

Rule A.1 ADMIRALTY

- (a) **Applicability.** These rules apply to procedure in claims governed by the SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS OF THE FEDERAL RULES OF CIVIL PROCEDURE [ADMIRALTY SUPPLEMENTAL RULES] in the United States District Courts in the State of Mississippi.
- (b) **Deposit of Fees with Marshal.** No process *in rem* in an action provided for in the ADMIRALTY SUPPLEMENTAL RULES shall be served, except on behalf of the United States, or on special order of the court, unless the party seeking the same shall deposit with the marshal for the district such sums as may be required by the marshal as a partial advance against attachment and custodial costs.
- (c) **Regarding In Rem Admiralty and Maritime Jurisdiction.** In any action *in rem* invoking the admiralty and maritime jurisdiction of the courts of the United States, if the plaintiff shall procure a person, firm, or corporation to serve as consent keeper or substitute consent keeper of the property seized, any United States district judge or magistrate judge of Mississippi, may sign an order providing for the arrest of the property and permitting the marshal to deliver the property seized to the consent keeper. Further, it is the plaintiff's responsibility to assure that there is sufficient insurance coverage for the vessel while in the possession of a consent keeper or substitute custodian. The insurance required by the marshal does not protect the vessel while the property is in the custody of a consent keeper or a substitute custodian.

However, upon a verified written showing by the plaintiff that a district judge or magistrate judge is not available and that there exists the danger of losing opportunity for service unless process is issued forthwith, such order may be signed by the clerk of court or any deputy clerk upon specific designation therefor by the judge to whom the case is assigned. Further, the plaintiff shall verify that the matter has not been previously presented to any judicial officer.

- (d) **Post-Seizure Hearing.** After the arrest, seizure, or attachment of property under the ADMIRALTY SUPPLEMENTAL RULES, a party asserting an interest in the property may move for a hearing and prompt relief by the court upon any issue concerning the propriety of the arrest, seizure, or attachment.
- (e) **Release of Seizures.** Property seized by the marshal may be released as provided by the ADMIRALTY SUPPLEMENTAL RULES, or pursuant to paragraph (D) of this rule. On being advised to do so by counsel for plaintiff, the marshal, guard service, consent keeper, substitute custodian, or person, firm, or corporation having the legal custody of the property arrested may release it by taking a receipt from the master, mate, or agent for the property owner and filing the receipt with the clerk of the court as soon as possible. No property seized by the marshal may be directed to be released by plaintiff's counsel until the marshal is notified of the pending release and appropriate arrangements are made with the marshal for the

payment of all costs and charges.

- (f) **Advertisement of Seizures.** If a vessel or other property seized under maritime process is not released within fourteen days following seizure, notice of the seizure shall be published in a newspaper of general circulation in the district three times a week for two consecutive weeks. The notice shall first be published not later than twenty-one days following seizure.
- (g) **Verification of Pleadings.** Every complaint and claim under the ADMIRALTY SUPPLEMENTAL RULES shall be verified on oath or affirmation by a party, or an officer of a corporate party. If no party (or corporate officer of the party) is within the district, verification of a complaint or claim may be made by an agent, attorney-in-fact, or attorney of record, who shall state briefly the sources of his or her knowledge, information and belief, declare that the document verified is true to the best of his or her knowledge, information and belief, state the reason why verification is not made by the party or corporate officer, and that he or she is authorized so to act. Any such verification will be deemed to be that of the party, as if verified personally. Any interested party may move, with or without a request for stay, for a personal oath of a party or all parties, or that of a corporate officer. If required by the court, such verification shall be procured by commission or as otherwise ordered.
- (h) **Jury Trials in Cases Containing Claims Within the Purview of Rule 9(h).** In any case in which a maritime claim within the meaning of FED. R. CIV. P. 9(h), is asserted and a jury trial is also demanded, each plaintiff shall elect at or before the pretrial conference, or at such other time as the court may direct, whether it will proceed under Rule 9(h) and the ADMIRALTY SUPPLEMENTAL RULES if appropriate, or proceed without benefit of the ADMIRALTY SUPPLEMENTAL RULES so as to have the issues tried by jury.

If no election is made by a plaintiff at the pretrial, the plaintiff will be deemed to have elected trial by jury and process issued at plaintiff's request pursuant to the ADMIRALTY SUPPLEMENTAL RULES will be quashed seven days after the clerk of court has given notice to all counsel of record.

- (i) **Intervention.**
 - (1) For purposes of this rule, the word "plaintiff" shall include any party asserting a claim for affirmative relief.
 - (2) Whenever a vessel or other property is seized, attached, or arrested and is in the custody of the court, anyone asserting a maritime lien or a writ of foreign attachment against the vessel or property may proceed only by intervention unless otherwise ordered by the court. At the time of filing of a complaint in intervention, counsel for intervening parties are required to ascertain the names and addresses of other counsel of record in the

proceedings, to serve a copy of the complaint in intervention upon all counsel of record, and to file with the clerk of the court a certificate stating the names and addresses of counsel served and the date and the method of service.

- (3) A party asserting a maritime lien or a writ of foreign attachment may intervene within the time specified by these rules without the filing of a motion for leave to intervene if a vessel or other property has been arrested or attached and it or the proceeds of sale thereof are within the jurisdiction of the court.
 - (4) Intervenors under this rule shall be liable for costs together with the party originally effecting seizure, on any reasonable basis determined by the court. Intervenors may be required by the marshal to advance their share of reasonable accrued costs and reasonable unaccrued advance costs, giving due deference to the respective amounts of the various claims. Relief from such assessment may be granted by the court upon motion.
 - (5) Release of seizure or dismissal by the party originally effecting seizure shall not quash the seizure if there remain pending claims by intervenors, unless by unanimous consent of intervenors or order of court.
 - (6) All claims in intervention are to be filed within thirty days after sale of a vessel or property. Claims not timely filed are to be paid out of the proceeds of a sale only after the payment of all timely filed valid claims and costs.
- (j) **Notice of Sale.** Notice must be given by the marshal of the sale of property by order of this court. The notice must be by advertisement in a newspaper of general circulation within the division of the district in which the sale will take place, unless otherwise ordered by the court. Such notice shall be published three times a week for two consecutive weeks, with the last date of publication not more than twenty-one nor fewer than seven days immediately preceding the sale. Additionally, publication may be made elsewhere or in specialized trade publications. The notice of sale shall state that last date on which claims may be filed against the vessel or property or proceeds of the sale, as provided in subparagraph (I)(6) of this rule.

Unless extraordinary circumstances exist, no vessel shall be sold within fewer than thirty days after it was seized.

- (k) **Judicial Sale; Marshal's Return.** Upon the payment of the proceeds of sale of seized property into the registry of the court, the clerk of the court shall forthwith direct the custodian of the vessel or seized property to send written notice within seven days to all persons known by him or her to have claims for charges incurred while the vessel or property was in the custody of court, and shall notify such

persons of the necessity of filing claims within fourteen days of the mailing of such notice.

- (l) **Confirmation of Sale.** In all sales by the marshal pursuant to orders of sale under the ADMIRALTY SUPPLEMENTAL RULES, the marshal shall report to the court the fact of sale, the price brought, and the name of the buyer. If within seven days after the sale [*See* FED. R. CIV. P. 6(a) for computation of time] no written objection is filed, the sale shall automatically stand confirmed if the buyer has performed the terms of his purchase.
- (m) **Taxation of Costs.** If costs shall be awarded to any party, the following may be taxed as costs in the case, in the manner provided for a civil action:

 - (1) The reasonable premium or expenses paid on all bonds or stipulations or other security by the party to whom costs are awarded.
 - (2) Reasonable wharfage or storage charges while in custody of the court.
 - (3) Costs of publication of notices under applicable rules of court.
 - (4) Any other reasonable expenses determined by the court on motion and after hearing to have been necessarily incurred and proper as costs.