

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

COURT
FL

In Re: Amendments To Time Calculations
In The Local Rules

Case No.:

6:09 MC-154016-22

The Board of Judges for the Middle District of Florida adopted amendments to the Local Rules. The amendments conform to the amended Federal Rules of Procedure adopted by the Supreme Court, pursuant to 28 U.S.C. § 2072.

Upon consideration the Local Rules 2.02(a), 2.04(b), 3.01(b), 3.02, 3.05(c), 3.06(a), 3.06(b), 3.06(c), 3.09(c), 4.02(c), 4.05(a), 4.05(b), 4.06(a), 4.06(b), 4.09(a), 5.01(d), 6.02(a), 7.01(h), 7.02(g), 7.03(d), 7.03(f), 7.03(l), 7.05(b), 7.05(e), 7.05(f), 7.05(l), 7.05(p), 7.06(c), 7.06(d), MDF 703, MDF 706, 8.03, 8.04(a), 8.04(b), 8.05(a), 9.04(a), 9.05(a), 9.05(d), and 9.06(a) shall be amended as follows:

RULE 2.02 SPECIAL ADMISSION TO PRACTICE

(a) Any attorney who is not a resident of Florida but who is a member in good standing of the bar of any District Court of the United States; outside Florida; may appear specially as counsel of record; without formal or general admission; provided, however, such privilege is not abused by appearances in separate cases to such a degree as to constitute the maintenance of a regular practice of law in Florida; and provided further that whenever appearing as counsel by filing any pleading or paper in any case pending in this Court, a non-resident attorney shall file within ~~ten (10)~~ fourteen (14) days a written designation and consent-to-act on the part of some member of the bar of this Court, resident in Florida, upon whom all notices and papers may be served and who will be responsible for the progress of the case, including the trial in default of the non-resident attorney. In addition to filing the written designation, the non-resident attorney shall comply with both the fee and e-mail registration requirements of Rule 2.01(d), and the written designation shall certify the non-resident attorney's compliance.

RULE 2.04 DISCIPLINE

(b) Whenever it appears to the Court that any member of its bar, admitted generally under Rule 2.01 or then appearing specially under Rule 2.02, has been disbarred or suspended from practice by the Supreme Court of Florida, or by any other court of competent jurisdiction, as the case might be, or has been disbarred on consent or resigned from the bar of any other court while an investigation into allegations of misconduct is pending, or has been convicted of a felony in any court, such disbarment, suspension, resignation, or conviction shall, ~~twenty (20)~~ twenty-one (21) days thereafter, operate as an automatic suspension of such attorney's right to practice in this Court; provided, however, the attorney may file, within such ~~twenty (20)~~ twenty-one (21) day period, a petition, with a copy served upon the United States Attorney, seeking relief from the operation of this rule, and if a timely petition is filed, suspension shall be stayed until the petition is determined. If such petition is filed by an attorney who has been admitted to practice generally under Rule 2.01 of these rules, it shall be heard and determined by the Chief Judge of the Court sitting with any two or more of other judges of the District as the Chief Judge shall designate. If such petition is filed by an attorney who has been admitted to practice specially under Rule 2.02 of these rules, it shall be heard and determined by the judge assigned to the case in which such special appearance has been made.

RULE 3.01 MOTIONS; BRIEFS AND HEARINGS

(b) Each party opposing a motion or application shall file within ~~ten (10)~~ fourteen (14) days after service of the motion or application a response that includes a memorandum of legal authority in opposition to the request, all of which the respondent shall include in a document not more than twenty (20) pages.

RULE 3.02 NOTICE OF DEPOSITIONS

Unless otherwise stipulated by all interested parties pursuant to Rule 29, Fed.R.Civ.P., and excepting the circumstances governed by Rule 30(a), Fed.R.Civ.P., a party desiring to take the deposition of any person upon oral examination shall give at least ~~ten (10)~~ fourteen (14) days notice in writing to every other party to the action and to the deponent (if the deponent is not a party).

RULE 3.05 CASE MANAGEMENT

(c) The following procedures shall apply depending upon the Track to which a case has been designated:

(2) Track Two Cases - -

(D) Upon receipt of the Case Management Report the court will

either (i) schedule a preliminary pretrial conference to further discuss the content of the report and the subjects enumerated in Rule 16, F.R.Civ.P., before the entry of a Case Management and Scheduling Order, or (ii) enter a Case Management and Scheduling Order. The Case Management and Scheduling Order will establish a discovery plan and a schedule of dates including the dates of a final pretrial conference and trial (or specify dates after which a pretrial conference or trial may be scheduled on ~~twenty (20)~~ twenty-one (21) days' notice).

(3) Track Three Cases - -

(C) The Case Management and Scheduling Order will establish a discovery plan and will also schedule such additional preliminary pretrial conferences as may seem necessary as well as a final pretrial conference and trial (or specify dates after which a pretrial conference or trial may be scheduled on ~~twenty (20)~~ twenty-one (21) days' notice).

RULE 3.06 FINAL PRETRIAL PROCEDURES

(a) Final pretrial conferences may be scheduled by the Court pursuant to Rule 16(d), Fed.R.Civ.P., in any civil case on not less than ~~twenty (20)~~ twenty-one (21) days notice.

(b) In any case in which a final pretrial conference is scheduled by the Court (or in any case in which the Court directs the preparation and filing of a pretrial statement in accordance with this rule, but without scheduling a pretrial conference), it shall be the responsibility of counsel for all parties to meet together no later than ~~ten (10)~~ fourteen (14) days before the date of the final pretrial conference (or at such other time as the Court may direct) in a good faith effort to:

- (1) discuss the possibility of settlement;
- (2) stipulate to as many facts or issues as possible;
- (3) examine all exhibits and Rule 5.04 exhibit substitutes or documents and other items of tangible evidence to be offered by any party at trial;
- (4) exchange the names and addresses of all witnesses; and
- (5) prepare a pretrial statement in accordance with subsection (c) of this rule.

(c) The pretrial statement shall be filed with the Court no later than ~~three (3)~~ seven (7) days before the date of the final pretrial conference (or at such other time as the Court may direct), and shall contain:

RULE 3.09 CONTINUANCES

(c) Except for good cause shown, no continuance shall be granted on the ground that a party or witness has not been served with process or a subpoena, as the case might be, unless the moving party, at least ~~five (5)~~ seven (7) days before the return date, has delivered the papers to be served to the Marshal (or other appropriate person) for that purpose.

RULE 4.02 REMOVAL OF CASES FROM STATE COURT

(c) When a case is removed to this Court with pending motions on which briefs or legal memoranda have not been submitted, the moving party shall file and serve a supporting brief within ~~ten (10)~~ fourteen (14) days after the removal in accordance with Rule 3.01(a) of these rules, and the party or parties opposing the motion shall then comply with Rule 3.01(b) of these rules.

RULE 4.05 TEMPORARY RESTRAINING ORDERS

(a) Pursuant to Rule 65(b), Fed.R.Civ.P., temporary restraining orders may be issued without notice to be effective for a period of ~~ten (10)~~ fourteen (14) days unless extended or sooner dissolved. Such orders will be entered only in emergency cases to maintain the status quo until the requisite notice may be given and an opportunity is afforded to opposing parties to respond to the application for a preliminary injunction. (See Rule 4.06 of these rules.)

(b) (5) If a temporary restraining order is issued by the Court it will be the responsibility of the successful movant to obtain immediate service of process upon the defendants, or parties enjoined, pursuant to Rule 4, Fed.R.Civ.P. In addition to the summons, complaint and temporary restraining order, the papers served must also include all motions, briefs, affidavits and exhibits submitted to the Court, as well as such additional affidavits or other papers upon which the moving party will rely in seeking to convert the temporary restraining order into a preliminary injunction. The papers so served must also include a notice of the hearing time fixed by the Court for consideration of the application for preliminary injunction. The hearing will usually be scheduled within ~~ten (10)~~ fourteen (14) days or prior to expiration of the temporary restraining order under Rule 65(b), Fed.R.Civ.P.

RULE 4.06 PRELIMINARY INJUNCTIONS

(a) A preliminary injunction may not be issued absent notice (Rule 65(a)(1), Fed.R.Civ.P.), which must be given at least ~~five (5)~~ fourteen (14) days in advance of the hearing (Rule ~~6(d)~~ 6(c), Fed.R.Civ.P.).

(b) All hearings scheduled on applications for a preliminary injunction will be limited in the usual course to argument of counsel unless the Court grants express leave to the contrary in advance of the hearing pursuant to Rule 43(e), Fed.R.Civ.P. In order to develop a record and the positions of the parties in advance of the hearing, the following procedure shall apply:

- (1) The party applying for the preliminary injunction shall fully comply with the procedural requirements of Rule 4.05(b)(1) through (b)(5) of these rules pertaining to temporary restraining orders.
- (2) Service of all papers and affidavits upon which the moving party intends to rely must be made at least five (5) full days prior to the hearing served with the motion (Rule ~~6(d)~~ 6(c), Fed.R.Civ.P.).
- (3) The party or parties opposing the application must file with the Clerk's Office, and deliver to the moving party, all counter or opposing affidavits, and a responsive brief, not later than the close of business on the day preceding the day of the hearing at least seven (7) days before the hearing (Rule ~~6(d)~~ 6(c), Fed.R.Civ.P.).

RULE 4.09 MARSHAL'S DEEDS

(a) Unless otherwise ordered by the Court, Marshal's deeds for property sold in execution or upon foreclosure or other order or decree of the Court shall not be acknowledged or delivered until ten (10) days after the date of sale and thereafter pending a ruling by the Court upon objections or other applications, if any, filed within such ~~ten (10)~~ fourteen (14) day period.

RULE 5.01 JURIES -- SELECTION; INSTRUCTIONS; PROHIBITION OF POST-TRIAL INTERVIEWS

(d) No attorney or party shall undertake, directly or indirectly, to interview any juror after trial in any civil or criminal case except as permitted by this Rule. If a party believes that grounds for legal challenge to a verdict exist, he may move for an order permitting an interview of a juror or jurors to determine whether the verdict is subject to the challenge. The motion shall be served within ~~ten (10)~~ fourteen (14) days after rendition of the verdict unless good cause is shown for the failure to make the motion within that time. The motion shall state the name and address of each juror to be interviewed and the grounds for the challenge that the moving party believes may exist. The presiding judge may conduct such hearings, if any, as necessary, and shall enter an order denying the motion or permitting the interview. If the interview is permitted, the Court may prescribe the place, manner, conditions, and scope of the interview.

RULE 6.02 REVIEW OF MAGISTRATE JUDGES' REPORTS AND RECOMMENDATIONS

(a) In any case in which the magistrate judge is not authorized to enter an operative order pursuant to Rule 6.01, 28 U.S.C. Section 636 or any standing or special order of the Court entered thereunder, but is authorized or directed to file a report or recommendation to the District Judge to whom the case has been assigned, a copy of such report and recommendation shall be furnished, upon filing, to the District Judge and to all parties. Within ~~ten (10)~~fourteen (14) days after such service, any party may file and serve written objections thereto; and any party desiring to oppose such objections shall have ~~ten (10)~~fourteen (14) days thereafter within which to file and serve a written response. The District Judge may accept, reject, or modify in whole or in part, the report and recommendation of the magistrate judge or may receive further evidence or recommit the matter to the magistrate judge with instructions.

RULE 7.01 GENERAL PROVISIONS

(h) **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)~~ twenty-one (21) days after service of process; except that process issued in accordance with Supplemental Rule (B) shall conform to the requirements of that rule.

RULE 7.02 ATTACHMENT AND GARNISHMENT: SPECIAL PROVISIONS

(g) **Procedural Requirements for the Entry of Default Judgment:** Not sooner than ~~five (5)~~ seven (7) nor 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 in accordance with Local Rule 3.01, 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)~~ seven (7) 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.

RULE 7.03 ACTION IN REM

- (c) (1) (A) File a claim within ~~ten (10)~~ fourteen (14) days after service of the summons in accordance with Local Admiralty Rule 7.03(f)(1); or
- (3) **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 7.03(f)(1), any person served with a summons issued pursuant to Local Admiralty Rule 7.03(b)(1) or (2), shall within ~~ten (10)~~ fourteen (14) 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.

- (d) (1) **Time for Publication:** If the property is not released within ~~ten (10)~~ fourteen (14) days after the execution of process, the notice required by Supplemental Rule (C)(4) shall be published by the plaintiff in accordance with Local Admiralty Rule 7.01(g). Such notice shall be published within ~~seventeen (17)~~ twenty-one (21) days after execution of process. The notice shall substantially conform to the form identified as MDF 706 in the Appendix to these Local Admiralty Rules.
- (2) **Proof of Publication:** Plaintiff shall file with the Clerk, proof of publication not later than ~~ten (10)~~ fourteen (14) days following the last day of publication. It shall be sufficient proof for the plaintiff to file the sworn statement by, or on behalf of, the publisher or editor, indicating the dates of publication, along with a copy or reproduction of the actual publication.
- (f) (1) File his claim within ~~ten (10)~~ fourteen (14) days after process has been executed; and
- (2) Serve his answer within ~~twenty (20)~~ twenty-one (21) days after the filing of the claim.

(l) **Procedural Requirements for the Entry of Default Judgment:** Not sooner than ~~five (5)~~ seven (7) nor 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:

- (2) **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 7.03(f), 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)~~ seven (7) days from receipt of the notice to file written opposition with the court.

RULE 7.05 ACTIONS IN REM AND QUASI IN REM: GENERAL PROVISIONS

- (b) (2) **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 when the Court has ordered the sale of the vessel or property, and the date of the sale is set within ~~fifteen (15)~~fourteen (14) 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:
- (e) (2) **Security for Costs:** In an action under the Supplemental Rules, a party may move upon notice to all parties for an order to compel an adverse party to post security for costs with the clerk pursuant to Supplemental Rule E(2)(b). Unless otherwise ordered, the amount of security shall be \$250. The party so ordered shall post the security within ~~five days~~ seven (7) after the order is entered. A party who fails to post security when due may not participate further in the proceedings. A party may move for an order increasing the amount of security for costs.
- (f) (1) **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)~~ fourteen (14) days. The Marshal is not required to execute process until the deposit is made.
- (f) (2) (B)
- 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)~~fourteen (14) 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.
- (l) (3) 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)~~ fourteen (14) days from receipt of the application to file a written response.
- (p) (1) **Automatic Stay for ~~Ten (10)~~ Fourteen (14) 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)~~ fourteen (14) days after the entry of the judgment or order of dismissal.

- (2) **Stays Beyond the ~~Ten (10)~~ Fourteen (14) Day Period:** If within the ~~ten (10)~~ fourteen (14) 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.

RULE 7.06 ACTIONS TO LIMIT LIABILITY

(c)

Upon receipt of the order directing the appraisal, the parties shall have ~~three (3) working days~~ seven (7) 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.

(d) **Objections to the Appraisal:** Any party may move to set aside the appraisal within ~~ten (10)~~ fourteen (14) days following the filing of the appraisal with the Clerk.

MDF 703

WARRANT FOR ARREST IN REM

SPECIAL NOTICE

In accordance with Local Admiralty Rule 7.03(f), any person claiming an interest in the vessel and/or property shall be required to file a claim within ~~ten (10)~~ fourteen (14) days after process has been executed, and shall also be required to file an answer within ~~twenty (20)~~ twenty-one (21) 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 7.03(g).

MDF 706

NOTICE OF ACTION IN REM AND ARREST OF VESSEL

Pursuant to Supplemental Rule (C)(6), and Local Admiralty Rule 703(f), any person having a claim against the vessel and/or property shall file a claim with the Court not later than ~~ten (10)~~ fourteen (14) days after process has been effected, and shall file an answer within ~~twenty (20)~~ twenty-one (21) days from the date of filing their claim.

RULE 8.03 REFERRAL TO ARBITRATION

Within ~~twenty (20)~~ twenty-one (21) days after referral to arbitration, the Court shall select three (3) certified arbitrators to conduct the arbitration proceedings. Not more than one member or associate of a firm or association of attorneys shall be appointed to the same panel of arbitrators. Any person selected as an arbitrator may be disqualified for bias or prejudice as provided in 28 U.S.C. Section 144, and shall disqualify himself in any action in which he would be required to do so if he were a justice, judge, or magistrate judge governed by 28 U.S.C. Section 455.

RULE 8.04 ARBITRATION HEARING

(a) Immediately upon selection and designation of the arbitrators pursuant to Rule 8.03, the Clerk shall communicate with the parties and the arbitrators in an effort to ascertain a mutually convenient date for a hearing, and shall then schedule and give notice of the date and time of the arbitration hearing which may be held in space provided in the United States Courthouse. The hearing shall be scheduled within ninety (90) days from the date of the selection and designation of the arbitrators on at least ~~twenty (20)~~ twenty-one (21) days notice to the parties. Any continuance of the hearing beyond that ninety (90) day period may be allowed only by order of the Court for good cause shown.

(b) At least ~~ten (10)~~ fourteen (14) days prior to the arbitration hearing each party shall furnish to every other party a list of witnesses, if any, and copies (or photographs) of all exhibits to be offered at the hearing. The arbitrators may refuse to consider any witness or exhibit which has not been so disclosed.

RULE 8.05 ARBITRATION AWARD AND JUDGMENT

(a) The award of the arbitrators shall be filed with the Clerk within ~~ten (10)~~ fourteen (14) days following the hearing, and the Clerk shall give immediate notice to the parties. The award shall state the result reached by the arbitrators without necessity of factual findings or legal conclusions. A majority determination shall control the award.

RULE 9.04 PROCEDURES TO REFER A CASE OR CLAIM TO MEDIATION

- (a)
 - (1) Designate the mediator if one has previously been selected by the parties or, if not, allow ~~ten (10)~~ fourteen (14) days for the parties to make such selection and notify the Court.
 - (2) Define the window of time in which the mediation conference may be conducted, preferably not sooner than 45 days and not later than ~~ten (10)~~ fourteen (14) days before the scheduled trial date.

RULE 9.05 SCHEDULING THE MEDIATION CONFERENCE

(a) **Report of Lead Counsel:** Not later than ~~twenty (20)~~ twenty-one (21) days after the entry of the order of referral pursuant to Rule 9.04(a), lead counsel shall file a report indicating the agreeable alternate mediation conference dates.

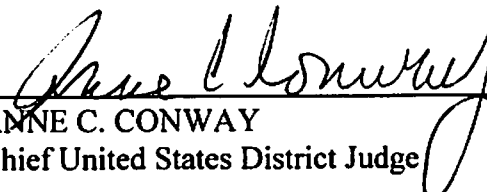
(d) **Continuance of Mediation Conference Date:** Subject to the availability of mediation conference space in the Courthouse, the mediator may, with the consent of all parties and counsel, reschedule the mediation conference to a date certain not later than ~~ten (10)~~ fourteen (14) days prior to the scheduled trial date. Any continuance beyond that time must be approved by the presiding judge.

RULE 9.06 MEDIATION REPORT; NOTICE OF SETTLEMENT; JUDGMENT

(a) **Mediation Report:** Within ~~five (5)~~ seven (7) days following the conclusion of the mediation conference, the mediator shall file a Mediation Report indicating whether all required parties were present and had authority to settle the case. The report shall also indicate whether the case settled, was continued with the consent of the parties, or whether the mediator was forced to declare an impasse.

Therefore, it is **ORDERED** and **ADJUDGED** that the adopted Amendments to the Local Rules for the United States District Court for the Middle District of Florida, shall be effective as of December 1, 2009.

DONE and **ORDERED** in Chambers at Orlando, Florida, this 19th day of November, 2009.



ANNE C. CONWAY
Chief United States District Judge

cc: All Middle District Judicial Officers
Sheryl L. Loesch, Clerk of Court
Jessica J. Lyublanovits, Chief Deputy