; the first publication shall be at least one (1) calendar week prior to the date of the sale, and the second at least three (3) calendar days prior to the date of the sale.

(17) Sale of a Vessel or Property.

(a) *Payment of the Purchase Price.* Unless otherwise provided in the order of sale, the person whose bid is accepted shall pay the Marshal the purchase price in the manner provided below;

(1) If the Bid Is Not More Than \$500.00. The successful bidder shall immediately pay the full purchase price.

(2) If the Bid Is More Than \$500.00. The bidder shall immediately deposit with the Marshal \$500.00, or 10% of the bid, whichever sum is greater. Thereafter the bidder shall pay the remaining purchase price within three (3) working days.

If an objection to the sale is filed within the time permitted by Local Admiralty Rule E(17)(g), the successful bidder is excused from paying the remaining purchase price until three (3) working days after the Court confirms the sale.

(b) *Method of Payment.* Unless otherwise ordered by the Court, payments to the Marshal shall be made in cash, certified check or cashier's check.

(c) *Custodial Costs Pending Payment.* When a successful bidder fails to pay the balance of the bid within the time allowed by Local Admiralty Rule E (17)(a)(2), or within the time permitted by order of the Court, the Marshal shall charge the successful bidder for the cost of keeping the property from the date payment of the balance was due, to the date the bidder takes delivery of the property.

The Marshal may refuse to release the property until these additional charges have been paid.

(d) *Default for Failure to Pay the Balance.* The person who fails to pay the balance of the bid within the time allowed shall be deemed to be in default. Thereafter a judicial officer may order that the sale be awarded to the second highest bidder, or may order a new sale as appropriate.

Any sum deposited by the bidder in default shall be forfeited, and the amount shall be applied by the Marshal to any additional costs incurred because of the forfeiture and default, including costs incident to resale. The balance of the deposit, if any, shall be retained in the registry and subject to further order of the Court.

(e) *Marshal's Report of Sale.* At the conclusion of the sale, the Marshal shall file a written report of the sale to include the date of the sale, the price obtained, and the name and address of the buyer.

(f) *Confirmation of Sale.* Unless an objection is timely filed in accordance with this rule, or the purchaser is in default for failing to pay the balance of the purchase price, plaintiff shall proceed to have the sale confirmed on the day following the last day for filing objections.

In order to confirm the sale, plaintiff's counsel shall file a "Request for Confirmation of Sale" following the last day for filing an objection. The "Request for Confirmation of Sale" shall substantially conform in format and content to the form identified as NDF 10 in the Appendix to these Local Admiralty Rules. Plaintiff's counsel shall also prepare and offer for filing a "Confirmation of the Sale". The "Confirmation of Sale" shall substantially conform in format and content to the form identified as NDF 11 in the Appendix to these Local Admiralty Rules. Thereafter, the Clerk shall file and docket the confirmation and shall promptly transmit a certified copy of the "Confirmation of Sale" to the Marshal's office.

Unless otherwise ordered by the Court, if the plaintiff fails to timely file the "Request for Confirmation of Sale" and proposed "Confirmation of Sale", the Marshal shall assess any continuing costs or expenses for custody of the vessel or property against the plaintiff.

(g) *Objections to Confirmation.*

(1) *Time for Filing Objections.* Unless otherwise permitted by the Court, an objection must be filed within three (3) working days following the sale. The party or person filing an objection shall serve a copy of the objection upon the Marshal and all other parties to the action, and shall also file a Certificate of Service indicating the date and manner of service. Opposition to the objection must be filed within five (5) days after receipt of the objection of the sale.

The Court shall consider the objection, and any opposition to the objection, and shall confirm the sale, order a new sale, or grant other relief as appropriate.

(2) *Deposit of Preservation or Maintenance Costs.* In addition to filing written objections, any person objecting to the sale shall also deposit with the Marshal the cost of keeping the property for at least seven (7) days. Proof of the deposit with the Marshal's office shall be delivered to the Clerk's office by the moving party. The Court

will not consider the objection without proof of this deposit.

If the objection is sustained, the objector will be reimbursed for the expense of keeping the property from the proceeds of any subsequent sale, and any remaining deposit will be returned to the objector upon Court order.

If the objection is denied, the sum deposited by the objector will be applied to pay the fees and expenses incurred by the Marshal in keeping the property from the date the objection was filed until the sale is confirmed. Any remaining deposit will be returned to the objector upon order of Court.

(h) *Confirmation of Title.* Failure of a party to give the required notice of an action and arrest of a vessel, property and/or cargo, or failure to give required notice of a sale, may afford grounds for objecting to the sale, but such failure does not affect the title of a good faith purchaser of the property.

(18) Post-sale Claim. Claims against the proceeds of a sale authorized by these rules, except for seamen's wages, will not be admitted on behalf of lienors who file their claims after the sale.

Unless otherwise ordered by the Court, any claims filed after the date of the sale shall be limited to the remnants and surplus arising from the sale.

RULE F. ACTIONS TO LIMIT LIABILITY

(1) Publication of the Notice. Immediately upon the commencement of an action to limit liability pursuant to Supplemental Rule (F), plaintiff shall, without further order of Court, effect publication of the notice in accordance with the provisions set forth in Supplemental Rule (F)(4) and Local Admiralty Rule A(7).

(2) Proof of Publication. Plaintiff shall file proof of publication not later than the return date. It shall be sufficient proof for 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.

(3) Appraisals Pursuant to Supplemental Rule (F)(7). Upon the filing of a claimant's motion pursuant to Supplemental Rule (F)(7), demanding an increase in the funds deposited in Court or the security given by plaintiff, the Court shall order an appraisal of the value of the plaintiff's interest in the vessel and pending cargo. Upon receipt of the order directing the appraisal, the parties shall have three (3) working days to file a written stipulation to an appraiser. In the event that the parties do not file a stipulation, the Court shall appoint the appraiser.

The appraiser shall promptly conduct an appraisal and thereafter file the appraisal with the Clerk and serve a copy of the appraisal upon the moving party and the plaintiff. The appraiser shall also file a Certificate of Service indicating the date and manner in which service was perfected.

(4) Objections to the Appraisal. Any party may move to set aside the appraisal within ten (10) days following the filing of the appraisal with the Clerk.

(5) Fees of the Appraiser. The Court shall establish the fee to be paid the appraiser. Unless otherwise ordered by the Court, the fee shall be taxed against the party seeking relief under Supplemental Rule (F)(7).

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

**FORM 1. ORDER DIRECTING THE ISSUANCE OF THE PROCESS
OF ATTACHMENT AND GARNISHMENT**

UNITED STATES DISTRICT COURT
NORTHERN 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 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

FORM 2. PROCESS OF ATTACHMENT AND GARNISHMENT

UNITED STATES DISTRICT COURT
NORTHERN 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 U.S. 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

(Name of Plaintiff's Attorney)

(Florida Bar Number, if admitted in Fla.)

(Firm Name, if applicable)

(Mailing Address)

(City, State & Zip Code)

(Telephone Number)

(Facsimile Number)

(E-Mail Address)

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).

FORM 3. ORDER DIRECTING THE ISSUANCE OF THE WARRANT OF ARREST

UNITED STATES DISTRICT COURT
NORTHERN 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 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

FORM 4. WARRANT FOR ARREST IN REM

UNITED STATES DISTRICT COURT
NORTHERN 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 NORTHERN 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

(Name of Plaintiff's Attorney)

(Florida Bar Number, if admitted in Fla.)

(Firm Name, if applicable)

(Mailing Address)

(City, State & Zip Code)

(Telephone Number)

(Facsimile Number)

(E-Mail Address)

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 ten (10) days after process has been executed, and shall also be required to file an answer within twenty (20) days after the filing of his 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).

FORM 5. MOTION FOR APPOINTMENT OF SUBSTITUTE CUSTODIAN

UNITED STATES DISTRICT COURT
NORTHERN 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 District Court issued a Warrant of Arrest against the vessel _____, directing the U.S. 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, within twenty-four (24) 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)(2).

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

Typed Name of Counsel

Fla. Bar ID No. (if admitted in Fla.)

Firm or Business Name

Mailing Address

City, State, Zip Code

Telephone Number

Facsimile Number

E-Mail Address

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.

FORM 6. CONSENT AND INDEMNIFICATION AGREEMENT FOR THE APPOINTMENT OF A SUBSTITUTE CUSTODIAN

UNITED STATES DISTRICT COURT
NORTHERN 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 U.S. Marshal for this district, and the U.S. 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 U.S. Marshal for this district, and the U.S. 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
Typed Name
Fla. Bar ID No. (if admitted in Fla.)
Firm or Business
Mailing Address
City, State, Zip Code
Telephone Number
Facsimile Number
E-Mail Address

SUBSTITUTE CUSTODIAN
Typed Name
Fla. Bar ID No. (if admitted in Fla.)
Name Firm or Business Name
Mailing Address
City, State, Zip Code
Telephone Number
Facsimile Number
E-Mail Address

cc: Counsel of Record

FORM 7. NOTICE OF ACTION IN REM AND ARREST OF VESSEL

UNITED STATES DISTRICT COURT

NORTHERN 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 _____, on _____, _____, 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 ten (10) days after process has been effected, or as otherwise provided in Supplemental Rule (C)(6), and shall serve an answer within twenty (20) days from the date of filing their claim.

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

SIGNED NAME OF PLAINTIFF'S ATTORNEY

- Typed Name of Counsel
- Fla. Bar ID No. (if admitted in Fla.)
- Firm or Business Name
- Mailing Address
- City, State, Zip Code
- Telephone Number
- Facsimile Number
- E-Mail Address

cc: Counsel of Record

FORM 8. MOTION FOR RELEASE OF A VESSEL OR PROPERTY IN ACCORDANCE WITH SUPPLEMENTAL RULE (E)(5)

UNITED STATES DISTRICT COURT
NORTHERN 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 Northern 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

Typed Name of Counsel

Fla. Bar ID No. (if admitted in Fla.)

Firm or Business Name

Mailing Address

City, State, Zip Code

Telephone Number

Facsimile Number

E-Mail Address

cc: Counsel of Record

FORM 9. ORDER DIRECTING THE RELEASE OF A VESSEL OR PROPERTY IN ACCORDANCE WITH SUPPLEMENTAL RULE (E)(5)

UNITED STATES DISTRICT COURT
NORTHERN 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 _____, _____.

United States District Judge
cc: Counsel of Record

FORM 10. REQUEST FOR CONFIRMATION OF SALE

UNITED STATES DISTRICT COURT
Northern 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 Marshal on _____, _____.

(2) *Last Day for Filing Objections:* Pursuant to Local Admiralty Rule E(17)(g)(1), 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 Court.

THEREFORE, in light of the facts presented above, plaintiff requests the Clerk 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

Typed Name of Counsel
Fla. Bar ID No. (if admitted in Fla.)
Firm or Business Name
Mailing Address
City, State, Zip Code
Telephone Number
Facsimile Number
E-Mail Address
cc: Counsel of Record

FORM 11. CONFIRMATION OF SALE

UNITED STATES DISTRICT COURT
NORTHERN 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 U.S. 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: U.S. Marshal

Counsel of Record

FORM 12. SUMMONS AND PROCESS OF MARITIME ATTACHMENT AND GARNISHMENT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA

Case No. ____-Civ or Cr-(USDJ's last name/USMJ's last name)
SUMMONS AND PROCESS OF MARITIME ATTACHMENT AND GARNISHMENT
THE PRESIDENT OF THE UNITED
STATES OF AMERICA

TO: THE UNITED STATES MARSHAL FOR THE NORTHERN 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 (20) 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.

FORM 13. MARITIME SUMMONS TO SHOW CAUSE RESPECTING

INTANGIBLE PROPERTY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
Case No. ____-Civ or Cr-(USDJ's last name/USMJ's last name)
MARITIME SUMMONS TO SHOW CAUSE
RESPECTING INTANGIBLE PROPERTY

Plaintiff,
vs.
Defendant(s).

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's Office in said District within ten (10) days after the service, and therewith or thereafter within twenty (20) 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.

FORM 14. AFFIDAVIT-FOREIGN ATTACHMENT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA

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

Plaintiff,

v.

Defendant(s).

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 and the 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 Northern District of Florida upon whom service of process would bind said defendant.

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

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

Attorney for Plaintiff

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

Clerk, U.S. District Court
Northern District of Florida

By: _____

Deputy Clerk