
**LOCAL RULES OF COURT
FROM THE US DISTRICT COURT, FLORIDA, MIDDLE DISTRICT
[CHAPTER ONE]**

{AS OF: 12/1/2009}
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CHAPTER ONE | LOCAL RULES OF COURT | USFLMD

RULES: 1.01 through 1.09

TITLE: ADMINISTRATION OF COURT BUSINESS

Rule 1.01 | SCOPE AND CONSTRUCTION OF RULES

(a) These rules, made pursuant to the authority of 28 U.S.C. Section 2071, Rule 83, Fed.R.Civ.P., and Rule 57, Fed.R.Cr.P., shall apply to all proceedings in this Court, whether civil or criminal, unless specifically provided to the contrary or necessarily restricted by inference from the context. The Court may prescribe by administrative order procedures for electronic filing and related matters in civil and criminal cases. The administrative order shall govern, notwithstanding these rules, which otherwise will govern to the extent not inconsistent with the administrative order.

(b) These rules are intended to supplement and complement the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and other controlling statutes and rules of Court. They shall be applied, construed and enforced to avoid inconsistency with other governing statutes and rules of court, and shall be employed to provide fairness and simplicity in procedure, to avoid technical and unjustified delay, and to secure just, expeditious and inexpensive determination of all proceedings.

(c) The Court may suspend application and enforcement of these rules, in whole or in part, in the interests of justice in individual cases by written order. When a judge of this Court in a specific case issues any order which is not consistent with these rules, such order shall constitute a suspension of the rules with respect to the case only, and only to the extent that such order is inconsistent with the rules.

(d) In all circumstances in which these rules, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, other rules as prescribed by the Supreme Court of the United States, or any statute of the United States, or the Federal Common Law, do not apply, the practices, pleadings, forms and modes of proceedings then existing in like causes in the Courts of the State of Florida shall be followed.

Rule 1.02 | DIVISIONS OF THE COURT

(a) The Middle District of Florida consists of those counties and places of holding court as designated in 28 U.S.C. Section 89.

(b) The District shall be divided into five Divisions to be known as the Jacksonville, Ocala, Orlando, Tampa and Ft. Myers Divisions, as follows:

(1) The Jacksonville Division shall consist of the following counties: Baker, Bradford, Clay, Columbia, Duval, Flagler, Hamilton, Nassau, Putnam, St. Johns, Suwannee and Union. The place of holding court shall be Jacksonville.

(2) The Ocala Division shall consist of the following counties: Citrus, Lake, Marion and Sumter. The place of holding court shall be Ocala.

(3) The Orlando Division shall consist of the following counties: Brevard, Orange, Osceola, Seminole and Volusia. The place of holding court shall be Orlando.

(4) The Tampa Division shall consist of the following counties: Hardee, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk and Sarasota. The place of holding court shall be Tampa.

(5) The Fort Myers Division shall consist of the following counties: Charlotte, Collier, DeSoto, Glades, Hendry and Lee. The place of holding court shall be Fort Myers.

(c) All civil proceedings of any kind shall be instituted in that Division encompassing the county or counties having the greatest nexus with the cause, giving due regard to the place where the claim arose and the residence or principal place of business of the parties.

(d) All criminal proceedings of any kind shall be docketed and tried in that Division encompassing the county or counties in which the alleged offense or offenses were committed; provided, however, an indictment returned in any Division shall be valid regardless of the county or counties within the District in which the alleged offense or offenses were committed.

(e) The Court may, within its discretion, or upon good cause shown by any interested party, order that any case, civil or criminal, be transferred from one Division to any other Division for trial, or from one place of holding court to another place of holding court in the same Division.

Rule 1.03 | DOCKETING AND ASSIGNMENT OF CASES

(a) Upon the filing of the initial paper or pleading in any case the Clerk shall docket the proceeding as a civil, criminal or miscellaneous action. Each case or proceeding shall be given a six-part docket number, which includes:

- (1) the one-digit number indicating the division of the Court;
- (2) the two-digit number indicating the year in which the proceeding is initiated;
- (3) the code indicating the docket to which the case is assigned;
- (4) the sequence number of the case or proceeding;
- (5) a designation consisting of a letter or series of letters disclosing the division in which the proceeding is pending; and
- (6) the code indicating the judge to whom the case is assigned (the code shall conform to the code assigned by the Administrative Office of the United States Courts) followed by the initials of the magistrate judge to whom the case is assigned.

(b) Each case, upon the filing of the initial paper or pleading, shall be assigned by the Clerk to an individual judge of the Court who shall thereafter be the presiding judge with respect to that cause. Individual assignment of cases within each Division shall be made at random or by lot in such proportions as the judges of the Court from time to time direct. Neither the Clerk nor any member of his staff shall have any power or discretion in determining the judge to whom any case is assigned. The method of assignment shall be designed to prevent anyone from choosing the judge to whom a case is to be assigned, and all persons shall conscientiously refrain from attempting to circumvent this rule.

(c) No application for any order of court shall be made until the case or controversy in which the matter arises has been docketed and assigned by the Clerk as prescribed by subsection (b) of this rule, and then only to the judge to whom the case has been assigned; provided, however:

(1) When no case has previously been initiated, docketed and assigned, emergency applications arising during days or hours that the Clerk's Office is closed may be submitted to any available judge resident in the appropriate Division, or, if no judge is available in the Division, to any other judge in the District, but the case shall then be docketed and assigned by the Clerk on the next business day and shall thereafter be conducted by the judge to whom it is assigned in accordance with subsection (b) of this rule.

(2) When the judge to whom a case has been assigned is temporarily unavailable due to illness, absence or prolonged engagement in other judicial business, emergency applications arising in the case may be made to the other resident judge in the Division or, if more than one, to the judge who is junior in commission in that Division. If no other judge is available in the Division such applications may be made to any other available judge in the District.

(d) The judge to whom any case is assigned may, at any time, reassign the case to any other consenting judge for any limited purpose or for all further purposes.

(e) The Clerk shall accept for filing all prisoner cases filed with or without the required filing fee or application to proceed in forma pauperis. However, a prisoner case will be subject to dismissal by the Court, sua sponte, if the filing fee is not paid or if the application is not filed within 30 days of the commencement of the action.

Rule 1.04 | SIMILAR OR SUCCESSIVE CASES; DUTY OF COUNSEL

(a) Whenever a case, once docketed and assigned, is terminated by any means and is thereafter refiled without substantial change in issues or parties, it shall be assigned, or reassigned if need be, to the judge to whom the original case was assigned. Whenever a second or subsequent case seeking post conviction or other relief by petition for writ of habeas corpus is filed by the same petitioner involving the same conviction, it shall be assigned, or reassigned if need be, to the same judge to whom the original case was assigned. All motions under 28 U.S.C. Section 2255 shall be assigned to the judge to whom the original criminal case was assigned.

(b) **TRANSFER OF RELATED CASES BEFORE TWO OR MORE JUDGES.** If cases assigned to different judges are related because of either a common question of fact or any other prospective duplication in the prosecution or resolution of the cases, a party may move to transfer any related case to the judge assigned to the first-filed among the related cases. The moving party shall file a notice of filing the motion to transfer, including a copy of the motion to transfer, in each related case. The proposed transferor judge shall dispose of the motion to transfer but shall grant the motion only with the consent of the transferee judge. If the transferee judge determines that the same magistrate judge should preside in some or all respects in some or all of the related cases, the Clerk shall assign the magistrate judge assigned to the first-filed among the affected cases to preside in that respect in those cases.

(c) **CONSOLIDATION OF RELATED CASES BEFORE ONE JUDGE.** If cases assigned to a judge are related because of either a common question of law or fact or any other prospective duplication in the prosecution or resolution of the cases, a party may move to consolidate the cases for any or all purposes in accord with Rule 42.Fed.R.Civ.P., or Rule 13, Fed.R.Cr.P. The moving party shall file a notice of filing the motion to consolidate, including a copy of the motion to consolidate, in each related case. If the presiding judge determines that the same magistrate judge should preside in some or all respects in some or all of the consolidated cases, the Clerk shall assign the magistrate judge assigned to the first-filed among the affected cases to preside in that respect in those cases.

(d) All counsel of record in any case have a continuing duty promptly to inform the Court and counsel of the existence of any other case within the purview of this rule, as well as the existence of any similar or related case or proceeding pending before any other court or administrative agency. Counsel shall notify the Court by filing and serving a "**Notice of Pendency of Related Actions**" that identifies and describes any related case.

Rule 1.05 | FORM OF PLEADINGS; GENERAL REQUIREMENTS

(a) Although a quotation of three (3) lines or more may be single-spaced and indented and a footnote shall be single-spaced in no smaller than ten-point type, all pleadings and other papers tendered by counsel for filing shall be typewritten, double-spaced, in at least twelve-point type, and, if filed on paper, shall be on opaque, unglazed, white paper eight and one-half inches wide by eleven inches long (8 ½ x 11), with one and one-fourth inch top, bottom and left margins and a one to one and one-fourth inch right margin. Only one side of the paper may be used.

(b) All pleadings, motions, briefs, applications, and orders tendered by counsel for filing shall contain on the first page a caption as prescribed by Rule 10(a), Fed.R.Civ.P., and in addition thereto shall state in the title the name and designation of the party (as Plaintiff or Defendant or the like) in whose behalf the paper is submitted.

(c) The first pleading filed on behalf of any party or parties represented by counsel shall be signed by at least one attorney in his individual name with the designation "**Trial Counsel**", or the equivalent. Thereafter, until seasonable notice to the contrary is filed with the Court and served upon opposing counsel, such attorney shall be the person responsible for the case with full authority, individually, to conduct all proceedings including trial.

(d) All pleadings, motions, briefs, applications and other papers tendered by counsel for filing shall be signed personally by counsel as required by Rule 11, Fed.R.Civ.P. Immediately under every signature line, additional information shall be given as indicated in the example below:

(signature of counsel)

Type Name of Counsel

Florida Bar Identification Number (if admitted to practice in Florida)

Firm or Business Name

Mailing Address

City, State, Zip Code

Telephone Number

Facsimile Phone Number (if available)

E-mail address

(e) The Clerk is authorized and directed to require a complete and executed AO Form JS44, Civil Cover Sheet, which shall accompany each civil case as a condition to the filing thereof. State and federal prisoners, and other persons filing civil cases pro se are exempt from the requirements of this subsection.

Rule 1.06 | FORM OF PLEADINGS; SPECIAL REQUIREMENTS

(a) If demand for jury trial is contained within a pleading pursuant to Rule 38(b), Fed.R.Civ.P., the title of the pleading shall include the words "And Demand for Jury Trial" or the equivalent.

(b) If a pleading contains a prayer for injunctive relief pursuant to Rule 65, Fed.R.Civ.P., the title of the pleading shall include the words "Injunctive Relief Sought" or the equivalent. (See also Rules 4.05 and 4.06.)

(c) To enable the Court to comply with the provisions of 28 U.S.C. Section 2284, in any case which a party believes may require a three-judge district court, the words, "Three-Judge District Court Requested" or the equivalent shall be included within the title of the first pleading filed by that party. If a three-judge district court is convened all subsequent pleading, motions, briefs, applications and orders shall be tendered for filing in quadruplicate (the original and three copies).

(d) To enable the Court to comply with 28 U.S.C. Section 2403, in any case to which the United States or any agency, officer or employee thereof is not a party, any party who shall draw into question the constitutionality of any Act of Congress affecting the public interest shall forthwith so notify the Clerk in writing, stating the title of the case, its docket number, the Act of Congress in question and the grounds upon which it is assailed.

Rule 1.07 | PREPARATION, SERVICE AND RETURN OF PROCESS; SERVICE OF PLEADINGS SUBSEQUENT TO ORIGINAL COMPLAINT

(a) Counsel shall prepare all process and present it to the Clerk for certification.

(b) When service of process has been effected but no appearance or response is made within the time and manner provided by Rule 12, Fed.R.Civ.P., the party effecting service shall promptly apply to the Clerk for entry of default pursuant to Rule 55(a), Fed.R.Civ.P., and shall then proceed without delay to apply for a judgment pursuant to Rule 55(b), Fed.R.Civ.P., failing which the case shall be subject to dismissal sixty (60) days after such service without notice and without prejudice; provided, however, such time may be extended by order of the Court on reasonable application with good cause shown.

(c) Service of a pleading or paper subsequent to the original complaint may be made by transmitting it by facsimile to the attorney's or party's office with a cover sheet containing the sender's name, firm, address, telephone number, and facsimile number, and the number of pages transmitted. When service is made by facsimile, a copy shall also be served by any other method permitted by Rule 5, Fed. R. Civ. P. Service by delivery after 5:00 p.m. shall be deemed to have been made on the next business day.

Rule 1.08 | INTEGRITY OF FILES AND RECORDS

(a) No person, other than the Clerk or his authorized deputies, shall insert or delete, or deface, or make any entry or correction by interlineation or otherwise, in, from or upon any file or other record of the Court unless expressly permitted or ordered to do so by the Court.

(b) Court files or other papers or records in the possession of the Clerk may be removed from the Clerk's Office only upon written permission or order of the Court which shall specify the time within which the same shall be returned.

Rule 1.09 | FILING UNDER SEAL

(a) Unless filing under seal is authorized by statute, rule, or order, a party seeking to file under seal any paper or other matter in any civil case shall file and serve a motion, the title of which includes the words "Motion to Seal" and which includes

- (i) an identification and description of each item proposed for sealing;

- (ii) the reason that filing each item is necessary;

- (iii) the reason that sealing each item is necessary;

- (iv) the reason that a means other than sealing is unavailable or unsatisfactory to preserve the interest advanced by the movant in support of the seal;

- (v) a statement of the proposed duration of the seal; and

- (vi) a memorandum of legal authority supporting the seal. The movant shall not file or otherwise tender to the Clerk any item proposed for sealing unless the Court has granted the motion required by this section. No settlement agreement shall be sealed absent extraordinary circumstances, such as the preservation of national security, protection of trade secrets or other valuable proprietary information, protection of especially vulnerable persons including minors or persons with disabilities, or protection of nonparties without either the opportunity or ability to protect themselves. Every order sealing any item pursuant this section shall state the particular reason the seal is required.

(b) If filing under seal is authorized by statute, rule, or order (including an order requiring or permitting a seal and obtained pursuant to (a) of this rule), a party seeking to file under seal any paper or other matter in any civil case shall file and serve a motion, the title of which includes the words "Motion to Seal Pursuant to [Statute, Rule, or Order]" and which includes

- (i) a citation to the statute, rule, or order authorizing the seal;

- (ii) an identification and description of each item submitted for sealing;

(iii) a statement of the proposed duration of the seal;
and

(iv) a statement establishing that the items submitted for sealing are within the identified statute, rule, or order the movant cites as authorizing the seal. The movant shall submit to the Clerk along with a motion under this section each item proposed for sealing. Every order sealing any item pursuant to this section shall state the particular reason the seal is required and shall identify the statute, rule, or order authorizing the seal.

(c) Unless otherwise ordered by the Court for good cause shown, no order sealing any item pursuant to this section shall extend beyond one year, although a seal is renewable by a motion that complies with (b) of this rule, identifies the expiration of the seal, and is filed before the expiration of the seal.

(d) The Clerk shall return to the movant any matter for which sealing is denied.

APPENDIX

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