



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

{AS OF: 2/1/2021}

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TABLE OF CONTENTS | CHAPTER THREE | MOTIONS, DISCOVERY AND PRETRIAL...

#	Rule No	Title	Page
1	3.01	Motions and Other Legal Memorandums	4
2	3.02	Civil Case Management	7
3	3.03	Disclosure Statement	9
4	3.04	Notice of a Deposition or a Subpoena Duces...	10
5	3.05	Stipulations	11
6	3.06	Final Pretrial Meeting and Statement	12
7	3.07	Exhibits	14
8	3.08	Continuance	15
9	3.09	Notice of Resolution; Dismissal	16
10	3.10	Failure to Prosecute; Dismissal	17
11	3.11	Disclosure in a Criminal Action	18
12	3.12	Discovery of Information from Probation and....	20
-	n/a	Appendix	21



CHAPTER THREE | LOCAL RULES OF COURT | USFLMD

RULES: 3.01 through 3.12

TITLE: MOTIONS, DISCOVERY AND PRETRIAL PROCEDURES



Rule 3.01 | MOTIONS AND OTHER LEGAL MEMORANDUMS

(a) LENGTH AND CONTENT OF A MOTION. A motion must include – in a single document no longer than twenty-five pages inclusive of all parts – a concise statement of the precise relief requested, a statement of the basis for the request, and a legal memorandum supporting the request. If the interested parties agree to the relief sought in a motion, the title must include “unopposed.” A motion for leave to file a motion of more than twenty-five pages must not exceed three pages inclusive of all parts; must specify the need for, and the length of, the proposed motion; and must not include the proposed motion.

(b) LENGTH AND CONTENT OF A RESPONSE. A party responding to a motion may file a legal memorandum no longer than twenty pages inclusive of all parts. A motion for leave to file a response of more than twenty pages must not exceed three pages inclusive of all parts; must specify the need for, and the length of, the proposed response; and must not include the proposed response.

(c) TIME TO RESPOND. A party may respond to a motion within fourteen days after service of the motion. However, a party may respond to a motion to dismiss, for judgment on the pleadings, for summary judgment, to exclude or limit expert testimony, to certify a class, for a new trial, or to alter or amend the judgment within twenty-one days after service of the motion. If a party fails to timely respond, the motion is subject to treatment as unopposed.

(d) NO REPLY AS A MATTER OF RIGHT. Without leave, no party may file a reply directed to a response except a response to a motion for summary judgment. A motion requesting leave to reply must not exceed three pages inclusive of all parts; must specify the need for, and the length of, the proposed reply; and must not include the proposed reply. A party may reply to a response to a motion for summary judgment within fourteen days after service of the response. The reply must not exceed seven pages inclusive of all parts.

(e) EMERGENCY OR TIME-SENSITIVE MOTION. If a party moves for emergency or time-sensitive relief, the title of the motion must include “emergency” or “time-sensitive,” and the motion must include an introductory paragraph that explains the nature of the exigency and states the day by which a ruling

is requested. The unwarranted designation of a motion as an emergency can result in a sanction.

(f) NO PROPOSED ORDER. Unless otherwise permitted by these rules, no party may submit a proposed judgment or other order without leave.

(g) DUTY TO CONFER IN GOOD FAITH.

(1) *Duty*. Before filing a motion in a civil action, except a motion for injunctive relief, for judgment on the pleadings, for summary judgment, or to certify a class, the movant must confer with the opposing party in a good faith effort to resolve the motion.

(2) *Certification*. At the end of the motion and under the heading "Local Rule 3.01(g) Certification," the movant:

(A) must certify that the movant has conferred with the opposing party,

(B) must state whether the parties agree on the resolution of all or part of the motion, and

(C) if the motion is opposed, must explain the means by which the conference occurred.

(3) *Unavailability*. If the opposing party is unavailable before the motion's filing, the movant after filing must try diligently for three days to contact the opposing party. Promptly after either contact or expiration of the three days, the movant must supplement the motion with a statement certifying whether the parties have resolved all or part of the motion. Failure to timely supplement can result in denial of the motion without prejudice. The purposeful evasion of a communication under this rule can result in a sanction.

(h) ORAL ARGUMENT OR EVIDENTIARY HEARING. A party must request oral argument or an evidentiary hearing in a separate document accompanying the party's motion or response and stating the time necessary.

(i) SUPPLEMENTAL AUTHORITY. After filing a legal memorandum but before a decision, a party identifying a supplemental authority that is not merely cumulative may file – without

argument or comment – a notice of supplemental authority that contains only:

- (1) a citation of the authority;
- (2) a specification by page, paragraph, and line of the issue or argument in the earlier paper that the authority supplements; and
- (3) a succinct quotation from the authority.

The notice must not include a copy of the authority unless the authority is not readily available and must not exceed two pages inclusive of all parts.

(j) NO UNAUTHORIZED CORRESPONDENCE. A party must not use a letter, email, or the like to request relief or to respond to a request for relief.



Rule 3.02 | CIVIL CASE MANAGEMENT

(a) REQUIREMENTS. In every proceeding except a proceeding described in (d), the parties:

- (1) must conduct the planning conference required by the Federal Rules of Civil Procedure in person, by telephone, or by comparable means and
- (2) must file a case management report using the standard form on the court's website.

(b) TIMING. The parties must file the case management report:

- (1) within forty days after any defendant appears in an action originating in this court,
- (2) within forty days after the docketing of an action removed or transferred to this court, or
- (3) within seventy days after service on the United States attorney in an action against the United States, a United States agency, a United States officer or employee sued only in an official capacity, or a United States officer or employee sued in an individual capacity in connection with a duty performed on behalf of the United States.

(c) SCHEDULING ORDER. After consideration of the case management report, the judge must enter an order setting deadlines and scheduling the case for trial.

(d) EXCEPTIONS. These proceedings are excepted from the requirements in (a):

- (1) an action in which the judge enters a special scheduling order at the outset;
- (2) an action for review on an administrative record unless the action is under the Employee Retirement Income Security Act of 1974;
- (3) a forfeiture action in rem arising under a federal statute;
- (4) an application for habeas corpus or another proceeding to challenge a criminal conviction or sentence;



- (5) a pro se action by a person in the custody of the United States, a state, or a state subdivision;
- (6) an action to enforce or quash an administrative summons or subpoena;
- (7) an action by the United States to recover benefit payments;
- (8) an action by the United States to collect on a student loan guaranteed by the United States;
- (9) a proceeding ancillary to a proceeding in another court;
- (10) an action to confirm or enforce an arbitration award; and
- (11) an appeal of an order or judgment by a bankruptcy judge.



Rule 3.03 | DISCLOSURE STATEMENT

(a) DISCLOSURE STATEMENT. With the first appearance, each party must file a disclosure statement identifying:

(1) each person – including each lawyer, association, firm, partnership, corporation, limited liability company, subsidiary, conglomerate, affiliate, member, and other identifiable and related legal entity – that has or might have an interest in the outcome;

(2) each entity with publicly traded shares or debt potentially affected by the outcome;

(3) each additional entity likely to actively participate, including in a bankruptcy proceeding the debtor and each member of the creditors' committee; and

(4) each person arguably eligible for restitution.

(b) CERTIFICATION. The disclosure statement must include this certification: "I certify that, except as disclosed, I am unaware of an actual or potential conflict of interest affecting the district judge or the magistrate judge in this action, and I will immediately notify the judge in writing within fourteen days after I know of a conflict."



Rule 3.04 | NOTICE OF A DEPOSITION OR A SUBPOENA DUCES TECUM

A deposition by oral examination or written questions and a subpoena duces tecum require fourteen days' written notice.



Rule 3.05 | STIPULATIONS

For the judge to consider a stipulation, the party against whom the stipulation is asserted:

- (a) must concede the existence of the stipulation,
- (b) must have confirmed the stipulation in writing, or
- (c) must have stipulated on the record, including during a deposition.



Rule 3.06 | FINAL PRETRIAL MEETING AND STATEMENT

(a) FINAL PRETRIAL MEETING. At least fourteen days before either the final pretrial conference described in the Federal Rules of Civil Procedure or another deadline set by the judge, the parties must meet and in good faith:

- (1) discuss settlement,
- (2) discuss the efficient presentation of the evidence and the duration of the trial,
- (3) stipulate to as many facts and resolve as many legal issues as possible,
- (4) examine each exhibit, and
- (5) exchange the name, address, and telephone number of each witness.

(b) FINAL PRETRIAL STATEMENT. At least seven days before either the final pretrial conference described in the Federal Rules of Civil Procedure or another deadline set by the judge, the parties must file a final pretrial statement that will govern the trial. The statement must contain:

- (1) the basis for the court's jurisdiction,
- (2) a concise statement of the action,
- (3) a concise statement of each party's position,
- (4) a list of each exhibit with a notation of each objection,
- (5) a list of each witness by name only with a notation of:
 - (A) the likelihood the witness will testify and
 - (B) each objection to the witness's testifying,
- (6) a list of each expert witness, with a notation of:
 - (A) the substance of the testimony and
 - (B) each objection to the witness's testifying,
- (7) a breakdown of the type and amount of monetary damages,

(8) a list of each deposition offered in lieu of live testimony, unless the deposition is only for impeachment,

(9) a concise statement of each admitted fact,

(10) a concise statement of each agreed principle of law,

(11) a concise statement of each issue of fact without incorporating another paper,

(12) a concise statement of each issue of law without incorporating another paper,

(13) a list of each pending motion or other unresolved issue,

(14) a statement of the usefulness of further settlement discussions, and

(15) the signatures of trial counsel and any pro se party following this certification: "In preparing this final pretrial statement, I have aimed for the just, speedy, and inexpensive resolution of this action."

Rule 3.07 | EXHIBITS

(a) LABELING. Before a trial or an evidentiary hearing, each party must obtain exhibit labels from the clerk or the court's website and label each exhibit.

(b) LISTING. Before a trial or an evidentiary hearing, each party must deliver an exhibit list to each opposing party and deliver three copies of the exhibit list to the judge. The list must sequentially list and briefly describe each exhibit.

(c) PROVIDING IN ELECTRONIC FORM. At the end of a trial or an evidentiary hearing, each party must deliver to the clerk an electronic version of (1) each documentary, audio, or video exhibit and (2) a photograph or reproduction of each non-documentary tangible exhibit.

(d) MAINTAINING. During and after a trial or an evidentiary hearing, the clerk must maintain custody of each exhibit unless:

(1) a law enforcement agency or party retains custody of the exhibit because the exhibit is sensitive, dangerous, or of high value or

(2) the clerk temporarily releases the exhibit to a judge, a judge's staff, or a court reporter.

(e) DOCKETING. The clerk must enter into the electronic record:

(1) each documentary, audio, and video exhibit admitted into evidence during a trial or evidentiary hearing and

(2) a photograph or reproduction of each non-documentary tangible exhibit admitted into evidence during a trial or evidentiary hearing.

(f) EXCEPTION. Neither (c) nor (e) applies to pornography.

(g) RETRIEVING. Within ninety days after a case is closed and all appeals exhausted, the party who tendered a tangible exhibit must retrieve the exhibit from the clerk. The clerk may destroy a tangible exhibit not timely retrieved.



Rule 3.08 | CONTINUANCE

(a) CONTENT OF A MOTION. A party must timely move for a continuance and explain in detail the reason a continuance is warranted and the effort to resolve any scheduling conflict.

(b) CLIENT CONSENT FOR A TRIAL CONTINUANCE. If requesting a trial continuance, trial counsel must certify the client consents to the continuance.

(c) "NOTICE OF UNAVAILABILITY" PROHIBITED. A lawyer or pro se party must not file a "notice of unavailability" or a similar paper.



Rule 3.09 | NOTICE OF RESOLUTION; DISMISSAL

(a) NOTICE. The parties must immediately file a notice after agreeing to resolve all or part of a civil action, even if the resolution is contingent or unwritten.

(b) DISMISSAL. When notified of an agreement to settle a civil action, a judge may dismiss the case subject to the right of a party to move within a stated time to re-open the case for entry of a stipulated final order or a judgment or for further proceedings.



Rule 3.10 | FAILURE TO PROSECUTE; DISMISSAL

A plaintiff's failure to prosecute diligently can result in dismissal if the plaintiff in response to an order to show cause fails to demonstrate due diligence and just cause for delay.



Rule 3.11 | DISCLOSURE IN A CRIMINAL ACTION

(a) GENERAL RULE. Before judgment in, or dismissal of, a criminal action, a lawyer or law enforcement agent directly or through a surrogate must not extrajudicially and publicly disclose information about the action if the disclosure will interfere with a fair trial or otherwise prejudice the administration of justice.

(b) EXAMPLES.

(1) A lawyer or law enforcement agent directly or through a surrogate must not extrajudicially and publicly disclose:

(A) the defendant's criminal record or information about the defendant's character or reputation except, if the defendant remains at large, information necessary to aid in apprehension or to warn the public;

(B) the existence, absence, or content of a confession, admission, or statement by the defendant;

(C) the defendant's performance on, or failure to submit to, a mental, physical, or other assessment;

(D) a witness's identity, testimony, or credibility unless the witness is a victim and the disclosure is lawful and ethical;

(E) the possibility of a guilty plea; or

(F) an opinion about the guilt of the defendant or the merit of the action.

(2) A lawyer or law enforcement agent directly or through a surrogate may request assistance and may extrajudicially and publicly disclose:

(A) the defendant's name, age, residence, occupation, and family status;

(B) the fact and circumstances of the arrest and a description of evidence seized;

(C) the substance of the charge;

(D) a public record;



- (E) the status of the action; and
- (F) the defendant's denial of the charge.



Rule 3.12 | DISCOVERY OF INFORMATION FROM PROBATION AND PRETRIAL SERVICES

A subpoena or other means of compelling discovery of information in the custody, under the control, or within the knowledge of the probation office, pretrial services, a probation officer, or a pretrial services officer is invalid and requires no response except a prompt notice to the judge.



APPENDIX



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