

# A Look at Amendments to Local Rules for Southern and Middle Districts of Fla.

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The local rules for the Southern District of Florida were amended effective Dec. 1, 2020. Also, there are several amendments to the local rules for the Middle District of Florida that will go into effect on Feb. 1, 2021. This is a brief summary of the amendments.

## Southern District of Florida Amendments

Big picture, this year's amendments to the Southern District of Florida local rules are modest.

### Revisions to S.D. Fla. L.R. 5.1(a)(6) and 5.2(a) and File v. Serve

S.D. Fla. L.R. 5.1(a)(6) and 5.2(a) have been revised to clarify and update the information that must be provided in a certificate of service in cases where service is made conventionally rather than via CM/ECF. The proposed revisions include provisions for counsel outside of Florida to provide applicable bar identification information.

Here is an important practice note: the effect of the amendment to S.D. Fla. 5.2(a) is that a certificate of service *is not* required for a pleading or paper that is filed via CM/ECF and is not required to be served on any parties via non-CM/ECF service. That situation generally only comes up in a case with pro se parties. So if you have a case with no pro se parties and you file a motion and include a certificate of service that says you served everyone via CM/ECF, you are doing something you no longer have to do.

As for amendments on the “file” and/or “serve” rules, in amendments that became effective Dec. 1, 2019, a number of changes were made to local rules to ensure that the proper “file” and/or “serve” term was used in each context. A few of those revisions—in S.D. Fla. L.R. 5.1(b), 7.1(c)(1), and 7.3(a)—created unforeseen problems. First, there can be occasions where the certificate of service for a pro se party exempt from the CM/ECF system is inaccurate, and the rules need to specify the date of docketing of the filing as the start date for a response period. Second, in two instances, a response deadline for a document should have been tied to the date of “service,” but the rules provided for a response within a set time following service *and* filing. This year’s revisions resolve both of those issues.

## Revisions to S.D. Fla. L.R. 88.10(h)

An amendment to Federal Rule of Evidence 404(b) impacted the notice obligations placed on federal prosecutors in criminal cases, which in turn required an amendment to the local criminal discovery rule, S.D. Fla. L.R. 88.10(h). While the federal rule amendment obviates certain aspects of S.D. Fla. L.R. 88.10(h), the rule itself remains necessary in order to make S.D. Fla. L.R. 88.10(o)(2)’s 14-day-after-arraignment-deadline applicable to Fed. R. Evid. 404(b) notices.

## Revisions to Magistrate Rule 4(a)

A small change to Magistrate Rule 4(a) has been enacted—addressing “Appeal of Non-dispositive Matters-Government Appeal of Release Order”—to bring it into harmony with Magistrate Rule 4(b), addressing “Review of Case-Dispositive Motions.” Specifically, the amendment eliminates the reference to a reply in 4(a) and specifies that the Court may establish a different time for the parties to file an objection.

## Page-Limits Reconciliation—S.D. Fla. L.R. 7.1(c)(2)

Certain local rules exclude certain miscellaneous items from page counts (e.g., title pages and certificates of service); however, those exclusions do not apply to filings *other than* motions, response, and replies. The amendments clarifies that other types of filings that have page limits (e.g., an objection to a report and recommendation) will also be governed by the page-limit exclusions.

## Middle District of Florida Amendments

Unlike the Southern District of Florida—which generally have small tweaks every year—the Middle District of Florida local rules had generally been the same since 2003. This year, there was a major overhaul. Given how extensive these amendments are, lawyers with cases in the Middle District should carefully review those amendments. Below is a list highlighting 12 things of which you should be aware. It is not intended to be a comprehensive run down.

1. Fonts and Font sizes: Papers submitted to the Middle District now have to be in 14 point Times New Roman font or 13 point for certain other permitted fonts. Given that the court seems to go out of its way to highlight other fonts, it will be curious to see if the vaunted position Times New Roman fades away.
2. Certain pleadings and motions must carry specifically delineated titles.
3. Motions for default must be filed within 35 days of the default.
4. The old rule requiring class certification motions to be filed within 90 days of a class action complaint being filed has been eliminated.
5. There is a new set of very specific rules addressing filing confidential papers under seal.
6. There is now a bifurcated process for attorneys' fees: first entitlement is established and then the amount of fees is set.
7. The rule requiring each disputed discovery request and response to be “cut and pasted” into a motion to compel has been eliminated.
8. A reply is now permitted as of right for summary judgment motions. However, permission for leave to file a reply is still required for other motions.
9. The time to respond to some motions – including summary judgment – is enlarged to 21 days (from 14 days).
10. There is now a rule regarding submission of supplemental authority.
11. Motions pending in state court at the time of removal now must be refiled or will be denied if that is not done so within 21 days of removal.
12. The Admiralty and maritime rules have been eliminated in favor of separate practice manual.

The Middle District of Florida has an hour-long video tutorial discussing the amendments which is available on [the court's website](#).

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# Authored By

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