

Rule 7.01 | GENERAL PROVISIONS

(a) **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.

(b) **Citation Format:**

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

(2) The Local Rules of the Middle District of Florida shall be cited as "Local Rule (____)".

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

(c) **Application of Local Admiralty and Maritime Rules:** The Local Admiralty Rules shall apply to all actions governed by Local Admiralty Rule 7.01(a), 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.

(d) **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.

(e) **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 knowledge, or information and belief, and shall declare that the document affirmed is true to the best of his knowledge, and/or information and belief. Additionally, such person shall

state that he 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.

(f) **Issuance of Process:** Except as limited by the provisions of Supplemental Rule (B)(1) and Local Admiralty Rule 7.02(c); or Supplemental Rule (C)(3) and Local Admiralty Rule 7.03(b); 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.

(g) **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 Middle District of Florida where the lawsuit is pending.

For the purposes of this subsection, an approved newspaper shall be a newspaper of general circulation. The newspaper of largest circulation in a county in the Middle District is rebuttably presumed to be a newspaper of general circulation in that same county. For cause shown by a party or on its own motion, the court may require publication in one or more additional publications if necessary to provide notice reasonably calculated to inform interested parties.

(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 twentyone (21) days after service of process; except that process issued in accordance with Supplemental Rule (B) shall conform to the requirements of that rule.

(i) **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.

(j) **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 Middle District of Florida. While the forms are sufficient, they are neither mandatory nor exhaustive.

(k) **Advisory Committee Notes:** Chapter Seven of these Rules was prepared and submitted to the Court, at its request, by a Subcommittee of the Admiralty Law Committee of The Florida Bar. The work product of the Subcommittee, as transmitted to the Court, contained explanatory comments following each rule entitled "Notes of Advisory Committee on Local Rules". Such notes have not been adopted by the Court as a part of the Local Admiralty Rules, however, copies of the advisory notes are available in the Office of the Clerk.

Advisory Notes to Admiralty and Maritime Rules

(a) General Comments

The Local Admiralty and Maritime Rules are promulgated pursuant to this Court's rule making authority under Fed.R.Civ.P. 83, and have been drafted to complement the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure.

The Committee has arranged these Local Admiralty Rules to correspond generally with the ordering of the Supplemental Rules, e.g., Local Admiralty Rule 7.01 corresponds generally with Supplemental Rule A, and each sequentially numbered Local Admiralty Rule addresses the subject matter of the corresponding next-in-order Supplemental Rule.

Reference to the former local admiralty rules refers to the former Chapter Seven of the Local Rules of the Middle District of Florida.

(b) Comments on Specific Sections:

7.01(a) continues in substance former Local Admiralty Rule 7.01(a).

7.01(d) continues the "IN ADMIRALTY" designation requirements of former Local Admiralty Rule 7.07(a). Under the revised rule, the "IN ADMIRALTY" designation is required to be posted to all complaints even if the complaint is filed as a Fed.R.Civ.P. 9(h) action and jurisdiction would exist on another basis, e.g., federal question or diversity jurisdiction.

7.01(e) continues the requirements of former Local Admiralty Rule 7.08(a).

7.01(f) continues the requirements of former Local Admiralty Rule 7.02(a).

7.01(g) enlarges upon former Local Admiralty Rule 7.03(a) which addressed notice by publication only in cases filed pursuant to Supplemental Rule (C)(4). The revised rule extends the publication provisions to all Fed.R.Civ.P. 9(h) actions for which notice by publication is required.

In addition, the exiting provisions have been altered to require that the publication shall be made both in the county where the vessel, or other property, was located at the time of arrest, attachment or seizure; and if different, in the county within the division of this Court in which the suit is pending.

7.01(h) continues the requirements of former Local Admiralty Rule 7.02(c).

7.01(i) adopts the definition of "Court" provided in the Advisory Notes to the August 1, 1985, amendments to the Supplemental Rules.

As defined in these Local Admiralty Rules, the term "Court" or "judicial officer" shall extend to United States Magistrate Judges assigned to the Middle District of Florida. The Committee notes that the delegation of the duties contemplated by this definition are consistent with the jurisdictional grant to United States magistrate judges as set forth in 28 USC § 636(a).

Where the terms "Court" and "judicial officer" are not used, these rules contemplate that without further order of Court as required by Local Rule 6.01(a), the responsibility of taking the specific action shall be vested with a district judge.

7.01(j) provides for an Appendix of Forms to the Local Admiralty Rules. The former rules attempted to incorporate the text of the form within the specific local rules. The Appendix of Forms provides an alternate method of presenting the format and content of necessary admiralty forms.

As noted in the revised rule, these forms are provided as examples, and are not intended to be mandatory. In addition to the specific forms referred to in the Local Admiralty Rules, the Appendix also includes other commonly used admiralty forms for the use and convenience of counsel.

(c) Other Considerations:

The Committee considered, but declined to recommend, a rule which would set the rate of pre-judgment interest allowed. The case construing pre-judgment interest appears to suggest that the issue is a substantive one in which the rate of pre-judgment interest is intended to compensate the prevailing party for the loss of use of funds during the pendency of the action. As such, the decision as to the rate of pre-judgment interest would appear to require evidentiary support. Therefore, the Committee decided not to incorporate such a rate in these rules. See, *Complaint of M/V Vulcan*, 553 F.2d 489 (5th Cir. 1977); *cert. denied, Sabine Towing & Transportation Co. v. Zapata Uglad Drilling, Inc.*, 434 U.S. 855 [98 S.Ct.175, 54 L.Ed.2d 127] (1977).