

AUG 19 1979

JOE R. BOWANE, Clerk
By _____ Deputy

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

In the Matter of the)
Local Rules for the) ORDER
Western District of Washington)

The local rules for the Western District of Washington are hereby amended by repealing the present Supplemental Rules for Certain Admiralty and Maritime Claims and adopting new Supplemental Admiralty Rules as follows:

LAR 100

TITLE AND SCOPE OF THESE RULES

These rules are entitled Supplemental Admiralty Rules and may be cited as "Local Admiralty Rules." They apply to admiralty and maritime proceedings defined in Supplemental Rule A of the Federal Rules of Civil Procedure. The General Rules and Civil Rules apply to all civil cases, including admiralty and maritime proceedings, but if in any instance one of those rules is inconsistent with an Admiralty Rule, the Admiralty Rule shall control

LAR 105

VERIFICATION OF PLEADINGS AND CLAIMS TO PROPERTY

Verification of pleadings and claims to property, as required by the rules, shall be by the parties, or one of them,

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1 and, if a corporate party, by an officer, or by the attorney
2 for said party or corporation. If the personal oath or the
3 solemn affirmation of a party be demanded, the Court may on
4 good cause require the same and stay the proceedings a
5 reasonable time for the securing thereof.

6 LAR 110

7 PROCESS GENERALLY

8 (a) Instructions to Issue. A party who files a pleading
9 and requires process to be issued by the Clerk shall also
10 state, on the form furnished by the Clerk for such purpose,
11 that party's instructions to the Marshal specifying the process
12 to be issued.

13 (b) Process Held in Abeyance. If a party files a
14 pleading seeking relief in rem or quasi in rem, which would
15 require the Clerk to issue process, and the party does not wish
16 the process to be issued at that time, the party shall request,
17 on the form referred to in (a), that issuance of process be
18 held in abeyance.

19 (c) Intangible Property.

20 (1) Issuance and effect of summons. The summons
21 issued pursuant to Supplemental Rule C(3) shall direct the
22 person having control of the funds or other intangible property
23 to show cause, no later than 10 days after service, why the
24 funds or other property should not be delivered to the Court
25 to abide the judgment. The Court for good cause shown by
26 plaintiff may shorten the time to a period of less than 10
27 days. Service of the summons has the effect of an arrest of
28 the property and brings it within the control of the Court.

29 (2) Payment to Marshal. The person who is served
30 may deliver or pay over to the Marshal the property or funds
31 proceeded against or a part thereof sufficient to satisfy

1 plaintiff's claim. If such payment is made, the person served
2 is excused from any duty to show cause.

3 (3) Manner of showing good cause. The claimant of
4 the property may show cause why the property should not be
5 delivered to the court by serving and filing a claim as
6 provided in Supplemental Rule C(6), within the time allowed
7 to show cause, and serving and filing an answer to the
8 complaint within 20 days thereafter.

9 (4) Effect of failure to show cause. If a claim
10 is not filed within the time stated in the summons, or an
11 answer is not filed within the time allowed under this rule,
12 the person who was served shall deliver or pay over to the
13 marshal the property or funds proceeded against or a part
14 thereof sufficient to satisfy plaintiff's claim.

15 (d) Marshal's Return. The person executing process shall
16 file proof of service with the Clerk, and the Marshal shall
17 mail a copy of the return to the attorney at whose request the
18 execution was effected.

19 (e) Seizure of Property Already in Custody of an Officer
20 of the United States. Where property in the custody of an
21 officer or employee of the United States is to be arrested or
22 attached, the Marshal shall deliver a copy of the complaint and
23 warrant for arrest or summons and process of attachment to such
24 officer or employee or, if the officer or employee is not found
25 within the district, then to the custodian of the property
26 within the district. The Marshal shall notify such officer,
27 employee or custodian not to relinquish such property from
28 custody until ordered to do so by the Court.

29 LAR 115

30 PROCESS FOR ATTACHMENT AND GARNISHMENT

31 (a) Verification of complaint. The affidavit verifying
32 ORDER - 3

1 a complaint which includes a prayer for process under Supple-
2 mental Rule B, if made by a person who does not have personal
3 knowledge of the facts alleged as grounds for plaintiff's
4 claim, shall state the circumstances making it necessary for
5 that person to make the verification and shall also state the
6 sources of that person's information.

7 (b) Affidavit showing defendant's absence. The affidavit
8 required by Supplemental Rule B, accompanying the complaint,
9 shall state with particularity the efforts made to locate the
10 defendant in the district.

11 (c) Order authorizing Clerk to issue process. Before
12 the Clerk will issue a summons and process of attachment and
13 garnishment under Supplemental Rule B, the complaint and
14 accompanying affidavit must be reviewed by a judge. If the
15 judge finds that probable cause has been shown, the judge will
16 sign an order authorizing the clerk to issue process. Alias
17 process may thereafter be issued by the Clerk upon application
18 without further order of the Court.

19 (d) Hearing. Whenever property is attached, any person
20 claiming an interest in the property shall be entitled to a
21 hearing before a judge on not less than 3 days written notice
22 to plaintiff. The person claiming the interest shall be
23 entitled to an order vacating the attachment forthwith and
24 granting other appropriate relief unless plaintiff shows cause
25 at the hearing why such an order should not be granted.

26 LAR 120

27 SECURITY FOR COSTS AND MARSHAL'S FEES

28 (a) Costs Generally. In an action governed by Supple-
29 mental Rule E, a party may serve upon an adverse party and file
30 a demand for security for costs. Unless otherwise ordered by
31 the Court, the amount thereof shall be \$500. The party noti-

32 ORDER - 4

1 filed shall post security within 5 days after service. A party
2 who fails to post security when demanded may not participate
3 further in the proceedings, except for the purpose of seeking
4 relief from this rule.

5 (b) Costs in Action for Limitation of Liability. The
6 amount of the security for costs required by Supplemental Rule
7 F(1) is \$500. Unless otherwise ordered by the Court, the
8 security for costs may be combined with the security for value
9 and interest.

10 (c) Marshal's Fees

11 (1) Deposit required before seizure. A party who
12 seeks arrest or attachment of property in an action governed
13 by Supplemental Rule E shall deposit a sum with the Marshal
14 sufficient to cover the Marshal's estimated fees and expenses
15 of seizing and keeping the property for at least 10 days.
16 The Marshal is not required to execute process until the
17 deposit is made.

18 (2) Additional deposit required after seizure. A
19 party who has caused the Marshal to arrest or attach property
20 shall advance additional sums from time to time as requested,
21 to cover the Marshal's estimated fees and expenses until the
22 property is released or disposed of as provided in Supplemental
23 Rule E. Any party who fails to make an advance when demanded
24 may not participate further in the proceedings, except for the
25 purpose of seeking relief from this rule.

26 (b) Judicial relief. A party may apply to the Court for
27 an order increasing the amount of security for costs. The
28 Marshal shall notify the court if a party fails to advance sums
29 as requested, after property has been seized, and may apply to
30 the Court for directions if a question arises concerning the
31 obligation of a party to advance moneys required under this rule.

1 A party may also apply to the Court for an order relieving
2 that party from the requirement to (1) give security for costs,
3 or (2) make a deposit before seizure, or (3) make an additional
4 deposit. An application to the Court for relief under this
5 rule shall be made by motion with notice to the Marshal and the
6 other parties who have appeared. The motion may be heard
7 summarily.

8 LAR 125

9 PUBLICATION OF NOTICE OF ACTION AND ARREST

10 The notice required by Supplemental Rule C(4) shall be
11 published once, in accordance with Rule 150. The notice shall
12 contain the following:

- 13 (a) Title and number of the action;
14 (b) Date of the arrest;
15 (c) Identity of the property arrested;
16 (d) Name and address of the attorney for plaintiff;
17 (e) A statement that claims of persons entitled to
18 possession pursuant to Supplemental Rule C(6)
19 must be filed with the Clerk and served on the
20 attorney for plaintiff within 10 days after the
21 date of publication; and
22 (f) A statement that answers to the complaint must
23 be filed and served within 20 days after the filing
24 of claims, and that in lieu thereof default may
25 be noted and condemnation ordered.

26 LAR 130

27 DEFAULT IN ACTION IN REM

28 (a) Notica required. A party seeking a default judgment
29 in an action in rem must show to the satisfaction of the Court
30 that due notice of the action and arrest of the property has
31 been given:

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- 1 (1) By publication, as required in Rule 125;
2 (2) By service, on the master or other person
3 having custody of the property;
4 (3) By delivery, to every other person who has
5 not appeared in the action and is known
6 to have an interest in the property.

7 The party seeking a default judgment may be excused, however,
8 for failing to give notice to such "other person" upon a
9 showing to the satisfaction of the Court that diligent effort
10 was made to give the notice, without success.

11 (b) Persons with Recorded Interests. (1) If the
12 defendant property is a vessel documented under the laws of
13 the United States, plaintiff must obtain a current certificate
14 of ownership from the Coast Guard and give notice to the
15 persons named therein who appear to have an interest. (2) If
16 the defendant property is a vessel numbered as provided in the
17 Federal Boat Safety Act, plaintiff must obtain information
18 from the issuing authority and give notice to the persons
19 named in the records of such authority who appear to have an
20 interest.

21 (c) Manner of Giving Notice. A required notice, other
22 than by publication, of the action and arrest of the property
23 shall be given by delivering a copy of the complaint and
24 warrant of arrest. The delivery may be made by personal
25 service or, where such personal service has been excused, by
26 certified mail with return receipt requested.

27 (d) Motion for Default Judgment. Upon a showing that
28 no one has appeared to claim the property and give security
29 and that due notice of the action and arrest of property
30 has been given, plaintiff may move for judgment at any time
31 after the time for answer has expired. If no one has appeared

1 plaintiff may have an ex parte hearing and judgment without
2 notice. If any person has appeared and does not join in the
3 motion for judgment, such person shall be given 5 days notice
4 of the motion.

5 LAR 135

6 CUSTODY OF PROPERTY

7 (a) Safe Keeping of Property When Seized. When a
8 vessel or cargo is seized the Marshal shall take custody and
9 arrange for adequate and safe moorage and necessary security
10 for the safe keeping of the vessel, which may include in the
11 Marshal's discretion the placing of keepers on the vessel, or
12 the appointment of a shipyard, terminal, yacht club, marina,
13 or similar facility as custodian of the vessel for the Marshal.

14 (b) Petition for Change in Arrangements. After a
15 vessel or cargo has been taken into custody by the Marshal,
16 any party then appearing may petition the Court to dispense
17 with keepers, or to remove to or place the vessel or cargo at
18 a specified shipyard, terminal, yacht club, marina or similar
19 facility, to designate a substitute custodian for the vessel
20 or cargo, or for similar relief. Notice of the petition shall
21 be given to the Marshal and to counsel for all parties who
22 have appeared. The petition may be brought on for summary
23 hearing, at which time the Court will determine whether such
24 a facility or substitute custodian is capable of and will
25 safely keep the vessel or cargo. The order entered by the
26 Court after hearing the petition may fix reasonable towage,
27 storage, moorage and any other authorized fee or charge
28 incurred by or through the Marshal in arranging for keepers,
29 for shifting or movement of the vessel or cargo, or for a
30 substitute custodian. The order may also provide for the
31 deposit in advance with the Marshal by the party seeking such
32 order of funds enabling payment of any such charges when and

1 as incurred.

2 (c) Insurance. The Marshal may order insurance to
3 protect the Marshal, his deputies, keepers, and custodians
4 from liability assumed in seizing a vessel or cargo and
5 performing whatever services are undertaken to protect the
6 vessel or cargo and maintain the Court's custody. The party
7 applying for seizure of the vessel shall reimburse the Marshal
8 for premiums paid to effect the insurance. The party applying
9 for removal of the vessel to another location, designation of
10 a substitute custodian, or other relief which will require an
11 additional insurance premium shall reimburse the Marshal
12 therefor. The premiums charged for the liability insurance
13 are taxable as costs.

14 (d) Claim by Supplier for Payment of Charges. A person
15 who furnishes services or supplies to a vessel or cargo in
16 custody, and has not been paid, and claims the right to
17 payment as an expense of administration, should submit an
18 invoice to the Marshal without delay. The Marshal may decline
19 to pay an invoice unless it is ordered paid by the Court. The
20 supplier has a right to submit the invoice to the Court for
21 approval, in the form of a verified claim, at any time before
22 the vessel is released. The supplier must serve copies of
23 the claim on the Marshal and the attorneys for all parties
24 appearing in the action. The Court may decline to consider
25 the claim until a hearing is conducted to decide other claims
26 against the property.

27 LAR 140

28 RELEASE OF PROPERTY

29 (a) Appraisal. An order for appraisal of property so
30 that security can be given will be entered by the Clerk at
31 the request of any interested party. If the parties do not

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1 agree in writing upon an appraiser, the Court will appoint
2 the appraiser. The appraiser shall be sworn to the faithful
3 and impartial discharge of the appraiser's duties before any
4 federal or state officer authorized by law to administer
5 oaths. The appraiser shall give one day's notice of the time
6 and place of making the appraisal to the attorneys who have
7 appeared in the action. The appraiser shall file the
8 appraisal with the Clerk as soon as it is made.

9 (b) Proof that fees have been paid. Before any vessel
10 or other property is released by the Marshal the party seeking
11 dismissal of the action or release of the property before sale
12 shall obtain an endorsement by the Marshal on the paper being
13 presented to the Clerk or the judge showing that all expenses
14 and fees due the Marshal have been paid or provided for.

15 LAR 145

16 SALE OF PROPERTY

17 (a) Notice. Unless otherwise ordered as provided by
18 law, notice of sale of property in an action in rem shall be
19 published daily, in accordance with Rule 150, for a period of
20 6 days prior to the day of sale.

21 (b) Payment of bid. The person whose bid is accepted
22 shall immediately pay the Marshal the full purchase price, if
23 the bid is no more than \$500, or a deposit of at least \$500,
24 or 10% of the bid, whichever sum is greater, if the bid
25 exceeds \$500. The bidder shall pay the balance of the
26 purchase price within 3 days thereafter, excluding Saturdays,
27 Sundays, and holidays. If an objection to the sale is filed
28 within that time, the bidder is excused from paying the
29 balance of the purchase price until the sale is confirmed, and
30 for a period of 3 days thereafter. Payments to the Marshal
31 shall be made in cash, or by certified check or cashier's

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1 check. The Court may specify different terms in any order
2 of sale.

3 (c) Penalty for failing to pay balance of bid.

4 (1) Late payment. A successful bidder who fails
5 to pay the balance of the bid within the time allowed under
6 these rules, or a different time specified in an order by the
7 Court, shall also pay the Marshal the cost of keeping the
8 property, from the date payment of the balance was due to the
9 date the bidder takes delivery of the property. The Marshal
10 may refuse to release the property until this additional
11 charge is paid.

12 (2) Default. A person who fails to pay the balance
13 of a bid within the time allowed is deemed to be in default,
14 and the Court may at any time thereafter order a sale to the
15 second highest bidder, or order a new sale, as seems
16 appropriate. Any sum deposited by the bidder in default shall
17 be forfeited and applied to pay any additional costs incurred
18 by the Marshal by reason of the forfeiture and default,
19 including costs incident to a resale. The balance of the
20 deposit, if any, shall be retained in the registry subject
21 to further order of the Court.

22 (d) Accounting by Marshal. At the conclusion of the
23 sale the Marshal shall forthwith file a written report to the
24 Court of the fact of sale, the date thereof, the price obtained,
25 and the name and address of the buyer.

26 (e) Confirmation.

27 (1) Without order of Court. A sale shall stand
28 confirmed as of course, without any affirmative action by the
29 Court, unless (a) a written objection is filed within the
30 time allowed under these rules, or (b) the purchaser is in
31 default for failing to pay the balance due the Marshal.

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1 (2) On motion. If an objection has been filed, or
2 if the successful bidder is in default, the Marshal, the
3 objector, the successful bidder, or a party may move the Court
4 for relief. The motion will be heard summarily. The person
5 seeking a hearing shall apply to the Court for an order fixing
6 the date of the hearing and directing the manner of giving
7 notice, and shall give written notice of the motion to the
8 Marshal and all persons who have an interest. The Court may
9 confirm the sale, order a new sale, or grant such other
10 relief as justice requires.

11 (f) Objection to Sale.

12 (1) Manner and time for objecting. A person may
13 object to the sale by filing a written objection with the
14 Clerk and depositing a sum with the Marshal which will pay
15 the expense of keeping the property for at least 10 days.
16 Payment to the Marshal shall be made in cash, or by certified
17 check or cashier's check. The objector must give written
18 notice of the objection to the successful bidder and the
19 parties to the action. The written objection must be endorsed
20 by the Marshal with an acknowledgment of receipt of the
21 deposit prior to filing. The objection must be filed within
22 3 days after the sale, excluding Saturdays, Sundays, and
23 holidays.

24 (2) Disposition of deposits. (a) If the objection
25 is sustained, sums deposited by the successful bidder will be
26 returned to the bidder forthwith. The sum deposited by the
27 objector will be applied to pay the fees and expenses
28 incurred by the Marshal in keeping the property until it is
29 resold, and any balance remaining will be returned to the
30 objector without delay. The objector will be reimbursed for
31 the expense of keeping the property from the proceeds of a

1 subsequent sale. (b) If the objection is overruled, the sum
2 deposited by the objector will be applied to pay the expense of
3 keeping the property from the day the objection was filed until
4 the day sale is confirmed, and any balance remaining will be
5 returned to the objector forthwith.

6 (g) Title to property sold. Failure of a party to give
7 required notice of the action and arrest of the vessel, or
8 required notice of the sale, may afford grounds for objecting
9 to the sale, but does not affect the title of the purchaser of
10 the property.

11 LAR 150

12 PUBLICATION OF NOTICES

13 Every notice required to be published in a newspaper, by
14 any statute of the United States or any rule applying to
15 admiralty and maritime proceedings, including these rules,
16 shall be published in the Seattle Daily Journal of Commerce
17 unless the Court directs otherwise.

18 LAR 155

19 RATE OF PREJUDGMENT INTEREST ALLOWED

20 Unless the Court directs otherwise, an award of prejudg-
21 ment interest shall be computed at the same rate authorized in
22 28 U.S.C. §1961, providing for interest on judgments.

23 These rules shall be effective September 1, 1979.

24 Walter T. McGovern
Walter T. McGovern, Chief Judge
United States District Court

25 Morell E. Sharp
Morell E. Sharp, Judge
United States District Court

26 Donald S. Voorhees
Donald S. Voorhees, Judge
United States District Court

27 Jack E. Tanner
Jack E. Tanner, Judge
United States District Court