

APPENDIX OF FORMS

(As added April 30, 2007, effective December 1, 2007.)

(See Rule 84.)

EXCERPTS FROM THE REPORT OF THE JUDICIAL CONFERENCE—COMMITTEE ON RULES OF PRACTICE AND PROCEDURE—SEPTEMBER 2006

The Illustrative Forms

The advisory committee submitted proposed revisions to Illustrative Forms 1 through 35 (to become Forms 1 through 82) contained in the Appendix of Forms to the Federal Rules of Civil Procedure with a recommendation that they be approved and transmitted to the Judicial Conference. * * *

The Illustrative Forms have not been revised or updated in many years. The advisory committee applied the same style conventions and principles to the forms as was used with the restyled rules. It declined to make changes to the substance of the forms, consistent with its style-project policy, even though some of the forms

represent approaches to pleading and other submissions that may not be consistent with current practices. For example, the “complaint” forms call for allegations that are far briefer than are commonly found in cases filed in the district courts. Similarly, the advisory committee did not change the choice of examples in the forms; the “negligence complaint” form continues to use the example of an automobile striking a pedestrian.

The forms have been reorganized and grouped by subject area. The revised forms place “special” forms as Forms 1–9; “complaint” forms as Forms 10–21,[] “answer” forms as Forms 31–31 [sic]; “motions” forms as Forms 40–42; “discovery” forms as Forms 50–52; “condemnation” forms as Forms 60–61; “judgment” forms as Forms 70–71; and forms for “assignment to magistrate judges” as Forms 80–82.

The pleading dates in the forms were eliminated and a uniform blank date was substituted. Explanatory Notes were also eliminated, because the forms are intended to stand on their own as simple and brief illustrations.

APPENDIX OF FORMS

Form 1. Caption. (*Use on every summons, complaint, answer, motion, or other document.*)

| | | |
|---|---|-------------------------------|
| United States District Court for the _____ District of _____ | | |
| A B, Plaintiff |) | |
| |) | |
| v. |) | |
| |) | Civil Action No. _____ |
| C D, Defendant |) | |
| |) | |
| v. |) | |
| |) | |
| E F, Third-Party Defendant |) | |
| <i>(Use if needed.)</i> |) | |

(Name of Document)

Form 2. Date, Signature, Address, E-mail Address, and Telephone Number.
(Use at the conclusion of pleadings and other papers that require a signature.)

Date _____

 (Signature of the attorney
 or unrepresented party)

 (Printed name)

 (Address)

 (E-mail address)

 (Telephone number)

Form 3. Summons.

(Caption – See Form 1.)

To name the defendant:

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, _____, whose address is _____. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date _____

Clerk of Court

(Court Seal)

(Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States allowed 60 days by Rule 12(a)(3).)

(As amended Mar. 26, 2009, eff. Dec. 1, 2009.)

Form 4. Summons on a Third-Party Complaint.

(Caption – See Form 1.)

To name the third-party defendant:

A lawsuit has been filed against defendant _____, who as third-party plaintiff is making this claim against you to pay part or all of what [he] may owe to the plaintiff _____.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff and on the defendant an answer to the attached third-party complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the defendant's attorney, _____, whose address is, _____, and also on the plaintiff's attorney, _____, whose address is, _____. If you fail to do so, judgment by default will be entered against you for the relief demanded in the third-party complaint. You also must file the answer or motion with the court and serve it on any other parties.

A copy of the plaintiff's complaint is also attached. You may – but are not required to – respond to it.

Date _____

Clerk of Court

(Court Seal)

(As amended Mar. 26, 2009, eff. Dec. 1, 2009.)

Form 5. Notice of a Lawsuit and Request to Waive Service of a Summons.

(Caption – See Form 1.)

To (name the defendant – or if the defendant is a corporation, partnership, or association name an officer or agent authorized to receive service):

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within (give at least 30 days or at least 60 days if the defendant is outside any judicial district of the United States) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

(Date and sign – See Form 2.)

Form 6. Waiver of the Service of Summons.

(Caption – See Form 1.)

To name the plaintiff's attorney or the unrepresented plaintiff.

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from _____, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

(Date and sign – See Form 2.)

(Attach the following to Form 6.)

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

Form 7. Statement of Jurisdiction.

- a. (For *diversity-of-citizenship jurisdiction*.) The plaintiff is [a citizen of Michigan] [a corporation incorporated under the laws of Michigan with its principal place of business in Michigan]. The defendant is [a citizen of New York] [a corporation incorporated under the laws of New York with its principal place of business in New York]. The amount in controversy, without interest and costs, exceeds the sum or value specified by 28 U.S.C. § 1332.
- b. (For *federal-question jurisdiction*.) This action arises under [the United States Constitution, specify the article or amendment and the section] [a United States treaty specify] [a federal statute, ___ U.S.C. § ____].
- c. (For *a claim in the admiralty or maritime jurisdiction*.) This is a case of admiralty or maritime jurisdiction. (To invoke admiralty status under Rule 9(h) use the following: This is an admiralty or maritime claim within the meaning of Rule 9(h).)

Form 8. Statement of Reasons for Omitting a Party.

(If a person who ought to be made a party under Rule 19(a) is not named, include this statement in accordance with Rule 19(c).)

This complaint does not join as a party name who [is not subject to this court's personal jurisdiction] [cannot be made a party without depriving this court of subject-matter jurisdiction] because state the reason.

Form 9. Statement Noting a Party's Death.

(Caption – See Form 1.)

In accordance with Rule 25(a) name the person, who is [a party to this action] [a representative of or successor to the deceased party] notes the death during the pendency of this action of name, [describe as party in this action].

(Date and sign – See Form 2.)

Form 10. Complaint to Recover a Sum Certain.

(Caption – See Form 1.)

1. (Statement of Jurisdiction – See Form 7.)

(Use one or more of the following as appropriate and include a demand for judgment.)

(a) *On a Promissory Note*

2. On date, the defendant executed and delivered a note promising to pay the plaintiff on date the sum of \$ _____ with interest at the rate of __ percent. A copy of the note [is attached as Exhibit A] [is summarized as follows: _____].
3. The defendant has not paid the amount owed.

(b) *On an Account*

2. The defendant owes the plaintiff \$ _____ according to the account set out in Exhibit A.

(c) *For Goods Sold and Delivered*

2. The defendant owes the plaintiff \$ _____ for goods sold and delivered by the plaintiff to the defendant from date to date.

(d) *For Money Lent*

2. The defendant owes the plaintiff \$ _____ for money lent by the plaintiff to the defendant on date.

(e) *For Money Paid by Mistake*

2. The defendant owes the plaintiff \$ _____ for money paid by mistake to the defendant on date under these circumstances: describe with particularity in accordance with Rule 9(b).

(f) *For Money Had and Received*

2. The defendant owes the plaintiff \$ _____ for money that was received from name on date to be paid by the defendant to the plaintiff.

Demand for Judgment

Therefore, the plaintiff demands judgment against the defendant for \$ _____, plus interest and costs.

(Date and sign – See Form 2.)

Form 11. Complaint for Negligence.

(Caption – See Form 1.)

1. (Statement of Jurisdiction – See Form 7.)
2. On date, at place, the defendant negligently drove a motor vehicle against the plaintiff.
3. As a result, the plaintiff was physically injured, lost wages or income, suffered physical and mental pain, and incurred medical expenses of \$_____.

Therefore, the plaintiff demands judgment against the defendant for \$ _____, plus costs.

(Date and sign – See Form 2.)

Form 12. Complaint for Negligence When the Plaintiff Does Not Know Who Is Responsible.

(Caption – See Form 1.)

1. (Statement of Jurisdiction – See Form 7.)
2. On date, at place, defendant name or defendant name or both of them willfully or recklessly or negligently drove, or caused to be driven, a motor vehicle against the plaintiff.
3. As a result, the plaintiff was physically injured, lost wages or income, suffered mental and physical pain, and incurred medical expenses of \$_____.

Therefore, the plaintiff demands judgment against one or both defendants for \$ _____, plus costs.

(Date and sign – See Form 2.)

Form 13. Complaint for Negligence Under the Federal Employers' Liability Act.

(Caption – See Form 1.)

1. (Statement of Jurisdiction – See Form 7.)
2. At the times below, the defendant owned and operated in interstate commerce a railroad line that passed through a tunnel located at _____.
3. On date, the plaintiff was working to repair and enlarge the tunnel to make it convenient and safe for use in interstate commerce.
4. During this work, the defendant, as the employer, negligently put the plaintiff to work in a section of the tunnel that the defendant had left unprotected and unsupported.
5. The defendant's negligence caused the plaintiff to be injured by a rock that fell from an unsupported portion of the tunnel.
6. As a result, the plaintiff was physically injured, lost wages or income, suffered mental and physical pain, and incurred medical expenses of \$_____.

Therefore, the plaintiff demands judgment against the defendant for \$ _____, and costs.

(Date and sign – See Form 2.)

Form 14. Complaint for Damages Under the Merchant Marine Act.

(Caption – See Form 1.)

1. (Statement of Jurisdiction – See Form 7.)
2. At the times below, the defendant owned and operated the vessel name and used it to transport cargo for hire by water in interstate and foreign commerce.
3. On date, at place, the defendant hired the plaintiff under seamen's articles of customary form for a voyage from _____ to _____ and return at a wage of \$ _____ a month and found, which is equal to a shore worker's wage of \$ _____ a month.
4. On date, the vessel was at sea on the return voyage. *(Describe the weather and the condition of the vessel.)*
5. *(Describe as in Form 11 the defendant's negligent conduct.)*
6. As a result of the defendant's negligent conduct and the unseaworthiness of the vessel, the plaintiff was physically injured, has been incapable of any gainful activity, suffered mental and physical pain, and has incurred medical expenses of \$ _____.

Therefore, the plaintiff demands judgment against the defendant for \$ _____, plus costs.

(Date and sign — See Form 2.)

Form 15. Complaint for the Conversion of Property.

(Caption — See Form 1.)

1. (Statement of Jurisdiction — See Form 7.)
2. On date, at place, the defendant converted to the defendant's own use property owned by the plaintiff. The property converted consists of describe.
3. The property is worth \$_____.

Therefore, the plaintiff demands judgment against the defendant for \$ _____, plus costs.

(Date and sign – See Form 2.)

Form 16. Third-Party Complaint.

(Caption – See Form 1.)

1. Plaintiff name has filed against defendant name a complaint, a copy of which is attached.
2. *(State grounds entitling defendant's name to recover from third-party defendant's name for (all or an identified share) of any judgment for plaintiff's name against defendant's name.)*

Therefore, the defendant demands judgment against third-party defendant's name for all or an identified share of sums that may be adjudged against the defendant in the plaintiff's favor.

(Date and sign – See Form 2.)

Form 17. Complaint for Specific Performance of a Contract to Convey Land.

(Caption – See Form 1.)

1. (Statement of Jurisdiction – See Form 7.)
2. On date, the parties agreed to the contract [attached as Exhibit A][summarize the contract].
3. As agreed, the plaintiff tendered the purchase price and requested a conveyance of the land, but the defendant refused to accept the money or make a conveyance.
4. The plaintiff now offers to pay the purchase price.

Therefore, the plaintiff demands that:

- (a) the defendant be required to specifically perform the agreement and pay damages of \$ _____, plus interest and costs, or
- (b) if specific performance is not ordered, the defendant be required to pay damages of \$ _____, plus interest and costs.

(Date and sign – See Form 2.)

Form 18. Complaint for Patent Infringement.

(Caption – See Form 1.)

1. (Statement of Jurisdiction — See Form 7.)
2. On date, United States Letters Patent No. _____ were issued to the plaintiff for an invention in an electric motor. The plaintiff owned the patent throughout the period of the defendant's infringing acts and still owns the patent.
3. The defendant has infringed and is still infringing the Letters Patent by making, selling, and using electric motors that embody the patented invention, and the defendant will continue to do so unless enjoined by this court.
4. The plaintiff has complied with the statutory requirement of placing a notice of the Letters Patent on all electric motors it manufactures and sells and has given the defendant written notice of the infringement.

Therefore, the plaintiff demands:

- (a) a preliminary and final injunction against the continuing infringement;
- (b) an accounting for damages; and
- (c) interest and costs.

(Date and sign – See Form 2.)

Form 19. Complaint for Copyright Infringement and Unfair Competition.

(Caption – See Form 1.)

1. (Statement of Jurisdiction – See Form 7.)
2. Before date, the plaintiff, a United States citizen, wrote a book entitled_____.
3. The book is an original work that may be copyrighted under United States law. A copy of the book is attached as Exhibit A.
4. Between date and date, the plaintiff applied to the copyright office and received a certificate of registration dated _____ and identified as date, class, number.
5. Since date, the plaintiff has either published or licensed for publication all copies of the book in compliance with the copyright laws and has remained the sole owner of the copyright.
6. After the copyright was issued, the defendant infringed the copyright by publishing and selling a book entitled _____, which was copied largely from the plaintiff's book. A copy of the defendant's book is attached as Exhibit B.
7. The plaintiff has notified the defendant in writing of the infringement.
8. The defendant continues to infringe the copyright by continuing to publish and sell the infringing book in violation of the copyright, and further has engaged in unfair trade practices and unfair competition in connection with its publication and sale of the infringing book, thus causing irreparable damage.

Therefore, the plaintiff demands that:

- (a) until this case is decided the defendant and the defendant's agents be enjoined from disposing of any copies of the defendant's book by sale or otherwise;
- (b) the defendant account for and pay as damages to the plaintiff all profits and advantages gained from unfair trade practices and unfair competition in selling the defendant's book, and all profits and advantages gained from infringing the plaintiff's copyright (but no less than the statutory minimum);
- (c) the defendant deliver for impoundment all copies of the book in the defendant's possession or control and deliver for destruction all infringing copies and all plates, molds, and other materials for making infringing copies;
- (d) the defendant pay the plaintiff interest, costs, and reasonable attorney's fees; and
- (e) the plaintiff be awarded any other just relief.

(Date and sign – See Form 2.)

Form 20. Complaint for Interpleader and Declaratory Relief.

(Caption – See Form 1.)

1. (Statement of Jurisdiction – See Form 7.)
2. On date, the plaintiff issued a life insurance policy on the life of name with name as the named beneficiary.
3. As a condition for keeping the policy in force, the policy required payment of a premium during the first year and then annually.
4. The premium due on date was never paid, and the policy lapsed after that date.
5. On date, after the policy had lapsed, both the insured and the named beneficiary died in an automobile collision.
6. Defendant name claims to be the beneficiary in place of name and has filed a claim to be paid the policy's full amount.
7. The other two defendants are representatives of the deceased persons' estates. Each defendant has filed a claim on behalf of each estate to receive payment of the policy's full amount.
8. If the policy was in force at the time of death, the plaintiff is in doubt about who should be paid.

Therefore, the plaintiff demands that:

- (a) each defendant be restrained from commencing any action against the plaintiff on the policy;
- (b) a judgment be entered that no defendant is entitled to the proceeds of the policy or any part of it, but if the court determines that the policy was in effect at the time of the insured's death, that the defendants be required to interplead and settle among themselves their rights to the proceeds, and that the plaintiff be discharged from all liability except to the defendant determined to be entitled to the proceeds; and
- (c) the plaintiff recover its costs.

(Date and sign – See Form 2.)

**Form 21. Complaint on a Claim for a Debt and to Set Aside a Fraudulent Conveyance
Under Rule 18(b).**

(Caption – See Form 1.)

1. (Statement of Jurisdiction — See Form 7.)
2. On date, defendant name signed a note promising to pay to the plaintiff on date the sum of \$ _____ with interest at the rate of ____ percent. [The pleader may, but need not, attach a copy or plead the note verbatim.]
3. Defendant name owes the plaintiff the amount of the note and interest.
4. On date, defendant name conveyed all defendant's real and personal property if less than all, describe it fully to defendant name for the purpose of defrauding the plaintiff and hindering or delaying the collection of the debt.

Therefore, the plaintiff demands that:

- (a) judgment for \$ _____, plus costs, be entered against defendant(s) name(s); and
- (b) the conveyance to defendant name be declared void and any judgment granted be made a lien on the property.

(Date and sign – See Form 2.)

Form 30. Answer Presenting Defenses Under Rule 12(b).

(Caption – See Form 1.)

Responding to Allegations in the Complaint

1. Defendant admits the allegations in paragraphs _____.
2. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraphs _____.
3. Defendant admits *identify part of the allegation* in paragraph _____ and denies or lacks knowledge or information sufficient to form a belief about the truth of the rest of the paragraph.

Failure to State a Claim

4. The complaint fails to state a claim upon which relief can be granted.

Failure to Join a Required Party

5. If there is a debt, it is owed jointly by the defendant and name who is a citizen of _____. This person can be made a party without depriving this court of jurisdiction over the existing parties.

Affirmative Defense – Statute of Limitations

6. The plaintiff's claim is barred by the statute of limitations because it arose more than ____ years before this action was commenced.

Counterclaim

7. *(Set forth any counterclaim in the same way a claim is pleaded in a complaint. Include a further statement of jurisdiction if needed.)*

Crossclaim

8. *(Set forth a crossclaim against a coparty in the same way a claim is pleaded in a complaint. Include a further statement of jurisdiction if needed.)*

(Date and sign — See Form 2.)

Form 31. Answer to a Complaint for Money Had and Received with a Counterclaim for Interpleader.

(Caption – See Form 1.)

Response to the Allegations in the Complaint
(See Form 30.)

Counterclaim for Interpleader

1. The defendant received from name a deposit of \$ _____.
2. The plaintiff demands payment of the deposit because of a purported assignment from name, who has notified the defendant that the assignment is not valid and who continues to hold the defendant responsible for the deposit.

Therefore, the defendant demands that:

- (a) name be made a party to this action;
- (b) the plaintiff and name be required to interplead their respective claims;
- (c) the court decide whether the plaintiff or name or either of them is entitled to the deposit and discharge the defendant of any liability except to the person entitled to the deposit; and
- (d) the defendant recover costs and attorney's fees.

(Date and sign – See Form 2.)

Form 40. Motion to Dismiss Under Rule 12(b) for Lack of Jurisdiction, Improper Venue, Insufficient Service of Process, or Failure to State a Claim.

(Caption – See Form 1.)

The defendant moves to dismiss the action because:

1. the amount in controversy is less than the sum or value specified by 28 U.S.C. § 1332;
2. the defendant is not subject to the personal jurisdiction of this court;
3. venue is improper (this defendant does not reside in this district and no part of the events or omissions giving rise to the claim occurred in the district);
4. the defendant has not been properly served, as shown by the attached affidavits of _____; or
5. the complaint fails to state a claim upon which relief can be granted.

(Date and sign – See Form 2.)

Form 41. Motion to Bring in a Third-Party Defendant.

(Caption – See Form 1.)

The defendant, as third-party plaintiff, moves for leave to serve on name a summons and third-party complaint, copies of which are attached.

(Date and sign – See Form 2.)

Form 42. Motion to Intervene as a Defendant Under Rule 24.

(Caption – See Form 1.)

1. name moves for leave to intervene as a defendant in this action and to file the attached answer.

(State grounds under Rule 24(a) or (b).)

2. The plaintiff alleges patent infringement. We manufacture and sell to the defendant the articles involved, and we have a defense to the plaintiff's claim.
3. Our defense presents questions of law and fact that are common to this action.

(Date and sign – See Form 2.)

[An Intervener's Answer must be attached. See Form 30.]

Form 50. Request to Produce Documents and Tangible Things, or to Enter onto Land Under Rule 34.

(Caption – See Form 1.)

The plaintiff name requests that the defendant name respond within ____ days to the following requests:

1. To produce and permit the plaintiff to inspect and copy and to test or sample the following documents, including electronically stored information:

*(Describe each document and the electronically stored information, either individually or by category.)**(State the time, place, and manner of the inspection and any related acts.)*

2. To produce and permit the plaintiff to inspect and copy — and to test or sample — the following tangible things:

*(Describe each thing, either individually or by category.)**(State the time, place, and manner of the inspection and any related acts.)*

3. To permit the plaintiff to enter onto the following land to inspect, photograph, test, or sample the property or an object or operation on the property.

*(Describe the property and each object or operation.)**(State the time and manner of the inspection and any related acts.)*

(Date and sign – See Form 2.)

Form 51. Request for Admissions Under Rule 36.

(Caption — See Form 1.)

The plaintiff name asks the defendant name to respond within 30 days to these requests by admitting, for purposes of this action only and subject to objections to admissibility at trial:

1. The genuineness of the following documents, copies of which [are attached] [are or have been furnished or made available for inspection and copying].

(List each document.)

2. The truth of each of the following statements:

(List each statement.)

(Date and sign – See Form 2.)

Form 52. Report of the Parties' Planning Meeting.

(Caption — See Form 1.)

1. The following persons participated in a Rule 26(f) conference on date by state the method of conferring:
2. Initial Disclosures. The parties [have completed] [will complete by date] the initial disclosures required by Rule 26(a)(1).
3. Discovery Plan. The parties propose this discovery plan:

(Use separate paragraphs or subparagraphs if the parties disagree.)

 - (a) Discovery will be needed on these subjects: *(describe)*
 - (b) Disclosure or discovery of electronically stored information should be handled as follows: *(briefly describe the parties' proposals, including the form or forms for production.)*
 - (c) The parties have agreed to an order regarding claims of privilege or of protection as trial-preparation material asserted after production, as follows: *(briefly describe the provisions of the proposed order.)*
 - (d) *(Dates for commencing and completing discovery, including discovery to be commenced or completed before other discovery.)*
 - (e) *(Maximum number of interrogatories by each party to another party, along with dates the answers are due.)*
 - (f) *(Maximum number of requests for admission, along with the dates responses are due.)*
 - (g) *(Maximum number of depositions for each party.)*
 - (h) *(Limits on the length of depositions, in hours.)*
 - (i) *(Dates for exchanging reports of expert witnesses.)*
 - (j) *(Dates for supplementations under Rule 26(e).)*
4. Other Items:
 - (a) *(A date if the parties ask to meet with the court before a scheduling order.)*
 - (b) *(Requested dates for pretrial conferences.)*
 - (c) *(Final dates for the plaintiff to amend pleadings or to join parties.)*
 - (d) *(Final dates for the defendant to amend pleadings or to join parties.)*
 - (e) *(Final dates to file dispositive motions.)*
 - (f) *(State the prospects for settlement.)*
 - (g) *(Identify any alternative dispute resolution procedure that may enhance settlement prospects.)*
 - (h) *(Final dates for submitting Rule 26(a)(3) witness lists, designations of witnesses whose testimony will be presented by deposition, and exhibit lists.)*
 - (i) *(Final dates to file objections under Rule 26(a)(3).)*
 - (j) *(Suggested trial date and estimate of trial length.)*
 - (k) *(Other matters.)*

(Date and sign — see Form 2.)

(As amended Apr. 28, 2010, eff. Dec. 1, 2010.)

Form 60. Notice of Condemnation.

(Caption – See Form 1.)

To name the defendant.

1. A complaint in condemnation has been filed in the United States District Court for the _____ District of _____, to take property to use for purpose. The interest to be taken is describe. The court is located in the United States courthouse at this address: _____.
2. The property to be taken is described below. You have or claim an interest in it.

(Describe the property.)
3. The authority for taking this property is cite.
4. If you want to object or present any defense to the taking you must serve an answer on the plaintiff's attorney within 20 days [after being served with this notice][from insert the date of the last publication of notice]. Send your answer to this address: _____.
5. Your answer must identify the property in which you claim an interest, state the nature and extent of that interest, and state all your objections and defenses to the taking. Objections and defenses not presented are waived.
6. If you fail to answer you consent to the taking and the court will enter a judgment that takes your described property interest.
7. Instead of answering, you may serve on the plaintiff's attorney a notice of appearance that designates the property in which you claim an interest. After you do that, you will receive a notice of any proceedings that affect you. Whether or not you have previously appeared or answered, you may present evidence at a trial to determine compensation for the property and share in the overall award.

(Date and sign – See Form 2.)

(As amended Mar. 26, 2009, eff. Dec. 1, 2009.)

Form 61. Complaint for Condemnation.

(Caption – See Form 1; name as defendants the property and at least one owner.)

1. (Statement of Jurisdiction – See Form 7.)
2. This is an action to take property under the power of eminent domain and to determine just compensation to be paid to the owners and parties in interest.
3. The authority for the taking is _____.
4. The property is to be used for _____.
5. The property to be taken is *(describe in enough detail for identification — or attach the description and state “is described in Exhibit A, attached.”)*
6. The interest to be acquired is _____.
7. The persons known to the plaintiff to have or claim an interest in the property are: _____ *(For each person include the interest claimed.)*
8. There may be other persons who have or claim an interest in the property and whose names could not be found after a reasonably diligent search. They are made parties under the designation “Unknown Owners.”

Therefore, the plaintiff demands judgment:

- (a) condemning the property;
- (b) determining and awarding just compensation; and
- (c) granting any other lawful and proper relief.

(Date and sign – See Form 2.)

Form 70. Judgment on a Jury Verdict.

(Caption – See Form 1.)

This action was tried by a jury with Judge _____ presiding, and the jury has rendered a verdict.

It is ordered that:

[the plaintiff name recover from the defendant name the amount of \$_____ with interest at the rate of __%, along with costs.]

[the plaintiff recover nothing, the action be dismissed on the merits, and the defendant name recover costs from the plaintiff name.]

Date _____

Clerk of Court

Form 71. Judgment by the Court without a Jury.

(Caption – See Form 1.)

This action was tried by Judge _____ without a jury and the following decision was reached:

It is ordered that [the plaintiff name recover from the defendant name the amount of \$_____, with prejudgment interest at the rate of ____%, postjudgment interest at the rate of ____%, along with costs.] [the plaintiff recover nothing, the action be dismissed on the merits, and the defendant name recover costs from the plaintiff name.]

Date _____

Clerk of Court**Form 80. Notice of a Magistrate Judge's Availability.**

1. A magistrate judge is available under title 28 U.S.C. § 636(c) to conduct the proceedings in this case, including a jury or nonjury trial and the entry of final judgment. But a magistrate judge can be assigned only if all parties voluntarily consent.
2. You may withhold your consent without adverse substantive consequences. The identity of any party consenting or withholding consent will not be disclosed to the judge to whom the case is assigned or to any magistrate judge.
3. If a magistrate judge does hear your case, you may appeal directly to a United States court of appeals as you would if a district judge heard it.

A form called *Consent to an Assignment to a United States Magistrate Judge* is available from the court clerk's office.

Form 81. Consent to an Assignment to a Magistrate Judge.

(Caption – See Form 1.)

I voluntarily consent to have a United States magistrate judge conduct all further proceedings in this case, including a trial, and order the entry of final judgment. (Return this form to the court clerk — not to a judge or magistrate judge.)

Date _____

Signature of the Party**Form 82. Order of Assignment to a Magistrate Judge.**

(Caption – See Form 1.)

With the parties' consent it is ordered that this case be assigned to United States Magistrate Judge _____ of this district to conduct all proceedings and enter final judgment in accordance with 28 U.S.C. § 636(c).

Date _____

United States District Judge
**SUPPLEMENTAL RULES FOR ADMIRALTY
OR MARITIME CLAIMS AND ASSET FOR-
FEITURE ACTIONS¹**
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

¹ Title amended April 12, 2006, effective December 1, 2006.