

**RULES
UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF FLORIDA**

Revised 1995, Amended October 1999, May 2000, January, 2004, and July, 2005.

IN RE: 1995 REVISION OF RULES OF COURT

Following the procedures outlined in 28 U.S.C. § 2071, Federal Rule of Civil Procedure 83, and Federal Rule of Criminal Procedure 57, and pursuant to the authority therein contained, the judges of this court do unanimously adopt the appended "LOCAL RULES." The appended rules shall, within their scope, govern all proceedings in the Northern District of Florida after 12:01 A.M., Eastern Standard Time, April 1, 1995. All existing rules are revoked upon said effective date.

DONE AND ORDERED by the court this 23rd day of January, 1995.

MAURICE M. PAUL, CHIEF JUDGE
WILLIAM STAFFORD, DISTRICT JUDGE
ROGER VINSON, DISTRICT JUDGE
LACEY COLLIER, DISTRICT JUDGE

IN RE: 1999 REVISION OF LOCAL RULES 3.2, 16.3(I), 26.3(C), 72.3, 72.4, AND 73.1(B)

Following the procedures outlined in Title 28 United States Code, Section 2071, Rule 83, Federal Rule of Civil Procedure, and Rule 57, Federal Rule of Criminal Procedure, the judges of this court do unanimously amend and adopt the appended Local Rules 3.2, 16.3(I), 26.3(C), 72.3, 72.4, and 73.1(B).

The amended rules shall be effective October 1, 1999.

DONE AND ORDERED this 28th day of September, 1999.

ROGER VINSON
Chief Judge

IN RE: 2000 REVISION OF LOCAL RULE 5.1, FILES AND FILING

Following the procedures outlined in Title 28, United States Code, Section 2071; in Rule 83, Federal Rules of Civil Procedure; and in Rule 57, Federal Rules of Criminal Procedure, the judges of this court do unanimously adopt the appended Local Rule 5.1(L).

The addition to the rule shall be effective July 1, 2000.

DONE AND ORDERED this 2nd day of May, 2000.

ROGER VINSON
Chief Judge

IN RE: 2004 REVISION OF LOCAL RULES 1.1, 3.1, 5.1, and 11.1

Following the procedures outlined in Title 28, United States Code, Section 2071; in Rule 83, Federal Rules of Civil Procedure; and in Rule 57, Federal Rules of Criminal Procedure, the judges of this court do unanimously adopt the appended Local Rules 1.1, 3.1, 5.1, and 11.1.

The updated rules shall be effective January 1, 2004.

DONE AND ORDERED this 9th day of January, 2004.

ROGER VINSON
Chief Judge

IN RE: 2005 REVISION OF LOCAL RULES 5.1, 5.2, 7.1, 11.1, 15.1, 16.1, 26.2, 26.3, 41.1, 54.1, 54.2, 56.1, 72.1, 72.2, 73.1, 77.3, 88.1, AND ADMIRALTY AND MARITIME RULES.

Following the procedures outlined in Title 28, United States Code, Section 2701; in Rule 83, Federal Rules of Civil Procedure; and in Rule 57, Federal Rules of Criminal Procedure, the judges of this court do unanimously adopt the appended Local Rules 5.1, 5.2, 11.1, 15.1, 26.2, 26.3, 41.1, 54.1, 54.2, 56.1, 72.1, 72.2, 73.1, 77.3, 88.1, and Admiralty Rules.

The amended rules shall be effective July 15, 2005.

DONE AND ORDERED this 14th day of July, 2005.

ROBERT L. HINKLE
Chief Judge

GENERAL RULES

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1.1	Scope of the Rules
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4.1	Service of Process for <i>In Forma Pauperis</i> Actions
5.1	Files and Filing
5.2	Exhibits - Disposition
6.1	Time: Stipulations Extending Time and Continuances
7.1	Motions, General
7.2	Removal of Cases From State Court
11.1	Attorneys
15.1	Amendments of Pleadings
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16.2	Notice of Settlement, Pleas, Continuance, Dismissal and Assessment of Costs
16.3	Mediation
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26.1	Exemptions From Mandatory Discovery and Conference
26.2	Discovery - Civil
26.3	Discovery - Criminal
41.1	Dismissal for Failure To Prosecute or To Comply With the Rules or a Court Order

- 54.1 Motions for Attorneys' Fees
- 54.2 Costs: Security for, Taxation, Payment
- 56.1 Motions for Summary Judgment
- 72.1 Authority of United States Magistrate Judges
- 72.2 Referral of Matters to Magistrate Judges by this Rule
- 72.3 Specific Referrals of Matters to Magistrate Judges
- 72.4 Full-time and Part-time Magistrate Judges
- 73.1 Procedures for Consent to Trial Before a Magistrate Judge
- 77.1 Photographs; Broadcasting or Televising
- 77.2 Video or Telephone Transmissions in Civil Cases
- 77.3 Release of Information in Criminal and Civil Cases
- 77.4 Marshal To Attend Court
- 87.1 Appeals in Bankruptcy Cases
- 88.1 Presentence Investigation Reports; Presentencing Procedures; Provisions of Pretrial Services
- 88.2 Appeal of a Magistrate Judge's Rulings in Consent Misdemeanor Cases

ADDENDUM

Customary and Traditional Conduct and Decorum in the
United States District Court

ADDENDUM

ADMIRALTY AND MARITIME RULES

Rule	Title
A	General Provisions
B	Attachment and Garnishment: Special Provisions
C	Action in Rem
D	Possessory, Petitory, and Partition Actions
E	Actions in Rem and Quasi in Rem: General Provisions
F	Actions to Limit Liability
	Appendix of Forms

GENERAL RULES

RULE 1.1 Scope of the Rules, Electronic Filing, and Administrative Order

These rules shall apply to all proceedings in this court, whether civil or criminal, and may be cited as "N.D. Fla. Loc. R."

Commencing on January 1, 2004, this will be an electronic court and electronic filing will be required in most civil and criminal cases. Procedures for electronic filing shall be set out in an Administrative Order.

The text of these Local Rules and the Administrative Order are available on the Internet homepage for the Northern District of Florida.

RULE 3.1 Divisions of the District for Docketing and Trial

(A) Divisions. This district shall be divided into four (4) divisions. All civil cases in which venue properly lies in a division of this district, and all criminal cases in which the offense was committed in a division of this district, shall be filed in that division and shall remain pending in that division until final disposition unless transferred to another division by order of the court. To the extent that these rules or Administrative Orders permit the filing of paper documents, the file containing the paper documents shall be maintained in the division where the judicial officer to whom the case is assigned maintains his or her principal office. Trial of any case, civil or criminal, shall normally be held in the division in which the case is pending, but trial and any hearing may be held in any division in the discretion of the presiding judicial officer as long as consistent with law. The divisions are as follows:

(1) **Pensacola Division** shall be composed of the following counties: Escambia, Santa Rosa, Okaloosa and Walton.

(2) **Panama City Division** shall be composed of the following counties: Jackson, Holmes, Washington, Bay, Calhoun, and Gulf.

(3) **Tallahassee Division** shall be composed of the following counties: Leon, Gadsden, Liberty, Franklin, Wakulla, Jefferson, Taylor and Madison.

(4) **Gainesville Division** shall be composed of the following counties: Alachua, Lafayette, Dixie, Gilchrist, and Levy.

(B) Place for Docketing Removed Cases. All cases removed to this court from the courts of the State of Florida shall be docketed in the division of the district wherein lies the county from which the action was removed.

(C) Transfer. The court may order any cause, civil or criminal, transferred from one

division to any other division.

RULE 4.1 Service of Process for *In Forma Pauperis* Actions

(A) In any proceeding where plaintiff is seeking to proceed *in forma pauperis*, the provisions of Fed. R. Civ. P. 4(d)(2) shall not be utilized until the court grants leave to proceed *in forma pauperis*. If leave to proceed *in forma pauperis* is granted, the court may direct the manner in which service of process or waiver thereof shall be accomplished.

(B) For purposes of Fed. R. Civ. P. 4(c)(2), the court may direct service of *in forma pauperis* complaints against correctional employees of the State of Florida or any political subdivision thereof through specially appointed process servers designated for each correctional facility.

RULE 5.1 Files and Filing

(A) Electronic Case Filing.

(1) **Electronic Case Filing Required; Administrative Order.** All documents in civil and criminal cases shall be filed by electronic means, except that documents in cases filed pro se (prisoner and non-prisoner), and documents in other categories of cases (or types of documents) identified by Administrative Order, shall continue to be filed in paper form. A judicial officer may grant other exceptions for good cause.

(2) **Electronic Filing and Docketing Defined.** Electronic transmission of a document to the Electronic Case Filing System pursuant to these Rules and the Administrative Order, together with the transmission of a Notice of Electronic Filing from the court's electronic filing system, constitutes the filing of the document for all purposes pursuant to the Federal Rules of Civil and Criminal Procedure and the Local Rules of this court, and constitutes entry of the document upon the docket kept by the Clerk under Fed.R.Civ.P. 58 and 79.

(3) **Consequences of Electronic Filing.** When a document has been filed electronically, the official record is the electronic recording of the document in the court's Electronic Case Filing System. A document filed by electronic means in compliance with these Local Rules and Administrative Order is the functional equivalent of a paper document for application of the Federal Rules of Civil and Criminal Procedure and the Local Rules.

(4) **Time of Filing and Docketing.** The time of filing and docketing electronically is assigned automatically when the transmission has been accepted by the Electronic Case Filing System. The time of filing is recorded in the Notice of Electronic Filing. Filing by electronic transmission prior to midnight of the local time of the division in which the case is pending constitutes filing on that day.

(5) **Filing Users Who May File Documents; Consent to Receive Service and Notice Electronically.** A "Filing User" is a person who, pursuant to procedures established by Administrative Order, has been issued a login user name and a password, both of which are necessary to file documents electronically, and who, pursuant to Federal Rule of Civil Procedure 5(b)(2)(D), has consented in writing to receive service and notices electronically. Only a Filing User, or a person authorized by a Filing User to file documents on behalf of the Filing User, may file documents electronically. In addition to the written consent required to become a Filing User, participation in the Electronic Case Filing System as a Filing User by receipt of a login user name and password shall constitute a request for, and consent to, electronic service and notice pursuant to Federal Rule of Civil Procedure 5(b)(2)(D) and Federal Rule of Criminal Procedure 49, and waiver of the right to personal service or service by first class mail.

(6) **Electronic Service.** Pursuant to Federal Rule of Civil Procedure. 5(b)(2)(D), service of documents filed electronically shall be through the court's transmission facilities. Transmission of the Notice of Electronic Filing constitutes service of the filed document upon each party in the case who is registered as a Filing User and has consented to service by electronic means.

(7) **Electronic Signatures.** Use of the Filing User's login user name and password, either by the Filing User or by someone authorized to act on behalf of a Filing User, to file a document electronically is the legal equivalent of the Filing User's original signature on the document filed and is, for all purposes, the signature of the Filing User required by Fed.R.Civ.P. 11, the Federal Rules of Civil and Criminal Procedure, these Local Rules, and any other purpose for which a signature is required in connection with proceedings before the court. Orders, notices, and other documents which have been filed electronically by a judicial officer, or text-only docket orders or notices by a judicial officer, have the same force and effect as if the judicial officer had affixed his or her original signature to a paper document.

(8) **Accuracy of Docket Entries.** Each Filing User is responsible to the court for the accuracy of the official docket generated when filing documents by means of the Electronic Filing System.

(9) **Electronic Affidavits and Declarations.** The electronic filing of a document which contains a statement, declaration, verification, or certificate which is under oath or under penalty of perjury, has the same effect as a paper document with an original signature. By filing such a document, the Filing User certifies that the original signed paper document, signed under oath or penalty of perjury, is in the possession of the Filing User. The Filing User shall make the original document available for inspection and copying upon request by a party or by the Court, and shall retain the original document for two years after the termination of the case.

(B) Form of Documents Which are Filed Electronically or in Paper Form.

(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 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.

(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 1/2 " x 11") paper with approximately one and one-fourth (1 1/4) inch margins. The first page of every pleading or document filed in paper form shall, however, allow approximately a two (2) inch margin at the bottom of the page where the clerk shall date stamp such pleading or document filed.

(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.

(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, facsimile number of the attorney filing the document, and a notation of which party the attorney represents (counsel for plaintiff or defendant) shall be included in the signature block. 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.

(D) **Certificate of Service.** After another party has entered an appearance in the case, each document submitted for filing shall be accompanied by a certificate of service (1) signed by an attorney of record or by a party proceeding *pro se*, (2) certifying that a copy of the document has been served upon all other parties who have appeared, and (3) specifying the date and method of such service (for example, by Notice of Electronic Filing, by First Class mail, by hand delivery, or by other means). A certificate of service is not required for a paper properly filed for *ex parte* consideration by the court.

(E) **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) **Facsimile Transmitted Documents.** Facsimile transmission shall not be used for the routine filing of papers.

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

(H) **Filing and Payment of Fees; In Forma 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.

(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.

(J) **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, including the model forms appended thereto.

(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) 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.

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.

RULE 6.1 Time: Stipulations Extending Time and Continuances

Stipulations between counsel with respect to extensions of time for serving or filing any paper, pleading, brief, or other document required to be served or filed shall not be effective until approved by the court for good cause shown.

No trial, hearing or other proceeding shall be continued upon stipulation of counsel alone, but a continuance may be allowed by order of the court for good cause shown.

RULE 7.1 Motions, General

(A) **Memoranda Required.** Unless a motion is unopposed, or the parties have stipulated that the relief sought by the motion may be granted, or the motion is a motion listed below, a moving party shall serve and file with every motion in a civil or criminal proceeding a memorandum with citation of authorities in support of the motion. The memorandum may be included in the same document as the motion. No memorandum may exceed twenty-five (25) pages absent good cause shown and prior order of the court. Failure to file a memorandum when required by this rule may be cause for the denial of the motion. The following motions need not be accompanied by a memorandum:

(1) Motion for extension of time or for a continuance, provided that good cause is set forth in the motion;

(2) Motion for appearance *pro hac vice*;

- (3) Motion to withdraw or substitute counsel;
- (4) Application for leave to proceed *in forma pauperis*;
- (5) Petition for writ of habeas corpus ad testificandum or ad prosequendum;
- (6) Motion for out-of-state process;
- (7) Motion for order of publication for process;
- (8) Application for default;
- (9) Motion for judgment upon default;
- (10) Motion for confirmation of sale;
- (11) Motion to withdraw or substitute exhibits;
- (12) Motion for refund of bond, provided cause for granting the motion is set forth in the motion;
- (13) Motion to deposit funds with the court.

(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 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:

- (1) A motion for which a memorandum is not required by N.D. Fla. Loc. R. 7.1(A), except a motion for extension of time or for a continuance, a motion for confirmation of sale, a motion to withdraw or substitute exhibits, or a motion for refund of bond;
- (2) An oral motion made in open court;
- (3) Motions in civil cases for judgment as a matter of law, for summary judgment, and for new trial;
- (4) Motions in criminal cases for dismissal for denial of a speedy trial, to suppress evidence, for judgment of acquittal, and for new trial.

(C) Responsive and Reply Memoranda.

(1) Each party opposing a motion shall have fourteen (14) days from the date of service of the motion in which to file and serve a responsive memorandum with citation of authorities in opposition to the motion. The responsive memorandum shall be limited to twenty-five (25) pages absent good cause shown and prior order of the court. No responsive memorandum need be filed to a stipulated or unopposed motion or to the excepted motions listed in N.D. Fla. Loc. R. 7.1(A). Failure to file a responsive memorandum may be sufficient cause to grant the motion.

(2) No reply memoranda shall be filed absent a showing of good cause and upon leave of the court.

(D) Oral Argument. Motions shall generally be determined without oral argument. The court may require oral argument or may allow oral argument upon the written request of a party. Parties requesting oral argument shall state their estimate of the time required.

(E) Motions of an Emergency Nature. Upon its own motion, or upon the written request of either party, the court may waive the time requirements of this rule and grant an immediate hearing on any matter requiring such expedited procedure. Any request shall set forth in detail the reason for such expedited procedure.

(F) Correspondence to the Court. Unless invited or directed by a judicial officer, attorneys and any party represented by an attorney shall not:

(1) 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

(2) 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 7.2 Removal of Cases From State Court

(A) Any party effecting removal shall comply with 28 U.S.C. § 1446. Within ten (10) days of filing the notice of removal, the removing party shall file true and legible copies of all process, pleadings, motions, and orders then on file in the state court.

(B) A motion that is pending at the time of removal will not be ruled upon by the court until the moving party files true and legible copies of the motion and all documents filed in support of or in opposition to the motion. If the movant did not previously file a memorandum in support of the motion, the movant must file a memorandum in compliance with N.D. Fla. Loc. R. 7.1 (A), and the parties will be governed by N.D. Fla. Loc. R. 7.1 as to filing responsive memoranda.

RULE 11.1 Attorneys

(A) Qualifications for Admission. An attorney is qualified for admission to the bar of this district if the attorney: (1) is currently a member in good standing of The Florida Bar or the Bar of any state; and (2) has successfully completed the tutorial on this court's local rules, located on the district's Internet Home Page, www.flnd.uscourts.gov. To participate in the court's Electronic Case Filing, the attorney must also have successfully completed the computer based training tutorial on the CM/ECF System, available on the district's Internet Home Page, www.flnd.uscourts.gov.

Attorneys admitted as of January 1, 2004, are not subject to any new admission requirements and remain members in good standing, but will be required to successfully complete the computer-based training tutorial on the CM/ECF System before they will be able to participate in the court's Electronic Case Filing.

(B) Procedure for Admission and Proof of Qualifications. Each applicant for admission shall submit a verified petition setting forth the information specified on the form provided by the Clerk of this Court, together with an application fee in the amount set by the court by administrative order and payable to the Clerk, a signed oath of admission, and a current certificate of good standing from The Florida Bar or the bar of any state. Each applicant must successfully complete the tutorial on local rules, located on the district's Internet Home Page, www.flnd.uscourts.gov. To participate in the court's Electronic Case Filing, the attorney must also have successfully completed the computer based training tutorial on the CM/ECF System, available on the district's Internet Home Page, www.flnd.uscourts.gov.

(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 date 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 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.

(3) Counsel for the United States or a State Officer or Agency. Any attorney

representing the United States, or any officer or agency thereof, may, without petitioning for admission, appear and participate in particular cases in which the United States or such counsel's agency is involved, provided the attorney has successfully completed the tutorial on local rules of the Northern District of Florida and the tutorial on CM/ECF available on the district's Internet home page .

Any attorney representing the State of Florida, or any officer or agency thereof, who is a member of The Florida Bar and is not a member of the bar of this district may by motion request to appear *pro hac vice* in any such case without having to file a certificate of good standing, provided the attorney has successfully completed the tutorial on local rules of the Northern District of Florida and the tutorial on CM/ECF available on the district's Internet home page www.flnd.uscourts.gov. Upon completion of these requirements, the attorney will be admitted.

Any attorney representing the United States or the State of Florida and who is an employee of the United States or the State of Florida, respectively, is exempt from paying the admission fee.

(4) **Temporary Waiver in Exceptional Cases.** In an exceptional case, when the interest of justice is best served by a waiver of the admission requirements, the judge before whom the matter is pending may permit a person not admitted to the bar of this district to temporarily appear in any aspect of the pending matter, civil or criminal. An appearance permitted under this paragraph applies only to the pending matter, and normally will be conditioned upon prompt compliance with the more formal requirements set out in this rule .

(D) **Pro Se Appearance.** Any party represented in a suit by counsel of record shall not thereafter take any step or be heard in the case in proper person, absent prior leave of court; nor shall any party having previously elected to proceed in proper person be permitted to obtain special or intermittent appearances of counsel.

(E) **Disbarment and Discipline.**

(1) **Professional Conduct.** Except where an act of Congress, federal rule of procedure, Judicial Conference Resolution, or rule of court provides otherwise, the professional conduct of all members of the bar of this district, with respect to any matter before this court, shall be governed by the Rules of Professional Conduct of the Rules Regulating The Florida Bar.

(2) **Contempt of Court.** Any person, who, prior to admission to the bar of this district or during any period of prohibition of practice in this district, exercises in any action or proceedings pending in this court any of the privileges of a member of the bar, or who pretends to be entitled to do so, may be found guilty of contempt of court.

(3) **Prohibition of Practice.** Whenever it is made to appear that any attorney has been disbarred or suspended from practice by the Supreme Court of Florida or any

other state bar, or by any federal court, such attorney shall be prohibited from practice in this district. If subsequently reinstated by such court or bar, the attorney may apply for readmission to practice in this district, provided, however, that the court may impose such reasonable additional requirements as may be appropriate.

(4) **Conviction of Crime.** Whenever it is made to appear to the court that an attorney has been convicted of any felony offense or of any misdemeanor offense involving dishonesty or moral turpitude in any court, such attorney shall be prohibited from practice in this district. The acceptance by any court of a plea of guilty or nolo contendere, or a jury or court verdict of guilty as to such offenses, which plea or verdict is not subsequently set aside, shall be deemed a conviction for the purposes of this rule, regardless of whether guilt is adjudicated by that court.

(5) **Additional Grounds for Prohibition of Practice.** Nothing in this rule shall be deemed to limit the court's authority to discipline a member of the bar of this district for conduct involving dishonesty, moral turpitude or any other activity inconsistent with the member's legal and ethical responsibilities. An attorney may be prohibited from practice in this district for a definite period, reprimanded, or subjected to such other discipline as the court may deem proper after notice and an opportunity to be heard.

(F) Withdrawal of Attorneys.

(1) **Approval of Court Required.** No attorney, firm, or agency, having made an appearance, shall thereafter abandon the case or proceeding in which the appearance was made, or withdraw as counsel for any party therein, except by written leave of court obtained after giving ten (10) days notice to the party or client affected thereby and to all other counsel of record.

(2) **Non-Payment of Fees.** Failure to pay attorneys' fees shall not be reason for seeking leave to withdraw if the withdrawal of counsel is likely to cause a continuance of a scheduled trial, hearing or other court proceeding.

(G) Responsibility of Retained Counsel in Criminal Cases.

(1) Unless the court, within seven (7) calendar days after arraignment, is notified in writing of counsel's withdrawal because of the defendant's failure to make satisfactory financial arrangements, the court will expect retained criminal defense counsel to represent the defendant until the conclusion of the case. Failure of a defendant to pay sums owed for attorneys' fees or failure of counsel to collect a sum sufficient to compensate for all the services usually required of defense counsel will not constitute good cause for withdrawal after the seven-day (7) period has expired.

(2) If a defendant moves the court to proceed on appeal in forma pauperis and/or for appointment of Criminal Justice Act appellate counsel, counsel retained for

trial will, in addition to the information required under Form 4 of the Rules of Appellate Procedure, be required to fully disclose in camera (a) the attorneys' fee agreement and the total amount of such fees and costs paid to date, in cash or otherwise; (b) by whom fees and costs were paid; (c) any fees and costs remaining unpaid and the complete terms of agreements concerning payment thereof; (d) the costs actually incurred to date; and (e) a detailed description of services actually rendered to date, including a record of the itemized time (to the nearest 1/10 of an hour) for each service, both in-court and out-of-court, and the total time. All such information submitted will be viewed in camera by the court for the purpose of deciding the defendant's motion and will be a part of the record (sealed if requested) in the case.

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.

Likewise, when any amendment is submitted as a matter of course under Fed. R. Civ. P. 15(a), the amended pleading shall be filed in its entirety with all of the amendments incorporated therein.

Matters not set forth in the amended pleading are deemed to have been abandoned.

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.

RULE 16.2 Notice of Settlement, Pleas, Continuance, Dismissal and Assessment of Costs

(A) It shall be the duty of counsel in any case, civil or criminal, to immediately notify the court by the most expeditious means that the case has been disposed of by settlement, change of plea or through any other method of termination. Further, if counsel in a civil or criminal case reasonably believes that a scheduled trial might have to be delayed or learns of circumstances that might make the calling of a jury panel unnecessary, counsel shall immediately communicate that fact to the court by the most expeditious means, with simultaneous notification to all other counsel of record or party proceeding *pro se*, and request emergency consideration by the court.

(B) If the notice required herein is not given at least one (1) full business day prior to the day the jurors are scheduled to report for voir dire or for attendance at trial, then, except for good cause shown, all costs of the jury panel, including attendance fees, mileage and per diem, shall be assessed against the responsible parties or their counsel. In addition, if by failure to give the notice as required herein, witness expenses, court travel expenses, marshal and court security costs, and expenses of other counsel were unnecessarily incurred, the costs thereof shall likewise be assessed against the responsible parties or their counsel.

(C) "Counsel" as used herein includes an attorney representing the United States or an agency thereof, an attorney associated with the Federal Public Defender, an attorney representing the State of Florida or an agency or subdivision thereof, a court-appointed attorney, an attorney appearing *pro hac vice*, and any other attorney who appears of record in a civil or criminal case. In criminal cases where counsel is proceeding under the Criminal Justice Act, any expense assessed against court-appointed counsel shall be deducted from any fees to which counsel would otherwise be entitled.

(D) When notified that a civil case has been settled, and for purposes of administratively closing the file, the court may order that a case be dismissed, but shall retain jurisdiction for sixty (60) days thereafter (or for such other period of time as the court may specify). During that period any party may move the court, for good cause shown, to reopen the case for further proceedings.

RULE 16.3 Mediation

(A) **Definition.** Mediation is an opportunity for the parties to negotiate their own settlement. Mediation is a supervised settlement conference presided over by a neutral mediator to promote conciliation, compromise and the ultimate settlement of a civil action. The mediator may be a mediator certified in accordance with these rules or any person mutually agreed upon by all parties. The mediator's role in the settlement of cases is to assist the parties in the identification of interests, suggest alternatives, analyze issues, question perceptions, conduct private caucuses, stimulate negotiations between opposing sides, and keep order. The mediation process does not allow for testimony of witnesses. The mediator does not review or rule upon questions of fact or law, or render any final decision in the case. Absent a settlement or consent of the parties, the mediator will only report to the presiding judge whether the case settled, was adjourned or continued for further mediation, or was terminated because settlement was not possible and the mediator declared an impasse.

(B) **Purpose.** Mediation is intended as an alternative method to resolve civil cases, thereby saving time and cost without sacrificing the quality of justice to be rendered or the right of the litigants to a full trial in the event of an impasse following mediation.

(C) **Qualifications of Mediators.** Any person who is certified and remains in good standing as a circuit court mediator under the rules adopted by the Supreme Court of Florida is qualified to serve as a mediator in this district. By mutual agreement and with court approval, any other person may be a mediator in a specific case.

(D) **Standards of Professional Conduct for Mediators.** All mediators, whether certified or not, who mediate in cases pending in this district shall be governed by standards of professional conduct and ethical rules adopted by the Supreme Court of Florida for circuit court mediators.

(E) **Disqualification of a Mediator.** After reasonable notice and hearing, and for good cause, the presiding judge shall have discretion and authority to disqualify any mediator from serving as mediator in a particular case. Good cause may include violation of the standards of professional conduct for mediators. Additionally, any person selected as a mediator may be disqualified for bias or prejudice as provided in 28 U.S.C. §144, and shall be disqualified in any case in which such action would be required by a justice, district judge, or magistrate judge governed by 28 U.S.C. § 455.

(F) **Compensation of Mediators.** Absent agreement by all parties to the contrary, mediators shall be compensated and reimbursed for expenses at the rate set by the court. Further, absent agreement of the parties to the contrary or order of the court for good cause shown, the cost of the mediator's services shall be paid equally by the parties to the mediation conference.

(G) **Limitations on Acceptance of Compensation or Other Reimbursement.** Except as provided by these rules, no mediator shall charge or accept in connection with the mediation of any particular case, any compensation, fee, or any other thing of value from any other source without prior written approval of the court.

(H) **Mediators as Counsel in Other Cases.** Any member of the bar who is certified or

selected as a mediator pursuant to these rules shall not, for that reason alone, be disqualified from appearing and acting as counsel in any other case pending in this district.

(I) **Referral to Mediation.** All litigants in civil cases not exempt under N.D. Fla. Loc. R. 26.1 shall consider the use of mediation as an alternative dispute resolution process at an appropriate stage in the litigation. Any pending civil case may be referred to mediation by the presiding judicial officer at such time as the judicial officer may determine to be in the interests of justice. The parties may request the court to submit any pending civil case to mediation at any time.

RULE 23.1 Class Actions

(A) In any case sought to be maintained as a class action pursuant to Fed. R. Civ. P. 23, the complaint shall contain, under a separate heading styled "Class Action Allegations," detailed allegations of fact showing the existence of the several prerequisites to a class action as enumerated in Fed. R. Civ. P. 23(a) and (b). The appropriate allegations thought to justify such claim should include, but are not necessarily limited to:

- (1) A reference to the portion or portions of Fed. R. Civ. P. 23, under which it is claimed that the suit is properly maintainable as a class action;
- (2) The size (or approximate size) and definition of the alleged class;
- (3) The basis upon which the plaintiff(s) claim(s);
 - (a) to adequately represent the plaintiff class, or,
 - (b) if there is a class composed of defendants, that those named as parties are adequate representatives of that class;
- (4) The alleged questions of law and fact claimed to be common to the class;
- (5) In actions claimed to be maintainable as class actions under the alternative provisions of Rule 23(b), allegations thought to support the findings required by that specific alternative.

(B) Within ninety (90) days after the filing of a complaint in a class action, unless this period is extended on motion for good cause appearing, the plaintiff shall move for a determination under Fed. R. Civ. P. 23(c)(1), as to whether the case is to be maintained as a class action.

(C) The foregoing provisions shall apply, with appropriate adaptations, to any counterclaim or crossclaim alleged to be brought for, or against, a class.

RULE 24.1 Constitutional Challenges: Federal and State

(A) **Act of Congress.** In any action, suit, or proceeding in which the constitutionality of

an act of Congress affecting the public interest is challenged, and to which action the United States or some agency, officer, or employee thereof is not a party, counsel representing the party who challenges the act shall forthwith notify in writing the judge to whom the action is assigned of the existence of the constitutional question. The notice shall contain the full title and number of the action and shall designate the statute assailed and the grounds upon which it is assailed, so that the court may comply with its statutory duty to certify the fact to the Attorney General of the United States as required by 28 U.S.C. § 2403 and Fed. R. Civ. P. 24(c).

(B) **State Statute.** In any action, suit, or proceeding in which the constitutionality of a Florida statute, charter, ordinance, or franchise is challenged, counsel shall comply with the notice provisions of Section 86.091, Florida Statutes. Additionally, when the constitutionality of a state statute affecting the public interest is drawn in question in any action in which the State of Florida or any agency, officer, or employee thereof is not a party, counsel representing the party who challenges the statute shall forthwith notify in writing the judge to whom the action is assigned of the existence of the constitutional question. The notice shall contain the full title and number of the action and shall designate the statute assailed and the grounds upon which it is assailed, so that the court may comply with its statutory duty to certify the fact to the Attorney General of Florida as required by 28 U.S.C. § 2403 and Fed. R. Civ. P. 24(c).

RULE 26.1 Exemptions From Mandatory Discovery and Conference

Absent a contrary order in a specific case, the following categories of cases are exempted from the disclosure requirements of Fed. R. Civ. P. 26(a)(1) and (2) and the meeting requirement of Fed. R. Civ. P. 26(f):

(A) All cases in which the plaintiff is a prisoner and is not represented by an attorney;

(B) All applications for writs of habeas corpus under 28 U.S.C. § 2241 or 28 U.S.C. § 2254, and motions under 28 U.S.C. § 2255.

(C) Actions filed under 42 U.S.C. § 405(g) and other statutes seeking review, upon a fully developed record, of administrative determinations of governmental departments or agencies;

(D) Bankruptcy appeals and withdrawals;

(E) Deportation actions;

(F) Freedom of information actions;

(G) Government collection actions;

(H) Actions to register or enforce judgments;

(I) Proceedings to enforce or contest government summons and private party depositions;

(J) Garnishment actions.

RULE 26.2 Discovery - Civil

(A) **Discovery Not To Be Filed.** Interrogatories and the answers thereto, and requests for production or inspection shall be served upon other counsel or parties, but shall not be filed with the court. The party responsible for service of the discovery material shall retain the original and become the custodian. Likewise, deposition transcripts shall not be filed with the court. If interrogatories, requests, answers, responses or depositions are to be used at trial or are necessary to a pretrial motion which might result in a final order on any issue, the portions to be used shall be filed with the clerk at the outset of the trial or at the filing of the motion insofar as their use can be reasonably anticipated. When documentation of discovery not previously in the record is needed for appeal purposes, upon an application and order of the court, or by stipulation of counsel, the necessary discovery papers shall be filed with the clerk.

(B) **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.

(C) 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.

(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)(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)(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)(F).** 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)(G).** A written summary of testimony the government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence.

(C) Defendant's Discovery Obligations. If the defendant requests disclosure under subdivisions (a)(1)(C),(D), or (E) of Fed. R. Crim. P. 16, or if the defendant has given notice under Fed. R. Crim. P. 12.2 on an intent to present expert testimony on the defendant's mental condition, the government shall make its requests as allowed by Fed. R. Crim. P. 16 within three (3) working days after compliance with the defendant's request or after receipt of defendant's notice of intent to present expert testimony on the defendant's mental condition pursuant to Fed. R. Crim. P. 12.2, and the defendant shall provide the following within five (5) working days after the government's request:

(1) **Documents and Tangible Objects Under Fed. R. Crim. P. 16(b)(1)(A).** Books, papers, documents, photographs, tangible objects, or copies or portions thereof, which the defendant intends to introduce as evidence-in-chief at trial.

(2) **Reports of Examinations and Tests Under Fed. R. Crim. P. 16(b)(1)(B).** Results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof, which the defendant intends to introduce as evidence-in-chief at trial, or which were prepared by a witness whom the defendant intends to call at trial and which relate to that witness's testimony.

(3) **Expert Witnesses Under Fed. R. Crim. P. 16(b)(1)(C).** A written summary of testimony the defendant intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence.

(D) **Other Disclosure Obligations of the Government.** The government's attorney shall provide the following within five (5) days after the defendant's arraignment, or promptly after acquiring knowledge thereof:

(1) **Brady Material.** All information and material known to the government which may be favorable to the defendant on the issues of guilt or punishment, without regard to materiality, that is within the scope of *Brady v. Maryland*, 373 U.S. 83 (1963) and *United States v. Agurs*, 427 U.S. 97 (1976).

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

(3) **Testifying Informant's Convictions.** A record of prior convictions of any alleged informant who will testify for the government at trial.

(4) **Defendant's Identification.** If a lineup, showup, photo spread or similar procedure was used in attempting to identify the defendant, the exact procedure and participants shall be described and the results, together with any pictures and photographs, shall be disclosed.

(5) **Inspection of Vehicles, Vessels, or Aircraft.** If any vehicle, vessel, or aircraft was allegedly utilized in the commission of any offenses charged, the government shall permit the defendant's counsel and any experts selected by the defense to inspect it, if it is in the custody of any governmental authority.

(6) **Defendant's Latent Prints.** If latent fingerprints, or prints of any type, have been identified by a government expert as those of the defendant, copies thereof shall be provided.

(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 at trial, pursuant to Rule 404(b), Federal Rules of Evidence.

(3) If the defendant was an "aggrieved person" as defined in 18 U.S.C. § 2510(11), the government shall so advise the defendant and set forth the detailed circumstances thereof.

(4) The government shall anticipate the need for, and arrange for the transcription of, the grand jury testimony of all witnesses who will testify in the government's case-in-chief, if subject to Fed. R. Crim. P. 26.2 and to 18 U.S.C. § 3500. *Jencks* Act materials and witnesses' statements shall be provided as required by Fed. R. Crim. P. 26.2 and § 3500. However, the government, and where applicable, the

defendant, is requested to make such materials and statements available to the other party sufficiently in advance so as to avoid any delays or interruptions at trial.

(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.

(2) **Alibi.** If the attorney for the government makes demand for notice of defendant's intent to offer a defense of an alibi, the defendant shall respond thereto within five (5) working days thereafter.

(3) **Entrapment.** If the defendant intends to rely upon the defense of entrapment, such intention shall be disclosed to the government's attorney prior to trial. *See United States v. Webster*, 649 F.2d 346 (5th Cir. 1981).

(G) Joint Obligations of Attorneys.

(1) **Conference and Joint Report.** The attorneys for the government and the defendant shall confer at least five (5) working days prior to the scheduled date for jury selection and shall discuss all discovery requested and provided. They shall also make every possible effort in good faith to stipulate to facts, to points of law, and to the authenticity of exhibits (particularly regarding those exhibits for which records custodian witnesses may be avoided). A joint written statement, signed by the attorney for each defendant and the government, shall be prepared and filed prior to commencement of trial. It shall generally describe all discovery material exchanged and shall set forth all stipulations. No stipulation made shall be used against a defendant unless the stipulation is in writing and signed by both the defendant and the defendant's attorney.

(2) **Newly Discovered Evidence.** It shall be the duty of counsel for both sides to immediately reveal to opposing counsel all newly discovered information, evidence, or other material within the scope of this rule, and there is a continuing duty upon each attorney to disclose by the speediest means available.

(3) **Discovery Motions Prohibited.** No attorney shall file a discovery motion without first conferring with opposing counsel, and no motion will be considered by the court unless it is accompanied by a certification of such conference and a statement of the moving party's good faith efforts to resolve the subject matter of the motion by agreement with opposing counsel. No discovery motions should be filed for information or material within the scope of this rule.

(4) **Filing of Requests.** Discovery requests made pursuant to Fed. R. Crim. P. 16 and this local rule require no action on the part of this court and should not be filed

with the court, unless the party making the request desires to preserve a discovery matter for appeal.

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 ninety (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.

(B) On motion of any party or on its own motion, the court may enter an order to show cause why a claim, counterclaim, cross claim, or defense, should not be dismissed for failure to comply with these rules, the Federal Rules of Civil Procedure, or a court order. If good cause is not shown, a dismissal may be entered for this reason.

RULE 54.1 Motions for Attorneys' Fees

(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 and filed as specified below, together with the hourly rate at which such person is actually reimbursed.

(4) These records may be filed electronically under seal. If the attorney does not file these time records under seal, such records will remain unsealed. 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.

(C) Settlement Encouraged. No motion for attorneys' fees will be considered until the parties have conferred as required by N.D. Fla. Loc. R. 7.1(B) and have made good faith efforts to settle both liability for, and amount of, attorneys' fees. A certificate of conference must accompany the motion filed under this rule.

(D) Bifurcated Procedure for Determining Attorneys' Fees. If the settlement efforts are unsuccessful, the court's determination of attorneys' fees and related nontaxable expenses will be bifurcated [(see rule Fed. R. Civ. P. 54(d)(2)]. The initial motion and the opposing response will be in accordance with N.D. Fla. Loc. R. 7.1 and will address only the issue of liability. The court will rule on the motion and if it is granted, the provisions of subsections (E) and (F) will thereafter control.

(E) Determination of the Amount of Fee. If the court has awarded fees or expenses, the party awarded such fees or expenses shall file and serve, within fourteen (14) days of the order determining liability:

(1) An affidavit setting out the requested amount and specifically describing the requested rate of compensation and the numbers of hours spent in the prosecution or defense of the case as are reflected in the monthly reports filed with this court, with sufficient detail to identify the exact nature of the work performed. As an example of the specificity here required, it would not be appropriate to simply list the subject as "research;" rather, it is required that the specific matter being researched be specified in such detail as would permit a determination being made as to (a) the necessity for the research, and (b) whether the hours attributable to it are reasonable; and

(2) If the party prevailed on some, but not all, claims that were the subject of the complaint/defense for which fees or expenses are being awarded, then the affidavit must clearly identify those hours that were spent only on the compensable claim(s).

(3) The party awarded fees shall also file and serve a supporting affidavit from an attorney, familiar with the area of law involved, that the requested rate for hourly compensation is in line with the prevailing market rate for the work performed.

(4) Within fourteen (14) days after service of the affidavits in (1) and (3), the party or parties against whom the fees and costs are being sought shall file and serve an acceptance or rejection of the amount being claimed as attorneys' fees. If the amount being claimed is rejected, the rejecting party shall:

(a) Identify which hours are objected to and for what reason;

(b) If there is objection as to the proposed "prevailing market rate," the objecting party must submit an affidavit as to the prevailing hourly rate believed to be more appropriate; and

(c) Propose an amount of attorneys' fees or expenses that the party would be willing to pay, without prejudice to pursue on appeal the legal liability of that party for attorneys' fees and expenses, or the amount thereof.

(5) The party awarded fees or expenses shall thereafter file and serve an acceptance or rejection of the counteroffer within fourteen (14) days from the service thereof.

(F) Referral to Special Master. If a rejection is filed, indicating that an agreement has not been reached between the parties as to the amount of such fees or expenses, the court may enter an order referring such matter to a special master, pursuant to Fed. R. Civ. P. 53 and 54(d)(2)(D), who shall conduct such hearings as may be necessary and submit written findings and recommendations within forty-five (45) days from the order of referral. The special master's report shall specify which party should pay the fees and costs of the special master or in what manner the fees and costs should be prorated, taking into account the reasonableness of the parties' respective positions concerning the amount of the attorneys' fees. The findings of fact made by the special master will be accepted by the referring judge unless clearly erroneous.

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. 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.

(B) Designation for Trial of Misdemeanor Cases Upon Consent Under 18 U.S.C. § 3401.

(1) With the consent of the defendant, all United States magistrate judges serving within the territorial jurisdiction of the Northern District of Florida are hereby designated to try persons accused of, and sentence persons convicted of, misdemeanors and petty offenses committed within this district.

(2) All magistrate judges may perform all other judicial acts necessary with respect to the case, including without limitation: issuing warrants, setting conditions of release, conducting jury or nonjury trials, hearing and determining modification or revocation of probation, and directing the probation service of the court to conduct a presentence investigation.

(C) Designation for Trial of Civil Cases Upon Consent Pursuant to 28 U.S.C. § 636(c). With the consent of the parties, full-time magistrate judges are hereby designated to conduct civil trials, including the entry of final judgment.

RULE 72.2 Referral of Matters to Magistrate Judges by this Rule

(A) Misdemeanor Cases. All misdemeanor cases, including those transferred to this district pursuant to Fed. R. Crim. P. 20, shall be assigned by the clerk, upon the filing of an information, complaint, or violation notice, or the return of an indictment, to a magistrate judge, who shall proceed in accordance with the provisions of 18 U.S.C. § 3401 and of the Fed. R. Crim. P. 58.

(B) Applications for Post-Trial Relief by Persons Convicted of Criminal Offenses and Other Cases Filed Under 28 U.S.C. §§ 2241, 2254, and 2255. Except in cases in which the death penalty has been imposed, all cases seeking post-trial or postconviction relief by persons convicted of state or federal offenses and all other cases arising under 28 U.S.C. §§ 2241, 2254, or 2255, 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 evidentiary hearings, and filing of a report and recommendation containing proposed findings of fact and conclusions of law and recommending disposition of the application or petition.

(C) Civil Rights Cases Filed by Prisoners. All prisoner petitions and complaints challenging conditions of confinement pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 1331 (*Bivens* actions), or pursuant to similar statutes, 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 evidentiary hearings, and filing of a report and recommendation containing proposed findings of fact and conclusions of law and

recommending disposition of the complaint.

(D) Social Security Cases and Other Administrative Proceedings. All actions brought under section 205(g) of the Social Security Act, 42 U.S.C. § 405(g) and related statutes, and all other actions to review administrative determinations on a developed administrative record shall be assigned to a district judge and, unless otherwise ordered, shall be referred by the clerk to a magistrate judge for all proceedings, including preliminary orders, conduct of necessary hearings, and filing of a report and recommendation containing proposed findings of fact and conclusions of law and recommending disposition of the petition or complaint.

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

(F) Additional Duties. Absent an order by a district judge in a specific case to the contrary, the following additional matters shall routinely be referred by the clerk to magistrate judges serving within the territorial jurisdiction of the Northern District of Florida when a magistrate judge is available, and magistrate judges to whom such matters have been referred shall have authority to:

- (1) Issue criminal complaints and issue appropriate arrest warrants or summons;
- (2) Issue search warrants pursuant to Fed. R. Crim. P. 41, and issue administrative search or inspection warrants;
- (3) Review for probable cause and issue process upon any other application by the United States (for example, for seizure of real property in rem) for which there is evolving legal precedent indicating a need for a judicial finding of probable cause before proceeding;
- (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);
- (5) Conduct initial appearances in felony cases, consider and determine motions for detention, impose conditions of release pursuant to 18 U.S.C. § 3142, conduct arraignments upon indictments for purposes of taking a not guilty plea, and issue scheduling orders setting trial;
- (6) Appoint counsel for indigent persons pursuant to 18 U.S.C. § 3006A;
- (7) Consider and determine motions for detention and impose conditions of release for material witnesses pursuant to 18 U.S.C. § 3144;

- (8) Conduct preliminary hearings upon criminal complaints and determine probable cause;
- (9) Conduct and determine removal hearings and issue warrants of removal;
- (10) Conduct first appearances and preliminary hearings, by whatever name called, in proceedings for the revocation of parole, supervised release, mandatory release, or probation;
- (11) Receive the return of indictments by the grand jury and issue process thereon;
- (12) Hear and order discharge of indigent prisoners or persons imprisoned for debt under process or execution issued by a federal court pursuant to 18 U.S.C. § 3569 and 28 U.S.C. § 2007;
- (13) Appoint interpreters in cases pending before a magistrate judge initiated by the United States pursuant to 28 U.S.C. §§ 1827 and 1828;
- (14) Issue warrants and conduct extradition proceedings pursuant to 18 U.S.C. § 3184;
- (15) Perform the functions specified in 18 U.S.C. §§ 4107, 4108, and 4109, regarding proceedings for verification of consent by offenders to transfer to or from the United States and the appointment of counsel therein;
- (16) Institute proceedings against persons violating certain civil rights statutes under 42 U.S.C. §§ 1987 and 1989;
- (17) Issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties, witnesses or evidence needed for court proceedings in any civil and criminal cases;
- (18) Issue attachment or other orders to enforce obedience to an Internal Revenue Service summons to produce records or give testimony pursuant to 26 U.S.C. § 7604(a) and (b);
- (19) Settle and certify the non-payment of seaman's wages and conduct proceedings for the disposition of deceased seaman's effects under 46 U.S.C. §§ 603, 604, 627, and 628;
- (20) Enforce awards of foreign consul and arbitrate differences between captains and crews of vessels of the consul's nations under 22 U.S.C. § 358a;
- (21) Review prisoner correspondence;
- (22) Enter court orders to withdraw funds from the registry of the court in matters handled by the magistrate judge;
- (23) Preside at naturalization ceremonies and issue orders granting motions for

naturalization;

(24) Preside at attorney admission ceremonies and issue orders granting applications for admission of attorneys to practice before this court;

(25) Adopt schedules for forfeiture of collateral under Fed. R. Crim. P. 58(d)(1);

(26) Issue warrants of arrest in rem, attachment, garnishment, or other process in admiralty; and

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

RULE 72.3 Specific Referrals of Matters to Magistrate Judges

Any district judge may assign any matter, civil or criminal, to a magistrate judge of this district to the full extent permitted by 28 U.S.C. § 636. Specifically included is the taking of guilty pleas in felony cases with the consent of the defendant and recommending the acceptance or rejection of such pleas to the district judge, and ordering a presentence investigation report. The assignment and designation of duties to magistrate judges by district judges may be made by written standing order entered jointly by the resident district judges of the district or of any division of the district or through oral directive or written order by any individual district judge in any case, cases, or category of cases assigned to that judge.

RULE 72.4 Full-time and Part-time Magistrate Judges

Any reference in these local rules to magistrate judges includes both full-time and part-time magistrate judges unless otherwise expressly stated in these rules or in the applicable general law or rules of 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. The notice shall state that the parties are free to withhold their consent without adverse substantive consequences.

(2) **Execution of Consent.** Any party who consents to trial of any or all of the civil case by a magistrate judge must execute a consent form and return it to the office of the clerk of the court within forty-five (45) days of the date of service of the notice. The form shall not be returned if the party does not consent. No magistrate

judge, district judge, or other court official may attempt to coerce any party to consent to the reference of any matter to a full-time magistrate judge. This rule, however, shall not preclude any district judge or magistrate judge from informing the parties that they may have the option of having a case referred to a full-time magistrate judge for all proceedings, including trial.

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

(B) Misdemeanor Cases.

(1) If the defendant consents to disposition of a misdemeanor or petty offense case by a magistrate judge or if consent is not required pursuant to 28 U.S.C. § 636(a) , the magistrate judge shall proceed as provided in Fed. R. Crim. P. 58. If the defendant does not consent to disposition of the case by a magistrate judge in cases requiring such consent, the magistrate judge shall:

(a) If the prosecution is on a complaint charging a misdemeanor other than a petty offense, proceed as provided in Fed. R. Crim. P. 5(c) and 5.1.

(b) In all other cases, order the defendant to appear before a district judge for further proceedings on notice, fix appropriate conditions of release under 18 U.S.C. § 3142, and appoint counsel for eligible defendants under 18 U.S.C. § 3006A.

RULE 77.1 Photographs; Broadcasting or Televising

Except as provided in N.D. Fla. Loc. R. 77.2, the taking of photographs or the broadcasting or televising of judicial proceedings is prohibited, except that a judge may authorize:

(A) the use of electronic or photographic means for the presentation of evidence or for the perpetuation of a record; and

(B) the broadcasting, televising, recording, or photographing of investiture, ceremonial, naturalization, or other special proceedings.

In order to facilitate the enforcement of this rule, no photographic, broadcasting, television, sound or recording equipment of any kind, except that of court personnel or other employees of the United States on official business in the building, will be permitted in any part of any building where federal judicial proceedings of any kind are usually conducted or upon the exterior grounds thereof, unless such is done with the approval of one of the judges of this court.

RULE 77.2 Video or Telephone Transmissions in Civil Cases

(A) Hearings and Conferences.

In the discretion of the judicial officer, conferences and hearings, including evidentiary hearings, may be held in civil cases by means of video or telephonic transmission from remote locations.

(B) Trials.

In the discretion of the presiding judicial officer, unless prohibited by law or rule, evidence may be received in civil trials by means of video or telephonic transmissions from remote locations.

RULE 77.3 Release of Information in Criminal and Civil Cases

(A) Release of Information by Officials - General. No judicial branch employee (including a judge's staff, clerks, probation officers, and court reporters), no officer, employee or representative of the United States Marshals Service or court security officer, nor any state, local, or federal law enforcement officer or employee associated with or assisting in the preparation or trial of a criminal case, may disseminate by any means of public communication, without authorization by the court, information relating to an imminent or pending criminal or civil case that is not part of the public records of the court.

(B) Release of Information by Attorneys - Criminal Cases.

(1) It is the duty of attorneys, including the United States Attorney, who represent parties in criminal cases, and their respective staffs, not to release or authorize the release of information or opinion which a reasonable person would expect to be disseminated by means of public communication, in connection with pending or imminent criminal litigation with which the attorney is associated, if there is a substantial likelihood that such dissemination will cause material prejudice to a fair trial or otherwise cause material prejudice to the due administration of justice.

(2) With respect to a grand jury or other pending investigation of any criminal matter, an attorney participating in or associated with the investigation shall refrain from making any extrajudicial statement which a reasonable person would expect to be disseminated by means of public communication, that goes beyond the public record or that is not necessary to inform the public that the investigation is underway, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, to warn the public of any dangers, or otherwise to aid in the investigation.

(3) From the time of arrest, issuance of an arrest warrant, or the filing of a complaint, information, or indictment in any criminal matter until the commencement of trial or disposition without trial, no attorney nor others associated with the prosecution or defense shall release or authorize the release of any extrajudicial statement which a reasonable person would expect to be disseminated by means of public communication, relating to that matter and concerning:

(a) The prior criminal record (including arrests, indictment, or other charges of crime) or the character or reputation of the accused, except that the attorney may make a factual statement of the accused's name, age, residence, occupation, and family status. If the accused has not been apprehended, an attorney associated with the prosecution may release any information necessary to aid in apprehension of the accused or to warn the public of any dangers the accused may present;

(b) The existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;

(c) The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;

(d) The identity, testimony, or credibility of prospective witnesses, except that the attorney may announce the identity of the victim if the announcement is not otherwise prohibited by law;

(e) The possibility of a plea of guilty to the offense charged or a lesser offense;

(f) Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

(4) These prohibitions shall not be construed to preclude the attorney, in the proper discharge of official or professional obligations, from announcing the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit, and use of weapons), the identity of the investigating and arresting officer or agency, and the length of the investigation; from making an announcement, at the time of seizure of any physical evidence other than a confession, admission, or statement, which is limited to a description of the evidence seized; from disclosing the nature, substance, or text of the charge, including a brief description of the offense charged; from quoting or referring without comment to public records of the court in the case; from announcing the scheduling or result of any stage in the judicial process; from requesting assistance in obtaining evidence; or from announcing without further comment that the accused denies the charges.

(5) During the trial of any criminal matter, including the period of selection of the jury, no attorney associated with the prosecution or defense shall give or authorize any extrajudicial statement or interview, relating to the trial or the parties or issues in the trial which a reasonable person would expect to be disseminated by means of public communication, except that an attorney may quote from or refer without comment to public records of the court in the case.

(6) After the completion of a trial or disposition without trial of any criminal matter, and prior to the imposition of sentence, an attorney associated with the prosecution or defense shall refrain from making or authorizing any extrajudicial statement which a reasonable person would expect to be disseminated by means of

public communication if there is a substantial likelihood that such dissemination will materially prejudice the imposition of sentence.

(7) Nothing in this rule is intended to preclude the formulation or application of more restrictive rules relating to the release of information about juvenile or other offenders, to preclude the holding of hearings or the lawful issuance of reports by legislative, administrative, or investigative, or to preclude any attorney who represented a party from replying to charges, made public, of attorney misconduct.

(C) Release of Information by Attorneys - Civil Cases. An attorney associated with a civil action shall not during its investigation or litigation make or participate in making an extrajudicial statement, other than a quotation from or reference to public records, which a reasonable person would expect to be disseminated by means of public communication if there is a substantial likelihood that such dissemination will cause material prejudice to a fair trial and which relates to:

- (a) Evidence regarding the occurrence or transaction involved;
- (b) The character, credibility, or criminal record of a party, witness, or prospective witness;
- (c) The performance of results or any examinations or tests or the refusal or failure of a party to submit to such;
- (d) An opinion as to the merits of the claims or defenses of a party, except as required by law or administrative rule; or
- (e) Any other matter reasonably likely to interfere with a fair trial of the action.

(D) Special Orders in Widely Publicized and Sensational Cases. In a widely publicized or sensational case, the court on motion of either party or on its own motion, may issue a special order governing such matters as: (1) extrajudicial statements by parties and witnesses likely to interfere with the rights of the accused to a fair trial by an impartial jury, (2) the seating and conduct in the courtroom of spectators and news media representatives, (3) management and sequestration of jurors and witnesses, and (4) any other matters which the court may deem appropriate for inclusion in such an order.

(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 77.4 Marshal To Attend Court

Unless excused by the presiding judge, the United States Marshal of this district, or deputy, or, as an alternative in civil cases only, a court security officer, shall be in attendance during all sessions of any kind conducted in open court.

RULE 87.1 Appeals in Bankruptcy Cases

Appeals to the district court in bankruptcy cases shall be commenced by the filing of a notice of appeal within ten (10) days after entry of the bankruptcy judge's ruling and the time limits otherwise applicable shall be in accordance with Bankruptcy Rules, Part VIII, Appeals to District Court or Bankruptcy Appellate Panel.

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.

(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.

RULE 88.2 Appeal of a Magistrate Judge's Rulings in Consent Misdemeanor Cases

(A) Appeals from any decision, order, judgment, or sentence entered by a magistrate judge in a misdemeanor criminal case, including petty offenses, as to which the defendant has consented to proceed before a magistrate judge shall be governed by Fed. R. Crim. P. 58.

(B) Upon receipt of the notice of appeal, the clerk shall docket the appeal and assign the case to a district judge.

(C) Unless excused by order of the district judge, every appellant shall be responsible for preparation of a typewritten transcript of the proceedings before the magistrate judge from which an appeal has been taken. If such transcript has been prepared from an audio tape recording, the transcript shall be submitted to the magistrate judge for certification of its accuracy. After certification by the magistrate judge, the transcript shall be forwarded to the clerk for filing, and the clerk shall promptly notify the parties of the filing. A copy of the record of such proceedings shall be made available, at the expense of the court, to a person who establishes by affidavit the inability pay or give security therefor.

(D) Within fifteen (15) days of the date on which the transcript is filed in the clerks office, or if there is to be no transcript, within fifteen (15) days of the filing of the notice of appeal, the appellant shall serve and file a brief which shall enumerate each reversible error claimed to have occurred in the proceedings before the magistrate judge. Within fifteen (15) days of service of appellant's brief, the appellee shall serve and file a brief. The appellant may serve and file a reply brief within seven (7) days of service of appellee's brief.

(E) The district judge to whom the appeal is assigned may hear oral argument or may decide the appeal on the briefs. Requests for oral argument shall be made at the time briefs are filed and shall be granted at the discretion of the district judge.

ADDENDUM

CUSTOMARY AND TRADITIONAL CONDUCT AND DECORUM

IN THE UNITED STATES DISTRICT COURT

(A) The purpose of this addendum is to state for the guidance of those heretofore unfamiliar with the traditions of this United States district court certain basic principles concerning courtroom conduct and decorum. These standards are minimal and not all-inclusive. They are intended to emphasize and supplement, not supplant or limit, the ethical obligations of counsel under the Code of Professional Responsibility or the time honored customs of experienced trial counsel.

(B) When appearing in this United States district court, all counsel and all persons at counsel table should conduct themselves in the following customary and traditional manner:

- (1) Stand as court is opened, recessed or adjourned.
- (2) Stand when the jury enters or retires from the courtroom.
- (3) Stand when addressing, or being addressed by, the court.
- (4) Address all remarks to the court, not to opposing counsel.
- (5) Avoid disparaging personal remarks or acrimony toward opposing counsel and remain wholly detached from any ill feeling between the litigants or witnesses.
- (6) Refer to all persons, including witnesses, other counsel and the parties, by their surnames and not by their first or given names.
- (7) Counsel should request permission before approaching the bench; and any document counsel wish to have the court examine should be handed to the clerk.
- (8) Unless opposing counsel has previously been shown exhibits, any exhibit offered in evidence should, at the time of such offer, be handed to opposing counsel.
- (9) In making objections, counsel should state only the legal grounds for the objection and should withhold all further comment or argument unless elaboration is requested by the court.
- (10) In examining a witness, counsel shall not repeat or echo the answer given by the witness.
- (11) Offers of, or requests for, a stipulation should be made privately, not within the hearing of the jury.
- (12) In opening statements and in arguments to the jury, counsel shall not express personal knowledge or opinion concerning any matter in issue, shall not read or purport to read from deposition or trial manuscripts, and shall not suggest to the jury, directly or indirectly that it may or should request transcripts or the reading of any testimony by the reporter.

(13) Counsel shall admonish and discourage all persons at counsel table from making gestures, facial expressions, audible comments, or the like, as manifestations of approval or disapproval during the testimony of witnesses, or at any other time.

(14) Smoking, eating, food and drink are prohibited in the courtroom at any time.

ADMIRALTY AND MARITIME RULES

RULE A. GENERAL PROVISIONS

(1) Scope of the Local Admiralty and Maritime Rules. The local admiralty and maritime rules apply to the procedures in admiralty and maritime claims within the meaning of 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.

(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