

**OFFICE OF THE CLERK
United States District Court
Southern District of Florida**



**GENERAL CIVIL CASE FILING REQUIREMENTS
REVISED MARCH, 2004**

**CLARENCE MADDOX
COURT ADMINISTRATOR/CLERK OF COURT**

"The Mission of the Clerk's Office for the Southern District of Florida is to provide the support necessary to enable the Court as an institution to fulfill its constitutional, statutory, and societal responsibilities for all who seek justice"

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UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA

GENERAL FILING INFORMATION

OFFICE ADDRESSES: The Clerk maintains five staffed offices. Office hours are from 9:00 A.M. to 4:30 P.M. Monday through Friday, except legal holidays, as noted below. These offices are open to the public and are located at:

301 North Miami Avenue, Room 150
Miami, Florida 33128-7788
305-523-5100

299 East Broward Boulevard, Room 108
Fort Lauderdale, Florida 33301
954-769-5400

701 Clematis Street, Room 402
West Palm Beach, Florida 33401
561-803-3400

301 Simonton Street, Room 130
Key West, Florida 33040
305-295-8100

300 South Sixth Street, Second Floor
Fort Pierce, Florida 34950
561-595-9691

World Wide Web Internet Address: <http://www.flsd.uscourts.gov> contains the Local Rules of this Court as well as other useful information. **PLEASE NOTE:** *you may also subscribe to PACER which provides current docket sheets and includes scanned images of documents on cases filed within the last three years:* <http://www.pacer.flsd.uscourts.gov>. (See page 21 of this booklet for additional information).

Legal Holidays: If the holiday falls on Saturday, it is observed on the preceding Friday. If the holiday falls on Sunday, it is observed on the following Monday.

New Years Day - January 1st

Birthday of Martin Luther King, Jr. - 3rd Monday in January

Presidents Day - 3rd Monday in February

Memorial Day - Last Monday in May

Independence Day - July 4th

Labor Day - 1st Monday in September

Columbus Day - 2nd Monday in October

Veterans Day - November 11th

Thanksgiving Day - 4th Thursday in November

Christmas Day - December 25th

CLERK'S AUTOMATED TELEPHONE SYSTEM INDEX

The Clerk's Offices in Miami, Fort Lauderdale and West Palm Beach use an automated telephone answering and routing system to direct callers to the proper sections. In Miami, callers must first dial the main number, then dial 1 before selecting the extension of the party you are trying to reach. When calling the Fort Lauderdale or West Palm Beach Offices through their main numbers, callers may dial 0 to obtain assistance. To get a section directly after calling the main number, use the following extensions:

MIAMI Main Number 305-523-5100

| | |
|--|---|
| Court Services and Information | 1 |
| Press 1 again and select from the following: | |
| Jury Information | 1 |
| Docketing, Case Filing Information, Information re: New Indictments and New Arrests | 2 |
| Other Clerk-s Office Sections | 3 |
| Attorney Admissions | 4 |
| Addresses and Directions to Miami Courthouses | 5 |
| Mediation or becoming a mediator | 6 |
| Other Government Agencies | 7 |

FORT LAUDERDALE Main Number 954-769-5400

| | |
|--|---|
| Information re: Filing a New Case, Case Status Appeals, Records, Intake Office Hours, Location | 1 |
| Jury Information | 2 |
| District & Magistrate Courtroom Deputy | 3 |
| Specific Individual | 4 |
| Other Government Agencies | 5 |

WEST PALM BEACH Main Number 561-803-3400

| | |
|--|---|
| Case Filing and General Information | 1 |
| Information from the Case Docket | 2 |
| Copies and Information from the Case File | 3 |
| Cases on Appeal to the Eleventh Circuit | 4 |
| Courtroom Clerk for Magistrate Judge Vitunac | 5 |
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| Judges' Numbers/Other Government Agencies | 7 |

LOCATION OF DISTRICT JUDGES AND MAGISTRATE JUDGES

| DISTRICT JUDGES' NAMES | LOCATION | TELEPHONE |
|------------------------------------|-----------------|------------------|
| Chief Judge William J. Zloch | Fort Lauderdale | 954-769-5480 |
| Judge Federico A. Moreno | Miami | 305-523-5110 |
| Judge Donald L. Graham | Miami | 305-523-5130 |
| Judge K. Michael Moore | Miami | 305-523-5160 |
| Judge Ursula Ungaro-Benages | Miami | 305-523-5550 |
| Judge Daniel T.K. Hurley | West Palm Beach | 561-803-3450 |
| Judge Joan A. Lenard | Miami | 305-523-5500 |
| Judge Donald M. Middlebrooks | West Palm Beach | 561-514-3720 |
| Judge Alan S. Gold | Miami | 305-523-5580 |
| Judge William P. Dimitrouleas | Fort Lauderdale | 954-769-5650 |
| Judge Patricia A. Seitz | Miami | 305-523-5530 |
| Judge Adalberto Jordan | Miami | 305-523-5560 |
| Judge Paul C. Huck | Miami | 305-523-5520 |
| Judge Kenneth A. Marra | Fort Lauderdale | 954-769-5680 |
| Judge Jose E. Martinez | Miami | 305-523-5590 |
| Judge Cecilia Altonaga | Miami | 305-523-5510 |
| Judge James I. Cohn | Fort Lauderdale | 354-769-5490 |
| Judge Marcia G. Cooke | Miami | 305-523-5150 |
| Senior Judge James Lawrence King | Miami | 305-523-5000 |
| Senior Judge William M. Hoeveler | Miami | 305-523-5570 |
| Senior Judge Jose A. Gonzalez, Jr. | Fort Lauderdale | 954-769-5560 |
| Senior Judge James C. Paine | West Palm Beach | 561-803-3430 |
| Senior Judge Kenneth L. Ryskamp | West Palm Beach | 561-803-3420 |
| Senior Judge Shelby Highsmith | Miami | 305-523-5170 |

| MAGISTRATE JUDGES' NAMES | LOCATION | TELEPHONE |
|--|-----------------|------------------|
| Chief Magistrate Judge Linnea R. Johnson | West Palm Beach | 561-803-3470 |
| Magistrate Judge William C. Turnoff | Miami | 305-523-5710 |
| Magistrate Judge Lurana S. Snow | Fort Lauderdale | 954-769-5460 |
| Magistrate Judge Ann E. Vitunac | West Palm Beach | 561-803-3440 |
| Magistrate Judge Ted E. Bandstra | Miami | 305-523-5700 |
| Magistrate Judge Stephen T. Brown | Miami | 305-523-5740 |
| Magistrate Judge Barry S. Seltzer | Fort Lauderdale | 954-769-5450 |
| Magistrate Judge Barry L. Garber | Miami | 305-523-5730 |
| Magistrate Judge Frank J. Lynch, Jr. | Fort Pierce | 561-595-9312 |
| Magistrate Judge Robert L. Dube' | Miami | 305-523-5770 |
| Magistrate Judge Andrea M. Simonton | Miami | 305-523-5930 |
| Magistrate Judge John J. O'Sullivan | Miami | 305-523-5920 |
| Magistrate Judge Peter R. Palermo | Miami | 305-523-5760 |
| Magistrate Judge Hugh J. Morgan (P/T) | Key West | 305-295-8110 |
| Magistrate Judge Theodore Klein | Miami | 305-523-5720 |
| Magistrate Judge Patrick A. White | Miami | 305-523-5780 |
| Magistrate Judge Edwin G. Torres | Fort Lauderdale | 954-769-5670 |
| Magistrate Judge James M. Hopkins | West Palm Beach | 561-514-3710 |
| Magistrate Judge Chris M. McAliley | Miami | 305-523-5890 |

GENERAL FILING REQUIREMENTS (Local Rule 5.1)

These guidelines are provided to familiarize those individuals who represent themselves in a lawsuit in this Court with some of the rules and procedures which must be followed in the United States District Court for the Southern District of Florida. Documents should be simple and direct; technical, legal jargon is not required. See Appendix A for a sample of document format.

Disclaimer: This summary does not take the place of a pro se litigant's responsibility to comply with the Local Rules, the Federal Rules of Civil Procedure and all other laws. The Local Rules of this Court may be obtained at the Intake Section in any of our offices free of charge or from our website: <http://www.flsd.uscourts.gov>. This summary is NOT legal advice and reliance upon it is at your own risk.

Once a case has been filed, it is extremely important for a plaintiff to be diligent in pursuing the case. The plaintiff has an obligation to attempt to make the case ready for trial. All parties must make their best efforts to complete discovery as to the facts of the case within the time limits, and in accordance with procedures. In addition, a plaintiff must obey all orders of the Court that may be issued in the case, and must appear for all conferences or hearings which a judge may schedule. Failure to do so is grounds for dismissal or sanctions.

Filing Hours: Documents may be filed with the Clerk's Office between the hours of 9:00 A.M. and 4:30 P.M., Monday through Friday, except on Federal holidays. After hours filing via night box is no longer available at any Court location. However, documents hand-filed in any location before 10:00 a.m., or sent and received by overnight delivery service can be, at the filer's request, backdated to the previous working day (Administrative Order 95-29).

Where to File: New cases may be filed in and summonses issued by any divisional office in the Southern District of Florida. Once a case has been filed, however, any further documents, including copies for the judge, are to be filed in the Clerk's Office where the assigned judge is chambered (see page 5 for listing) and must contain the case number assigned. In accordance with Local Rule 5.1.B, **no pleadings or documents should be filed directly with chambers.** All documents require a Clerk's file-stamp to ensure that they are properly made part of the record

Paper Size: (Local Rule 5.1.A.3) All documents must be on 8 1/2" by 11" (letter size), white paper, with a centered, standard two-hole punch at the top. Documents should not be bound or double sided (Local Rule 5.1.A.1).

Copies Required: An original plus one copy of all documents must be filed (Local Rule 5.1.A.2). If you wish to obtain a file-stamped copy for your records, you must provide an extra copy along with a self-addressed, stamped envelope. Attorneys should include their address, telephone number, facsimile telephone number, e-mail address and Florida Bar Number below their signature on all documents (Local Rule 5.1.A.6). In matters that have been consolidated, an additional copy is required for each case in the consolidation, unless otherwise ORDERED by the Court (Local Rule 5.1.A.8). If the Court designates a specific case number for documents to be filed in, please place a check mark next to that case number.

Motions: A motion is an application to the Court asking the Court take certain action with respect to the conduct of the case.

Motions should be in writing (see Appendix A for format) and should state the action sought and set forth the facts. Motions are the primary way for litigants to ask the Court to take action in a case. An original and a copy for judge must be filed with the Clerk, along with self-addressed stamped envelopes for all parties to be used by the judge when he/she rules on your motion. It is the responsibility of the filing party to send a copy of every document to all opposing parties. If you wish to obtain a file-stamped copy for your records, you must provide an **extra** copy along with an **additional** self-addressed, stamped envelope. Motions should not be sent directly to the judge.

NOTE: Pursuant to Local Rule 15.1, any amendment to a pleading, whether filed as a matter of course or upon a successful motion to amend, must reproduce the entire pleading as amended, except by leave of the Court.

Certificate of Service: Every document sent to the Clerk must contain a signed statement at the end certifying that you have sent a copy of that paper to all parties in the case. You must, of course, actually send all parties a copy of every document you file.

Envelopes and Proposed Orders: If the assigned Judge is not participating in the Faxback Program, you must provide self-addressed stamped envelopes for all parties entitled to receive notice when filing documents or other papers that require an order from the Court. Additionally, it is required that a proposed order for consideration by the judge accompany all motions specified in Local Rule 7.1A.1. (see Appendix M for listing).

Faxback: The self-addressed stamped envelope requirement on proposed orders is not applicable when the assigned Judge is participating in the Faxback Program (see Appendix M for listing or you obtain a current listing via our web page). The Judge will notify parties of this, and future orders, notices and judgments will be faxed to attorneys authorizing the court to send orders via fax. .

Discovery: Discovery material **on civil cases will not** be tendered for filing. This Court will only accept discovery documents that clearly indicate on a notice of filing one of the exceptions cited in Local Rule 26.1.B, to wit:

- 1) discovery documents that have been ordered to be filed by the Court,
- 2) motion before the Court or support/objection thereto, and
- 3) discovery documents filed for trial /appellate purposes.

Please note that the Court reserves the discretion to refuse documents for filing that do not conform to the procedures referenced above and in Local Rule 26.1.B. Your cooperation in this matter is both imperative and appreciated.

FILING A NEW CIVIL CASE

The filing of a **Complaint** with the Clerk of the Court begins the civil lawsuit. The purpose of the complaint is to commence the formal legal process and to give notice to the person(s) being sued and to the Court about the nature of the lawsuit. It must also specify the federal statute giving the Court jurisdiction (Appendix B). Generally, each statement of claim should be made in separately numbered paragraphs, with each paragraph limited to a statement of a single set of facts, if possible. In this package you will also find a sample on how to style your complaint (Appendix C). The complaint must contain:

- Caption specifying the Court in which the suit is brought and names of the parties.
- Short statement of why the Court has jurisdiction.
- Brief statement of the facts of your case; how each defendant is involved; names of other persons involved, dates and places. You do not need to give any legal arguments or cite any cases or citations. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph.
- Briefly state exactly what you want the Court to do for you.
- Your signature, address, telephone number, facsimile number and e-mail address.
- If you are an attorney, your Florida bar number is also required.

The Civil Cover Sheet: (Local Rule 3.3) (Appendix D) **ALL SECTIONS MUST BE COMPLETED:** the **County where the Action Arose**, Section I(d); **Basis of Jurisdiction**, Section II; **citizenship of principal parties**, only if it is a diversity case, Section III; **Origin**, Section IV, **Nature of Suit**, Section V; **Cause of Action**, Section VI; **Estimated Time to try the Case**, part of Section VI; **Original signature of filer** and other pertinent information.

Generally, suits should be filed in the district where the defendant resides or where the claim arose (28 U.S.C. § 1391).

Assignment of Cases: Civil cases are assigned at random to the judges of the district court. Assignments are made so that no party or lawyer may choose which judge will hear the case.

Filing Fee: The filing fee for a civil action is \$150.00 and checks must be made payable to "Clerk, United States Court." If you are not financially able to pay this fee, you may file a Motion to Proceed in Forma Pauperis (IFP) (Appendix E), which will allow you to file your case without prepayment of the filing fee.

NOTE: In cases where an IFP Motion is filed, summonses are NOT issued until the IFP has been ruled on.

Service of Process:

Notice of Lawsuit and Waiver of Service of Summons: To avoid costs, the plaintiff may notify a defendant by mail of the commencement of the action and request that the defendant waive service of a summons, see Fed. R. Civ. P. 4(d) Appendix F.

Issuance of Summonses: (Appendix G) Upon filing a complaint, the plaintiff is responsible for prompt service of the summons and a copy of the complaint on each of the defendants named in the complaint (Fed. R. Civ. P. 4). An original summons and 3 copies must be prepared by the plaintiff for each defendant. **Failure to serve the summons and complaint within 120 days of filing the complaint is grounds for dismissal of each party not served.**

NOTE: In cases where an IFP Motion is filed, summonses are NOT issued until the IFP has been ruled on.

The summons must show the time within which the defendant is required to respond to the complaint. All defendants have twenty (20) days, with the exception of the United States, and/or all **federal agencies** which have sixty (60) days to respond. The time runs from the date the defendant is served with the complaint.

When an agency of the United States is named as a defendant, the summons must be served upon:

1. the agency or department named in the complaint;
2. the Attorney General of the United States, in Washington, D. C., and
3. the U. S. Attorney. It is required that the U. S. Attorney (or an Assistant U.S. Attorney or clerical employee designated by the U.S. Attorney) for the district in which the action is brought be served by sending a copy of the summons, complaint and other documentation previously mentioned by registered or certified mail addressed to the civil process clerk at the office of the U.S. Attorney.

The summonses must be issued (signed and sealed) by the Clerk and returned to the plaintiff together with the copies of the complaint to be served. The plaintiff must then have the summonses served with a copy of the complaint to each defendant, or to a person authorized to accept them for the defendant. The summonses are served by anyone 18 years of age or over, who is not a party to the suit, or by a Process Server (Appendix H).

If you choose to file a Motion to Proceed In Forma Pauperis (IFP) to waive the filing fee, summonses **cannot** be issued at the time the complaint is filed. You must wait until such motion is granted by the judge. Upon receiving the order granting such motion, you must present a copy of the order, along with the required **completed** summonses, to the Clerk's Office for issuing. If the request for leave to proceed in forma pauperis was granted, you may Move the Court to enter an order directing that service be made by the United States Marshal.

Proof of Service: The plaintiff must file with the Court proof that the defendant(s) have been served in accordance with Rule 4 of the Federal Rules of Civil Procedure.

Waiver of Service of Summons: If the waiver is returned signed by the defendant, the plaintiff must file it with the Clerk's Office. If the defendant does not return the waiver within the prescribed time frame, the plaintiff must prepare summonses to be issued and serve the defendant in the manner described above.

Service of Summons: It is the responsibility of the person serving the summons to prepare and file with the Clerk's Office the forms showing proof of service (see back of Appendix G - make sure both sides are copied) once it is made (Fed. R. Civ. P. 4(1)).

Answer to Complaint: Just as the plaintiff in the complaint must make a short, plain statement of the claim, the defendant in the answer must state the defenses to the claims and either admit or deny the specific allegations contained in the complaint (Fed. R. Civ. P. 8(b) see Appendix A for sample format).

As with all other documents, the defendant must file the answer with the Clerk and serve a copy on all opposing parties. Failure to answer or otherwise defend in a timely fashion is grounds for judgment by default against the defendant (Fed. R. Civ. P.55).

Plaintiffs should read the Federal Rules of Civil Procedure and the Local Rules to become thoroughly familiar with the procedures governing service of process.

DOCUMENTS TO SUBMIT IN SPECIFIC CIVIL ACTIONS

COMPLAINT AGAINST A PRIVATE PERSON OR CORPORATION

Civil Cover Sheet (JS-44):

- Original (with an original signature) and one copy for the judge.

Complaint:

- Original (with an original signature of the filing party) and one copy for the judge **and**
- One copy for each defendant named in the suit, to be file-stamped and returned to you for service.

Summons: Prepare four (4) summonses for each defendant:

- An original and a copy for the judge, **and**
- Two copies to be served upon each defendant named in the suit. The original is to be returned to the Clerk's Office to document the service of process.

Filing Fee: The filing fee is \$150.00 payable to "Clerk, United States Court." An original and one copy for the judge of the Motion to Proceed In Forma Pauperis may be filed in lieu of the fee.

SUITS AGAINST THE UNITED STATES OR AN AGENCY THEREOF

Civil Cover Sheet (JS-44):

- Original (with an original signature of the filing party) and one copy for the judge.

Complaint:

- Original (with an original signature of the filing party) and one copy for the judge,
- One copy of the complaint to be served upon the Federal Agency being sued,
- Two copies of the complaint to be served upon the Attorney General of the United States, **and**

- One copy of the complaint to be served upon the United States Attorney for the Southern District of Florida.

Summons: Prepare four (4) summonses for the federal agency named as a defendant:

- An original and a copy for the judge, **and**
- Two copies to be served upon each defendant named in the suit. The original is to be returned to the Clerk's Office to document the service of process.

Prepare four (4) summonses for the United States Attorney:

- Two to be served upon the United States Attorney for the Southern District of Florida, **and**
- Two copies to be served upon each defendant named in the suit. The original is to be returned to the Clerk's Office to document the service of process.

Prepare four (4) summonses for the Attorney General of the United States:

- Two to be served upon the Attorney General of the United States, **and**
- Two copies to be served upon each defendant named in the suit. The original is to be returned to the Clerk's Office to document the service of process.

Filing Fee: The filing fee is \$150.00 payable to "Clerk, United States Court." An original and one copy for the judge of the Motion to Proceed In Forma Pauperis may be filed in lieu of the fee.

SUITS INVOLVING THE SECRETARY OF STATE OF THE STATE OF FLORIDA

Civil Cover Sheet (JS-44):

- Original (with an original signature of the filing party) and one copy for the judge.

Complaint:

- Original (with an original signature of the filing party) and one copy for the judge, **and**
- One copy for each defendant named in the suit.

Summons: Prepare four (4) summonses for each defendant:

- An original and a copy for the judge, **and**
- Original and one copy to be served upon each defendant named in the suit. The original is to be returned to the Clerk's Office to document the service of process.

Filing Fee: The filing fee is \$150.00 payable to "Clerk, United States Court." An original and one copy for the judge of the Motion to Proceed In Forma Pauperis may be filed in lieu of the fee.

SUITS INVOLVING INSURANCE COMMISSIONER OUTSIDE OF FLORIDA

Civil Cover Sheet (JS-44):

- Original (with an original signature of the filing party) and one copy for the judge.

Complaint: In a suit against the Insurance Commissioner outside of Florida, file the following:

- Original (with an original signature of the filing party) and one copy for the judge, **and**
- Insurance Commissioner requires three copies to be served upon each defendant named in the suit.

Summons: Prepare six (6) summonses for each defendant:

- An original and a copy for the judge, **and**
- Original and three copies to be served upon each defendant named in the suit. The original is to be returned to the Clerk's Office to document the service of process.

Filing Fee: The filing fee is \$150.00 payable to "Clerk, United States Court." An original and one copy for the judge of the Motion to Proceed In Forma Pauperis may be filed in lieu of the fee.

AMENDED COMPLAINT (Fed. R. Civ. P. 15)

An amended complaint can be filed without permission of the court only if no answer to the original complaint has been filed. If an answer has been filed, the party must move the Court for an order allowing the amended complaint to be filed, or must secure written consent of the adverse party.

Amended Complaint:

- Original (with an original signature of the filing party) and one copy for the Court, **and**
- One copy for each defendant named in the suit.

NOTE: Pursuant to Local Rule 15.1, any amendment to a pleading, whether filed as a matter of course or upon a successful motion to amend, must reproduce the entire pleading as amended, except by leave of the Court.

Summons: Prepare four (4) summonses for each new defendant named in the suit.

- An original and a copy for the judge, **and**
- Two copies to be served upon each new defendant named in the suit. The original is to be returned to the Clerk's Office to document the service of process.
- If no additional defendants are added, the existing defendants must be provided with a copy of the amended complaint, but no additional summonses are required to be served.

NOTE: If summonses are to be issued after the filing of the amended complaint, it would expedite the issuing process if a file-stamped copy of the amended complaint is also presented.

Filing Fee: There is no filing fee for this proceeding.

REMOVAL OF A CASE FROM STATE COURT (28 USC § 1441)

Civil Cover Sheet (JS-44):

- Original (with an original signature of the filing party) and one copy for the judge.

Notice of Removal:

- Original (with the original signature of the filing party) and one copy for the judge, **and**
- Copies of **all** State Court pleadings **being removed**.

Filing Fee: The filing fee is \$150.00 payable to “Clerk, United States Court.” An original and one copy for the judge of the Motion to Proceed In Forma Pauperis may be filed in lieu of the fee.

**REGISTRATION OF A JUDGMENT FROM ANOTHER DISTRICT
(28 USC § 1963)**

Submit an original and two copies:

- Certified copy of Judgment form from the district court where the judgment originated (AO 451), or in the alternative, an order from said Court directing the Clerk to register such, **and**
- Certified copy of the judgment from the originating district court.

Filing Fee: The filing fee is \$39.00 payable to “Clerk, United States Court.”

A certified copy will be returned to you, without cost, to record in the appropriate county recorder’s office.

MOTION FOR RETURN OF SEIZED PROPERTY: An action to recover goods or chattels that have been wrongfully taken or detained.

NOTE: If this matter originated from a criminal case in this court, this motion should be filed in that criminal case and not as a new civil case.

Civil Cover Sheet (JS-44):

- Original (with an original signature of the filing party) and one copy for the judge.

Petition or Motion:

- Original (with an original signature of the filing party), one copy for the judge, **and**
- One copy for each defendant named in the suit.

Summons: Prepare four (4) summonses for each defendant:

- An original and a copy for the judge, **and**
- Two copies to be served upon each defendant named in the suit. The original is to be returned to the Clerk’s Office to document the service of process.

Filing Fee: The filing fee is \$150.00 payable to “Clerk, United States Court.” An original and one copy for the judge of the Motion to Proceed In Forma Pauperis may be filed in lieu of the fee.

MOTION TO ENFORCE (COMPEL) OR QUASH DEPOSITION SUBPOENA FROM ANOTHER DISTRICT: Where a subpoena is issued in connection with an action pending in a court other than the Southern District of Florida, but directed to a person within the Southern District of Florida, a motion under Rules 37(a)(1) and 45(c)(3) must be made in the Southern District of Florida. Such a motion entails the commencement of a miscellaneous proceeding requiring the following:

Civil Cover Sheet (JS-44):

- Original (with an original signature) and one copy for the judge.

Motion to Enforce (Compel)/Quash:

- Original (with an original signature of the filing party) and one copy for the judge, a copy of the subpoena in question **MUST** be attached to the motion, **and**
- Proposed order with stamped, self-addressed envelopes for all parties.

NOTE: The place of taking the deposition and person being deposed must be in the Southern District of Florida.

Filing Fee: The filing fee is \$39.00 payable to “Clerk, United States Court.”

ADMIRALTY AND MARITIME CLAIMS

ATTACHMENT AND GARNISHMENT: IN PERSONAM: (Fed. R. Civ. P. Rule B, Supplemental Rules for Certain Admiralty and Maritime Claims)

Civil Cover Sheet (JS-44):

- Original (with an original signature of the filing party) and one copy for the judge.

Verified Complaint:

- Original (with an original signature of the filing party), one copy of the verified complaint for the judge, **and**
- One copy for each defendant named in the suit.

Affidavit:

- Original (with an original signature of the filing party) and one copy for the judge.

NOTE: If a summons and writ of attachment is to be issued, you must first obtain an Order directing the Clerk to do so.

Summons: Prepare four (4) summonses for each defendant:

- An original and a copy for the judge, **and**
- Two copies to be served upon each defendant named in the suit. The original is to be returned to the Clerk’s Office to document the service of process.

Filing Fee: The filing fee is \$150.00 payable to “Clerk, United States Court.” An original and one copy for the judge of the Motion to Proceed In Forma Pauperis may be filed in lieu of the fee.

NOTE: If the attachment and garnishment are to be issued under state law:

- **Original and three copies of the Summons and Process of Attachment are required and**
- **The bond required is double the amount of the claim.**

COMPLAINT FOR EXONERATION FROM OR LIMITATION OF LIABILITY
(Fed. R. Civ. P., Supplemental Rule F)

Civil Cover Sheet (JS-44):

- Original (with an original signature of the filing party) and one copy for the judge.

Verified Complaint:

- Complaint (with an original signature of the filing party) must be verified and one copy for the judge.

Affidavit:

- Original affidavit (with an original signature of the filing party) of the value of the vessel, one copy for the judge **and**
- Original affidavit (with an original signature of the filing party) of no pending freight and one copy for the judge.

Bond:

- Original bond for the value of the vessel and one copy for the judge.

Notice of filing of All Claims:

- Original notice (with an original signature of the filing party) and one copy for the judge.

Monition:

- An order directing the Clerk's Office to issue notice.

Notice of Publication (Local Rule 5.2):

- Original (with an original signature of the filing party) and one copy for the judge.

Filing Fee: The filing fee is \$150.00 payable to "Clerk, United States Court." An original and one copy for the judge of the Motion to Proceed In Forma Pauperis may be filed in lieu of the fee.

ACTIONS IN REM (Fed. R. Civ. P. Rule C and Admiralty and Maritime Rules of the Local Rules): Complaints must be verified on an oath or solemn affirmation.

Civil Cover Sheet (JS-44):

- Original (with an original signature of the filing party) and one copy for the judge.

Complaint:

- Original (with an original signature of the filing party), one copy for the judge **and**
- Three copies for the United States Marshals Service.

Motion for Substitute Custodian:

- Original (with an original signature of the filing party), one copy for the judge **and**
- Proposed order with stamped, self-addressed envelopes for all parties.

Motion Directing the Clerk to Issue Warrant:

- Original (with an original signature of the filing party), one copy for the judge **and**
- Proposed order with stamped, self-addressed envelopes for all parties.

Warrant of Arrest:

- Original and five (5) copies for each vessel.

Filing Fee: The filing fee is \$150.00 payable to “Clerk, United States Court.” An original and one copy for the judge of the Motion to Proceed In Forma Pauperis may be filed in lieu of the fee.

NOTE: No prepayment of the filing fee is required if seamen institute and prosecute the suit in their own name and for their own benefit for wages or salvage or the enforcement of laws enacted for their health or safety (28 USC §1916). However, it is the responsibility of the filing party to pay the filing fee upon termination of the case.

DOCUMENTS FOR RELEASE OF VESSEL (Writ of Restitution for Cause Pending) (Fed. R. Civ. P. Supplemental Rules for Admiralty and Maritime and the Local Rules): This is the process used for the release of a vessel. Submit the following:

Claim of Owner:

- Original (with an original signature of the filing party) and one copy for the judge.

Release Bond:

- Original (with an original signature of the filing party) and one copy of the release bond for the judge.

NOTE: The bond required is the amount of the claim plus six percent (6%) interest 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 (Fed. R. Civ. P. Rule E (5)(a) Admiralty and Maritime Claims and Local Rule E(8)(a)(1)).

U. S. Marshal Cost Form:

- Original indicating that all United States Marshals Service costs have been paid.

Unliquidated Items:

- All unliquidated items, such as attorneys= fees, Court costs, interest, etc., must be satisfied, or a stipulation by both parties or a Court order is required to release the vessel.

Filing Fee: There is no filing fee for this proceeding.

ENFORCEMENT OF JUDGMENTS

Writ of Execution (Fed. R. Civ. P. 69): This is the process used to enforce a judgment for the payment of monies. Submit the following:

Writ of Execution: See Appendix I for form. Prepare five (5) proposed writs:

- Original and one copy for the Court **and**
- Three for the United States Marshals Service.

Filing Fee: There is no filing fee for this action.

Writ of Garnishment after Judgment (Fed. R. Civ. P. 64): The process for the seizure of person or property for the purpose of securing satisfaction of the judgment. Submit the following:

Writ of Garnishment: Prepare five (5) proposed writs:

- Original and one copy for the judge,
- One for the Court's financial records,
- One to serve upon the party, **and**
- One to be returned to the Clerk's Office to document the return of service.

Service:

- Service must be provided by a private process server; therefore, submit an original and one copy of the Motion for Appointment of a Process Server (Appendix H). The absence of the filing of this motion does not preclude the writ from being issued.

Filing Fee: There is no filing fee, however, a \$100.00 deposit into the Court Registry is required (Florida Statute 77.28), unless waived by court order.

NOTE: Continuing writs require an order of the Court, therefore, all such applications must be made to the Court. The \$100.00 deposit applies, unless waived by the court.

APPEALS TO THE UNITED STATES COURT OF APPEALS

Notice of Appeal:

- Original (with an original signature of the filing party), one copy for the judge **and**
- One copy for each party, including the U.S. Court of Appeals.

Envelopes:

- Stamped, self-addressed envelopes for all parties.

Filing Fee: The filing fee is \$255.00 payable to "Clerk, United States Court." An original and one copy for the judge of the Motion to Proceed In Forma Pauperis may be filed in lieu of the fee.

When to File: The notice of appeal should be filed after the order of judgment has been entered on the docket (Fed. R. App. P. 4(b)).

NOTE: The appellee will be sent an Eleventh Circuit Transcript Information Form (formerly known as the Appeal Information Sheet) to complete. This form and any requests for transcripts must be filed with the Clerk’s Office of the district court.

CIVIL SUBPOENAS (Fed. R. Civ. P. Rule 45)

In General: Rule 45 of the Federal Rules of Civil Procedure was amended effective December 1, 1991. The requirement that a subpoena be issued under the seal of the Court has been abolished. Instead the only requirement is that it be signed. Therefore, it is no longer necessary that subpoenas be issued by the Clerk’s Office. Although the Clerk still has authority to do so, the subpoenas may be issued by counsel as officers of the Court. Other parties who are not officers of the Court must have the Clerk’s Office sign the subpoena for them.

Attorneys are authorized to issue subpoenas in the name of any court in which they are authorized to practice. In the case of a deposition or a production of documents taking place in **another** district, the name of that court and case number (where the deposition or production is to take place) should be typed at the top of said subpoena.

It is not required that the attorney be a member of the bar or admitted pro hac vice in the district in whose name the subpoena is issued, as long as the deposition or production pertains to a primary action in a court in which the attorney is authorized to practice.

Witness Fee: The fee for a witness being subpoenaed is \$40.00 per day and mileage is 37.5 cents per mile (28 USC § 1821).

Proof of Service: Proof of service of the subpoena is required to be filed only in the event of a dispute or upon order of the Court.

Forms: Blank forms are available at the Intake Section of any Clerk’s Office.

NOTE: The place of taking the deposition and person being deposed must be in the Southern District of Florida.

Subpoena enforcement: Refer to page14 of this booklet Motion to Enforce or Quash Deposition Subpoena from another District.

CONFIDENTIAL FILINGS (Local Rule 5.4)

Documents and cases are sealed when it is determined by a judge that the information contained in them should not be a part of the public record. Parties seeking to file matters under seal shall follow the procedures prescribed by Local Rule 5.4 (Appendix J) and submit:

- An original and one copy of the **proposed filing**, each contained in a separate plain envelope, clearly marked as “sealed document” with the case number and style on the outside of each envelope; **and**

- Original (with an original signature of the filing party), and one copy for the judge of the **motion to seal** setting forth a reasonable basis for departing from the general policy of public filing, generally describing the matter contained in the envelope. The motion shall state the specific period of time the party seeks to have the matter maintained under seal. Unless permanent sealing is sought, the motion shall set forth how the matter is to be handled upon expiration of the time specified in the Court's sealing order, or returned to the filing party; **and**
- File an original (with an original signature of the filing party), and one copy for the judge of the **ORDER RE: SEALED FILING** (see Appendix J for this form); **and**
- Proposed order with stamped, self-addressed envelopes for all parties.

EMERGENCY JUDGE

Emergency judges are selected randomly to handle emergency filings when the assigned judge is physically absent from the District, unavailable due to illness, or on vacation (Local Rule 3.7.B). If the presiding judge on the case is out of the District, the party filing an emergency matter must complete a Certification of Emergency form (Appendix K) attesting that the emergency matter is a true emergency and not caused by a lack of due diligence by the filing party. These forms are available at all Clerk's Offices.

DUTY JUDGE

A duty judge is assigned on a rotating basis for the Miami, Fort Lauderdale and West Palm Beach offices. The duty judge presides over the following matters pursuant to Local Rule 3.8:

- Grand jury matters as provided by the Court in its administrative orders;
- Emergency naturalization matters and naturalization ceremonies ;
- Matters arising from magistrate judge proceedings which are not assigned to a district judge, including, but not limited to; applications for reduction of bonds and competency examinations;
- Transfers of probation from foreign districts;
- Swearing in of attorneys to practice;
- Wire tap applications in matters not assigned to a District Judge;
- Warrants of arrest in admiralty cases when the assigned district judge is unavailable, and
- Emergency petitions for a writ of habeas corpus involving a petitioner's claim for immediate release, where the assigned judge is in the district, but otherwise unavailable to rule on the petition.
- All written and verbal requests for excuses from complying with both grand and petit jury summonses.

LOCATION OF CASE FILES

Case files are maintained where the assigned judge is chambered. Cases that have been closed and which are not on appeal are sent to the Federal Records Center in East Point,

Georgia. The cost to retrieve files from the Federal Records Center is \$45.00 **per file or you may contact the FRC directly at (404)763-7474.**

Here is an example of a typical case number:

03-21234-CIV-DAVIS/BANDSTRA

03 = The last two digits of the year the case was filed
21234 = The number of the case
CIV = The abbreviation denoting a civil case
DAVIS = The surname of the district judge assigned to the case
BANDSTRA = The surname of the magistrate judge assigned to the case

OBTAINING INFORMATION FROM THE CASE

Computer terminals that allow access to the electronic case docket are available in the Miami, Fort Lauderdale and West Palm Beach Clerk's Offices. The electronic docket is available for civil cases filed from August 1990 to present and for criminal cases from January 1992 to present. Anyone interested in accessing this electronic docket via a modem to a personal computer can subscribe to the Court PACER system. Contact the PACER Service Center at **1-800-676-6856** or visit their web site at: <http://pacer.psc.uscourts.gov>. In addition, scanned images for cases that are three years old or less are available via Pacer.

The Clerk's Office has initiated a project to scan all pleadings in civil cases filed from June 1, 1996 to present and criminal cases filed from November 1996 to present. The scanned images of the pleadings can be retrieved from the public terminals in the Miami, Fort Lauderdale and West Palm Beach Clerk's Offices.

These Clerk's Offices also have microfiche indices of Civil and Criminal cases since mid-1985.

Should copies be requested from the file, there is a \$.50 cents per page copy charge. If a certified copy is required, the charge is \$9.00 per document for the certification in addition to the per page charge. If a large volume of copies is needed, contact the Clerk's Office where the presiding district judge on the case is located for further information (see page 5 of this booklet).

AVAILABILITY OF PUBLIC COMPUTERS

Our offices are now equipped with public use terminals in the Intake lobby areas where case searches may be performed by party name or case number.

Each of the staffed Clerk's Offices makes the party index available to the public so case numbers can be researched. You may research case information yourself at no charge. If you request the Clerk's Office staff to conduct a search, it is subject to a \$26.00 search fee **per name.**

ADMISSION TO THE FEDERAL BAR

The requirement for admission to the Federal Bar of the Southern District of Florida is contained in the Local Rules for this District, Special Rules Governing the Admission and Practice of Attorneys, and Administrative Order 95-52.

Under an agreement with the Northern District of Florida, attorneys may also take exams in the Southern District of Florida to be admitted to practice in the Northern District of Florida.

Application: An applicant must be a member in good standing of the Florida Bar. The petition for admission to the Bar may be obtained from the Intake Section of any Clerk's Office. The fee for admission is \$175.00 payable to "Clerk, United States Court." If requested through the mail, **be sure to include a self-addressed, stamped envelope.**

Information, applications and fees for admission to the Northern District of Florida must be obtained through that District. Their address is: U.S. District Court, Northern District of Florida, 30 W. Government Street, Room 205, Panama City, Florida 32401, (850) 769-4556.

Exam: The applicant must receive a passing grade on the Uniform Examination, approved and adopted by the District Examination Committees of the Northern and Southern Districts of Florida and by the respective Courts.

Pro Hac Vice Appearance Local Rule 4 (B): An attorney who is a member in good standing of the Bar of any United States Court or the highest court of any state or territory or insular possession of the United States, but is not admitted to practice in this District, may be permitted to appear and participate in a particular case. The attorney must certify that he/she has studied the Local Rules of this District and such application shall designate a member of the bar of this Court to serve as an advisor. **Each** attorney must file a motion to appear pro hac vice (Appendix L) on **each** case along with a filing fee of \$75.00 **per case**, payable to "Clerk, United States Court." (Administrative Order 96-61). If granted, such limited appearance does not constitute formal admission to the Bar of this Court.

Government Attorneys: Any attorney from the offices of or representing the United States Attorney, Federal Public Defender, Attorney General of the United States, other United States government agencies or the Attorney General of the State of Florida may appear and participate in particular actions or proceedings on behalf of the attorney's agency without petition for admission. Any attorney so appearing is subject to all rules of this Court.

MEDIATION (L. R. 16.2)

Mediation is a supervised settlement conference presided over by a qualified, certified and neutral mediator to promote conciliation, compromise and the ultimate settlement of a civil action. Rule 16.2 of the Local Rules of the United States District Court for the Southern District of Florida implemented court annexed mediation in this District. This rule defines the types of cases subject to mediation and the procedures to refer a case or claim to mediation. It is recommended that all parties in a case in this District refer to Rule 16.2 of the Local Rules of this Court. Applications to become a certified mediator and/or a current

listing of approved mediators may be obtained at the Intake counter at any of the Clerk's Offices.

NOTICE OF 90 DAYS EXPIRING AND RIPENESS FOR HEARING
(L. R. 7.1.B.3)

When a motion has been fully briefed and pending for more than 90 days with no hearing set, the Clerk of the Court shall send to the Court and to all parties a "Notification of 90 Days Expiring and Ripeness for Hearing." any party may file a Notice of 90 days Expiring and Ripeness for Hearing. The Rule states: "Any party may request the Clerk to do so, and in that event, the Clerk shall not file the request in the Court file nor indicate the identity of the party making the request. When the Court receives such notification, it shall set the matter for hearing within 10 days of receipt of the notification or shall issue an order resolving the motion or other matter during that same 10 day period." A party's request should be in the form of a letter submitted to the Miami Clerk's Office "Attention: Room 321". The letter should identify the case by name and number and should identify, by docket number, the motion as well as any supporting, opposing and reply memoranda. The Clerk's Office will not file stamp the request and the judge presiding over the case will not know who submitted the request.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. _____
(to be assigned upon filing if this is a new civil complaint)

_____))
(Plaintiff(s)))
))
vs.)
))
(Defendant(s)))
))
))
))
))
))

COMPLAINT

I, _____ plaintiff, in the above-styled
cause, sues defendant(s); _____.

*(Allegation of jurisdiction, i.e., under which federal law or section of the U.S. Constitution
this action is being filed - refer to Appendix B for a list)*

This action is filed under: _____

(Relief request, i.e., State what you want the Court to do or award)

Wherefore, _____

Signed this _____ day of _____, 20 ____.

By: _____
(Signature of filer)

(Address)

(Phone Number)

(Facsimile Number)

(E-mail address)

(Florida Bar Number)

Certificate of Service

I _____, certify that on this date _____, a true copy
of the foregoing document was mailed to: _____
(name(s) and address(es))

By: _____
(Signature of filer)

(Address)

(Phone Number)

(Facsimile Number)

(E-mail address)

(Florida Bar Number)

**As of March 8, 2004 all Judges are participating in the Faxback Program with the exception
of the following Judges:**

UNITED STATES DISTRICT JUDGES

William M. Hoeveler

Federico A. Moreno

UNITED STATES MAGISTRATE JUDGES:

Peter R. Palermo

Robert L. Dubé

Patrick A. White

Hugh J. Morgan

Appendix M