

diction and to conduct any or all proceedings in this case including a jury or nonjury trial, and entry of a final judgment. Exercise of this jurisdiction by a magistrate judge is, however, permitted only if all parties voluntarily consent.

You may, without adverse substantive consequences, withhold your consent, but this will prevent the court's jurisdiction from being exercised by a magistrate judge. If any party withholds consent, the identity of the parties consenting or withholding consent will not be communicated to any magistrate judge or to the district judge to whom the case has been assigned.

An appeal from a judgment entered by a magistrate judge may be taken directly to the United States court of appeals for this judicial circuit in the same manner as an appeal from any other judgment of a district court.

Copies of the Form for the "Consent to Jurisdiction by a United States Magistrate Judge" are available from the clerk of the court.

(As added Apr. 28, 1983, eff. Aug. 1, 1983; amended Apr. 22, 1993, eff. Dec. 1, 1993; Apr. 11, 1997, eff. Dec. 1, 1997.)

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

This form, together with Form 34, is revised in light of the Judicial Improvements Act of 1990. Section 308 modified 28 U.S.C. §636(c)(2) to enhance the potential of parties consenting to trial before a magistrate judge. While the exercise of jurisdiction by a magistrate judge remains dependent on the voluntary consent of the parties, the statute provides that the parties should be advised, and may be reminded, of the availability of this option and eliminates the proscription against judicial suggestions of the potential benefits of referral provided the parties are also advised that they "are free to withhold consent without adverse substantive consequences." The parties may be advised if the withholding of consent will result in a potential delay in trial.

Form 34. Consent to Exercise of Jurisdiction by a United States Magistrate Judge

UNITED STATES DISTRICT COURT DISTRICT OF \_\_\_\_\_

Plaintiff, vs. Defendant. } Docket No. \_\_\_\_\_

CONSENT TO JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of Title 28, U.S.C. §636(c), the undersigned party or parties to the above-captioned civil matter hereby voluntarily consent to have a United States magistrate judge conduct any and all further proceedings in the case, including trial, and order the entry of a final judgment.

Date Signature

Note: Return this form to the Clerk of the Court if you consent to jurisdiction by a magistrate judge. Do not send a copy of this form to any district judge or magistrate judge.

(As added Apr. 28, 1983, eff. Aug. 1, 1983; amended Apr. 22, 1993, eff. Dec. 1, 1993; Apr. 11, 1997, eff. Dec. 1, 1997.)

Form 34A. Order of Reference

UNITED STATES DISTRICT COURT DISTRICT OF \_\_\_\_\_

Plaintiff, vs. Defendant. } Docket No. \_\_\_\_\_

ORDER OF REFERENCE

IT IS HEREBY ORDERED that the above-captioned matter be referred to United States Magistrate Judge \_\_\_\_\_ for all further proceedings and entry of judgment in accordance with Title 28, U.S.C. §636(c) and the consent of the parties.

U.S. District Judge

(As added Apr. 22, 1993, eff. Dec. 1, 1993.)

Form 35. Report of Parties' Planning Meeting

[Caption and Names of Parties]

1. Pursuant to Fed. R. Civ. P. 26(f), a meeting was held on \_\_\_\_\_ (date) at \_\_\_\_\_ (place) and was attended by: \_\_\_\_\_ (name) for plaintiff(s); \_\_\_\_\_ (name) for defendant(s); \_\_\_\_\_ (party name) for defendant(s); \_\_\_\_\_ (name) for defendant(s); \_\_\_\_\_ (party name)

2. Pre-Discovery Disclosures. The parties [have exchanged] [will exchange by \_\_\_\_\_ (date)] the information required by [Fed. R. Civ. P. 26(a)(1)] [local rule \_\_\_\_\_].

3. Discovery Plan. The parties jointly propose to the court the following discovery plan: [Use separate paragraphs or subparagraphs as necessary if parties disagree.]

Discovery will be needed on the following subjects: \_\_\_\_\_ (brief description of subjects on which discovery will be needed)

All discovery commenced in time to be completed by \_\_\_\_\_ (date). [Discovery on \_\_\_\_\_ (issue for early discovery) to be completed by \_\_\_\_\_ (date).]

Maximum of \_\_\_\_\_ interrogatories by each party to any other party. [Responses due \_\_\_\_\_ days after service.]

Maximum of \_\_\_\_\_ requests for admission by each party to any other party. [Responses due \_\_\_\_\_ days after service.]

Maximum of \_\_\_\_\_ depositions by plaintiff(s) and \_\_\_\_\_ by defendant(s).

Each deposition [other than of \_\_\_\_\_] limited to maximum of \_\_\_\_\_ hours unless extended by agreement of parties.

Reports from retained experts under Rule 26(a)(2) due:

from plaintiff(s) by \_\_\_\_\_ (date) from defendant(s) by \_\_\_\_\_ (date)

Supplementations under Rule 26(e) due \_\_\_\_\_ (time(s) or interval(s))

4. Other Items. [Use separate paragraphs or subparagraphs as necessary if parties disagree.]

The parties [request] [do not request] a conference with the court before entry of the scheduling order.

The parties request a pretrial conference in \_\_\_\_\_ (month and year)

Plaintiff(s) should be allowed until \_\_\_\_\_ (date) \_\_\_\_\_ to join additional parties and until \_\_\_\_\_ (date) \_\_\_\_\_ to amend the pleadings.

Defendant(s) should be allowed until \_\_\_\_\_ (date) \_\_\_\_\_ to join additional parties and until \_\_\_\_\_ (date) \_\_\_\_\_ to amend the pleadings.

All potentially dispositive motions should be filed by \_\_\_\_\_ (date) \_\_\_\_\_.

Settlement [is likely] [is unlikely] [cannot be evaluated prior to \_\_\_\_\_ (date) \_\_\_\_\_] [may be enhanced by use of the following alternative dispute resolution procedure: \_\_\_\_\_].

Final lists of witnesses and exhibits under Rule 26(a)(3) should be due

from plaintiff(s) by \_\_\_\_\_ (date) \_\_\_\_\_  
from defendant(s) by \_\_\_\_\_ (date) \_\_\_\_\_

Parties should have \_\_\_\_\_ days after service of final lists of witnesses and exhibits to list objections under Rule 26(a)(3).

The case should be ready for trial by \_\_\_\_\_ (date) \_\_\_\_\_ [and at this time is expected to take approximately \_\_\_\_\_ (length of time) \_\_\_\_\_].

[Other matters.]  
Date: \_\_\_\_\_

(As added Apr. 22, 1993, eff. Dec. 1, 1993.)

NOTES OF ADVISORY COMMITTEE ON RULES—1993  
AMENDMENT

This form illustrates the type of report the parties are expected to submit to the court under revised Rule 26(f) and may be useful as a checklist of items to be discussed at the meeting.

SUPPLEMENTAL RULES FOR CERTAIN  
ADMIRALTY AND MARITIME CLAIMS

NOTES OF ADVISORY COMMITTEE ON RULES

The amendments to the Federal Rules of Civil Procedure to unify the civil and admiralty procedure, together with the Supplemental Rules for Certain Admiralty and Maritime Claims, completely superseded the Admiralty Rules, effective July 1, 1966. Accordingly, the latter were rescinded.

NOTES OF ADVISORY COMMITTEE ON RULES—1985  
AMENDMENT

Since their promulgation in 1966, the Supplemental Rules for Certain Admiralty and Maritime Claims have preserved the special procedures of arrest and attachment unique to admiralty law. In recent years, however, these Rules have been challenged as violating the principles of procedural due process enunciated in the United States Supreme Court's decision in *Sniadach v. Family Finance Corp.*, 395 U.S. 337 (1969), and later developed in *Fuentes v. Shevin*, 407 U.S. 67 (1972); *Mitchell v. W. T. Grant Co.*, 416 U.S. 600 (1974); and *North Georgia Finishing, Inc. v. Di-Chem, Inc.*, 419 U.S. 601 (1975). These Supreme Court decisions provide five basic criteria for a constitutional seizure of property: (1) effective notice to persons having interests in the property seized, (2) judicial review prior to attachment, (3) avoidance of conclusory allegations in the complaint, (4) security posted by the plaintiff to protect the owner of the property under attachment, and (5) a meaningful and timely hearing after attachment.

Several commentators have found the Supplemental Rules lacking on some or all five grounds. *E.g.*, Batiza & Partridge, *The Constitutional Challenge to Maritime Seizures*, 26 Loy. L. Rev. 203 (1980); Morse, *The Conflict Between the Supreme Court Admiralty Rules and*

*Sniadach-Fuentes: A Collision Course?*, 3 Fla. St. U.L. Rev. 1 (1975). The federal courts have varied in their disposition of challenges to the Supplemental Rules. The Fourth and Fifth Circuits have affirmed the constitutionality of Rule C. *Amstar Corp. v. S/S Alexandros T.*, 664 F.2d 904 (4th Cir. 1981); *Merchants National Bank of Mobile v. The Dredge General G. L. Gillespie*, 663 F.2d 1338 (5th Cir. 1981), *cert. dismissed*, 456 U.S. 966 (1982). However, a district court in the Ninth Circuit found Rule C unconstitutional. *Alyeska Pipeline Service Co. v. The Vessel Bay Ridge*, 509 F. Supp. 1115 (D. Alaska 1981), *appeal dismissed*, 703 F.2d 381 (9th Cir. 1983). Rule B(1) has received similar inconsistent treatment. The Ninth and Eleventh Circuits have upheld its constitutionality. *Polar Shipping, Ltd. v. Oriental Shipping Corp.*, 680 F.2d 627 (9th Cir. 1982); *Schiffahrtsgesellschaft Leonhardt & Co. v. A. Bottacchi S. A. de Navegacion*, 732 F.2d 1543 (11th Cir. 1984). On the other hand, a Washington district court has found it to be constitutionally deficient. *Grand Bahama Petroleum Co. v. Canadian Transportation Agencies, Ltd.*, 450 F. Supp. 447 (W.D. Wash. 1978). The constitutionality of both rules was questioned in *Techem Chem Co. v. M/T Choyo Maru*, 416 F. Supp. 960 (D. Md. 1976). Thus, there is uncertainty as to whether the current rules prescribe constitutionally sound procedures for guidance of courts and counsel. See generally Note, *Due Process in Admiralty Arrest and Attachment*, 56 Tex. L. Rev. 1091 (1978).

Due to the controversy and uncertainty that have surrounded the Supplemental Rules, local admiralty bars and the Maritime Law Association of the United States have sought to strengthen the constitutionality of maritime arrest and attachment by encouraging promulgation of local admiralty rules providing for prompt post-seizure hearings. Some districts also adopted rules calling for judicial scrutiny of applications for arrest or attachment. Nonetheless, the result has been a lack of uniformity and continued concern over the constitutionality of the existing practice. The amendments that follow are intended to provide rules that meet the requirements prescribed by the Supreme Court and to develop uniformity in the admiralty practice.

**Rule A. Scope of Rules**

These Supplemental Rules apply to the procedure in admiralty and maritime claims within the meaning of Rule 9(h) with respect to the following remedies:

- (1) Maritime attachment and garnishment;
- (2) Actions in rem;
- (3) Possessory, petitory, and partition actions;
- (4) Actions for exoneration from or limitation of liability.

These rules also apply to the procedure in statutory condemnation proceedings analogous to maritime actions in rem, whether within the admiralty and maritime jurisdiction or not. Except as otherwise provided, references in these Supplemental Rules to actions in rem include such analogous statutory condemnation proceedings.

The general Rules of Civil Procedure for the United States District Courts are also applicable to the foregoing proceedings except to the extent that they are inconsistent with these Supplemental Rules.

(As added Feb. 28, 1966, eff. July 1, 1966.)

NOTES OF ADVISORY COMMITTEE ON RULES

Certain distinctively maritime remedies must be preserved in unified rules. The commencement of an action by attachment or garnishment has heretofore been practically unknown in federal jurisprudence except in