

FILED

JUN 19 1987

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CLERK, U. S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY DE

IN RE:)
)
ORDER AMENDING LOCAL RULES)
301 and 302 AND ADOPTING)
ADMIRALTY RULES)
_____)

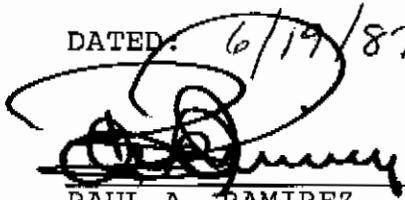
GENERAL ORDER NO. 217

Good cause appearing:

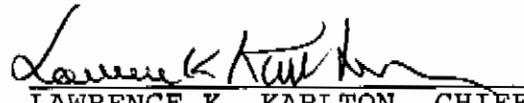
IT IS ORDERED that the amendments to Local Rules 301 and 302 detailed in the attachments hereto are hereby adopted.

IT IS FURTHER ORDERED that the Admiralty Rules detailed in the attachments hereto are hereby adopted.

DATED: 6/19/87



RAUL A. RAMIREZ
U.S. DISTRICT COURT JUDGE



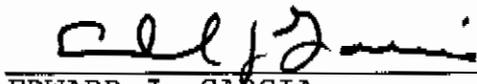
LAWRENCE K. KARLTON, CHIEF
U. S. DISTRICT COURT JUDGE



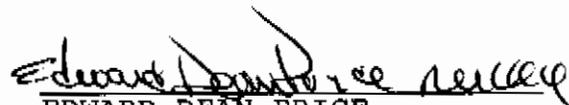
ROBERT E. COYNE
U.S. DISTRICT COURT JUDGE



MILTON L. SCHWARTZ
U.S. DISTRICT COURT JUDGE



EDWARD J. GARCIA
U.S. DISTRICT COURT JUDGE



EDWARD DEAN PRICE
U.S. DISTRICT COURT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

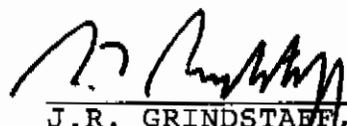
NOTICE

In accordance with the provisions of General Order No. 191 (Guidelines for Implementing Local Rules of Court), the Judges of the Eastern District of California propose to amend Local Rule No. 302(b), "Matters to be Heard by Magistrates." A copy of the proposed amendment is attached hereto.

All interested parties shall have 30 days from the date of this notice to submit comments regarding the proposed rule. Comments shall be directed to: Clerk, U.S. District Court, 650 Capitol Mall, Sacramento, California 95814.

All comments received will be considered by the court. The court shall have no responsibility to respond to specific comments.

DATED: 4/21/87



J.R. GRINDSTAFF, CLERK
U.S. District Court
650 Capitol Mall
Sacramento, CA 95814

APPROVED: 

LAWRENCE K. KARLTON, CHIEF
U. S. DISTRICT COURT JUDGE

ADDITION TO LOCAL RULE 302(b)
(the following is all new matter)

(19) all nondispositive pretrial matters pursuant to the
Supplemental Rules for Certain Admiralty and Maritime Claims.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

NOTICE

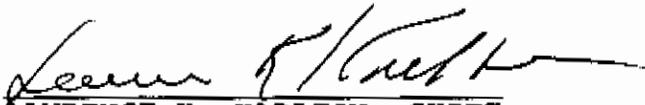
In accordance with the provisions of General Order No. 191 (Guidelines for Implementing Local Rules of Court), the Judges of the Eastern District of California propose to amend Local Rule No. 301(A), "Special Master References and Trials by Consent." A copy of the proposed amendment is attached hereto.

All interested parties shall have 30 days from the date of this notice to submit comments regarding the proposed rule. Comments shall be directed to: Clerk, U.S. District Court, 650 Capitol Mall, Sacramento, California 95814.

All comments received will be considered by the court. The court shall have no responsibility to respond to specific comments.

DATED: 4/21/87


J.R. GRINDSTAFF, CLERK
U.S. District Court
650 Capitol Mall
Sacramento, CA 95814

APPROVED: 
LAWRENCE K. KARLTON, CHIEF
U. S. DISTRICT COURT JUDGE

AMENDMENT TO LOCAL RULE 301(A)
(new matter underlined)

(a) General Applicability. Rules 300 through 399 govern the discharge of duties by the United States Magistrates in the Eastern District of California in both criminal and civil proceedings. They are promulgated pursuant to 28 U.S.C. § 636(b)(4) and are intended to amplify the provisions of Chapter 43 of Title 28 of the United States Code, the Federal Rules of Civil and Criminal Procedure, (including the Supplemental Rules for Certain Admiralty and Maritime Cases), and the Rules of Procedure for the Trial of Misdemeanors before United States Magistrates promulgated pursuant to 18 U.S.C. § 3402.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

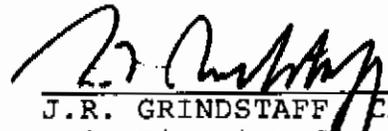
NOTICE

In accordance with the provisions of General Order No. 191 (Guidelines for Implementing Local Rules of Court), the Judges of the Eastern District of California propose to adopt Admiralty Rules. A copy of the proposed Admiralty Rules is attached hereto.

All interested parties shall have 30 days from the date of this notice to submit comments regarding the proposed rules. Comments shall be directed to: Clerk, U.S. District Court, 650 Capitol Mall, Sacramento, California 95814.

All comments received will be considered by the court. The court shall have no responsibility to respond to specific comments.

DATED: 4/21/87


J.R. GRINDSTAFF, CLERK
U.S. District Court
650 Capitol Mall
Sacramento, CA 95814

APPROVED: 
LAWRENCE K. KARLTON, CHIEF
U. S. DISTRICT COURT JUDGE

ADMIRALTY AND IN REM RULES

RULE 500 TITLE AND SCOPE OF RULES

- (a) Title
- (b) Applicability
- (c) Inconsistency with Other Local Rules

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- (b) Office Hours
- (c) Emergency Telephone
- (d) Meaning of "Marshal"

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- (a) Verification by a Party
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- (d) Intervenor's Obligation Upon Vacation of the Arrest, Attachment or Garnishment by the Original Party

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- (a) Content of Notice
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RULE 550 CUSTODY OF PROPERTY

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RULE 560 APPRAISAL

- (a) Order for Appraisal
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- (a) Notice
- (b) Payment of Bid
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- (e) Report of Sale by the Marshal
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ADMIRALTY AND IN REM RULES

RULE 500

TITLE AND SCOPE OF RULES

(a) Title. These are the Local Admiralty and In Rem Rules for the United States District Court for the Eastern District of California.

(b) Applicability. These Local Admiralty and In Rem Rules apply to maritime and admiralty proceedings as defined in Supplemental Rule A of the Federal Rules of Civil Procedure and to all in rem and quasi in rem proceedings referenced in Supplemental Rule A pending or filed in the United States District Court for the Eastern District of California. The General, Civil and Magistrate's Local Rules 100 through 399 of the United States District Court for the Eastern District of California also apply to all civil actions, including maritime and admiralty proceedings and in rem proceedings. See LR 100(b).

(c) Inconsistency in Other Local Rules. If a Local Rule 100 through 399 is inconsistent with one of these Local Rules 500 through 599, these Rules shall control all proceedings within the scope of Supplemental Rule A. LR 233(d) shall have no application to proceedings governed by the Supplemental Rules and these Local Admiralty and In Rem Rules.

RULE 501

THE UNITED STATES MARSHAL

(a) Locations. The United States Marshal for the Eastern District of California maintains permanent offices at 650 Capitol Mall, Sacramento, California 95814, and at 4211 United States Courthouse, 1130 "O" Street, Fresno, California, 93721.

(b) Office Hours. The regular office hours of the Marshal at Sacramento and Fresno are from 8:00 a.m. to 4:30 p.m. each day except Saturdays, Sundays, and holidays.

(c) Emergency Telephone. In emergencies, the United States Marshal may be reached by telephone 24 hours a day at (916) 551-2861.

(d) Meaning of "Marshal." When used throughout these Local Admiralty and In Rem Rules, unless otherwise specified, the term "Marshal" means the United States Marshal appointed pursuant to 28 U.S.C. § 561, or a duly authorized deputy marshal, as the case may be.

RULE 510

COMPLAINTS, ALLEGATIONS AND ACCOMPANYING AFFIDAVIT

(a) Caption. Every complaint filed as a FRCivP 9(h) action shall set forth "In Admiralty" following the designation of the Court, in addition to the statement, if any, contained in the body of the complaint pursuant to FRCivP 9(h). If the complaint contains one or more causes of action at law, it shall set forth "At Law and In Admiralty."

(b) Mandatory Allegations. Every complaint in Supplemental Rule B and C actions shall state the dollar amount of the debt, damages, or salvage for which the action is brought. This dollar amount shall also be stated in the process, together with a description of the nature of any other items of damage including any unliquidated items claimed, such as attorneys' fees. The defendant or claimant may post bond pursuant to Supplemental Rule E(5) based on such allegations. See LR 233, 523.

(c) Mandatory Allegations in Salvage Actions. In salvage actions, the complaint shall state to the extent known or estimated the dollar value of the hull, cargo, freight, and other property salvaged, the dollar amount claimed, and the names of the principal salvors, and shall state that the action is instituted in their behalf and in behalf of all other persons interested or associated with them.

(d) Affidavit Showing Defendant's Absence. The affidavit

accompanying the complaint as required by Supplemental Rule B(1) shall state with particularity the efforts made to obtain in personam jurisdiction over the defendant within the District. See LR 140. The phrase "not found within the district" in Supplemental Rule B(1) means that, in an in personam action, the defendant cannot be served with the summons and complaint as provided in FRCivP 4(d).

RULE 511

VERIFICATION OF PLEADINGS AND OTHER PAPERS

(a) Verification by a Party. Verification of pleadings, claims to property, and other papers as required by the Supplemental Rules shall be by oath or solemn affirmation of the co-parties or one or more of them and, if a corporate party, by an authorized officer of the corporation. See 28 U.S.C. § 1746; LR 140.

(b) Verification by an Agent or Attorney. If no party or authorized corporate officer is available within the District, verification may be made by an agent, attorney-in-fact, or attorney of record, who shall (1) state briefly the sources of his or her knowledge, information or belief, (2) declare that the document affirmed is true to the best of his or her knowledge, information and belief, (3) state the reason the verification is not made by a party or corporate officer, and (4) state that he or she is authorized so to act and the basis of that authority. Any such verification will be deemed to have been made by the party as if verified personally. See 28 U.S.C. § 1746; LR 140.

(c) Motion for Verification by a Party. When verification has been given by fewer than all co-parties or by an agent, attorney-in-fact or attorney of record, any interested party may move the Court, with or without a request for a stay, for the personal oath of the party or parties or authorized corporate agent.

RULE 512

PROCESS GENERALLY

- (a) Issuance of Summons. See LR 210(a).
- (b) Return of Service of Process. See LR 210(b).
- (c) Judicial Authorization for Arrest, Attachment and Garnishment. See Supplemental Rules B(1), C(3). Unless otherwise ordered, the review of complaints and accompanying papers provided for in Supplemental Rules B(1) and C(3) is conducted in the absence of the affiant party or attorney. The plaintiff shall lodge a form of order with the Clerk which, upon signature by the Court, will direct the arrest, attachment or garnishment.
- (d) Issuance of Authorization by the Clerk. Process may be issued by the Clerk only when a plaintiff or attorney certifies by written affidavit filed with the Court, see LR 140, that specified exigent circumstances make review by the Court impracticable, but no such process shall be issued until every effort to secure judicial review has been pursued, including conducting a hearing by telephone conference.
- (e) Use of State Procedures. When the plaintiff invokes a state procedure in order to attach or garnish under FRCivP Rule 4(e), the process of attachment or garnishment shall so state.
- (f) Instructions to Marshal. If service of process is to be effected by the Marshal, see Supplemental Rules C(3) and E(4), the party who requires service shall state in writing that

party's instructions to the Marshal on appropriate forms available from the Marshal's Office specifying information necessary to effect service. If the party does not wish the process to be served at the time of giving instructions, the party shall request that service of process be held in abeyance. In such a case, the Marshal has no responsibility to ensure that process is served at a later date absent further instruction.

(f) Seizure of Property Already in Custody of the United States. When property in the custody of an officer or employee of the United States is to be arrested or attached, the person effecting service shall deliver a copy of the complaint and warrant for arrest, order of the Court, or summons and process of attachment, to such officer or employee or, if such officer or employee is not found within the District, then to the custodian of the property within the District. The person effecting service shall notify such officer, employee, or custodian not to relinquish the property from custody until ordered to do so by the Court.

RULE 513

PROMPT HEARING FOLLOWING ARREST, ATTACHMENT
OR GARNISHMENT

Whenever property is arrested, attached or garnished, any person claiming an interest in the property shall be entitled to a prompt hearing before the Court on written notice to the party bringing the arrest, attachment or garnishment and to all other parties who have appeared in the action. The hearing shall be noticed and scheduled as is a hearing on a request for temporary restraining order. See LR 231. At the hearing, the party that obtained the arrest, attachment or garnishment shall show cause why the arrest, attachment or garnishment order should not be vacated forthwith and other appropriate relief granted. See Supplemental Rules B(1), C(3), and E(4)(f). This Rule shall not apply to those actions excepted in Supplemental Rule E(4)(f).

RULE 520

SECURITY FOR COSTS

(a) Security for Costs in Supplemental Rule E Actions. In an action governed by Supplemental Rule E, a party may serve on all parties and file a motion for an order requiring the posting of security for costs or for an increase in the amount of security for costs previously posted. See LR 142, 230.

(b) Security for Costs in Supplemental Rule F Actions. The amount of the security for costs required by Supplemental Rule F(1) shall be \$500 unless a different amount is specially set by the Court. Unless otherwise ordered by the Court, the security for costs may be combined with the security for value and interest, if such security is posted.

(c) Time of Posting Security. The \$1000 security for costs required by Supplemental Rule F(1) and LR 520(b) shall be posted prior to issuance of process and service of the complaint. Any party ordered to post security for costs in a Supplemental Rule E action or additional security in an action under Supplemental Rules E or F shall do so within 5 days after service of the order requiring its posting, unless a different time is specified by the Court. See LR 136.

(d) Election to Make Deposit in Lieu of Bond. See LR 150, 233.

(e) Sanction for Failure to Post Security. A party that fails to post security as required or as ordered may not

participate further in the action except to seek relief from this Rule.

RULE 521

DEPOSITS OF MARSHAL'S FEES AND EXPENSES

(a) Deposit Required Before Seizure. A party who seeks arrest, attachment or garnishment of property in an action governed by Supplemental Rule E shall deposit with the Marshal the sum estimated by the Marshal to be sufficient to pay the fees and expenses of arresting and keeping the property for at least 10 days. The Marshal is not required to execute process of arrest, attachment or garnishment until such deposit is made. See 28 U.S.C. § 1921.

(b) Additional Deposits Required After Seizure. A party who has caused the Marshal to arrest, attach or garnish property shall advance additional sums from time to time as required by the Marshal to pay the fees and expenses of the Marshal until the property is released or disposed of as provided in Supplemental Rule E.

(c) Sanction for Failure to Make Deposit. Any party who fails to make a deposit when required by the Marshal may not participate further in the action except to seek relief from this Rule.

RULE 522

INTERVENORS' CLAIMS

(a) Presentation of Claims. When a vessel or other property has been arrested, attached or garnished, and is in the custody of the Marshal or substitute custodian, anyone other than the party obtaining the original arrest, attachment or garnishment who has a claim against the vessel or other property shall present that claim by filing a complaint in intervention, rather than an original complaint, unless otherwise ordered by the Court.

(b) Intervenor's Arrest, Attachment or Garnishment. Upon satisfaction of FRCivP 24, the intervenor may deliver a confirmed copy of the complaint in intervention to the Marshal who shall deliver it to the custodian of the vessel or other property. In such a case, the intervenor shall thereafter be subject to the rights and obligations of a party originally arresting, attaching or garnishing the vessel or other property, and the vessel or other property shall stand arrested, attached or garnished by the intervenor as well as by the original arresting, attaching or garnishing party. The intervenor in such a case shall not be required to advance a security deposit to the Marshal as was required of the original arresting, attaching or garnishing party under LR 521.

(c) Sharing of Marshal's Fees and Expenses. An intervenor who has delivered a conformed copy of the complaint in

intervention to the Marshal shall owe a debt to the originally arresting, attaching or garnishing party which is enforceable on motion, consisting of the intervenor's share of the Marshal's fees and expenses in the proportion that the intervenor's claim bears to the sum of all the claims on which the vessel or other property has been arrested, attached or garnished.

(d) Intervenor's Obligation Upon Vacation of the Arrest, Attachment or Garnishment by the Original Party. If the originally arresting, attaching or garnishing party permits vacation of the arrest, attachment or garnishment, an intervenor who has delivered conformed copies of his complaint in intervention to the Marshal shall bear responsibility for the fees and expenses and shall deposit the sum estimated by the Marshal to be sufficient to pay fees and expenses for 10 days within 36 hours after notice from the Marshal requiring such deposit. Such notice may be given as soon as the Marshal learns that the originally arresting, attaching or garnishing party intends to permit vacation of the arrest, attachment or garnishment, and an intervenor's deposit received before the funds of the originally arresting, attaching or garnishing party are exhausted will be held for use upon exhaustion of such funds. If more than one complaint in intervention has been delivered to the Marshal, the intervenors shall step into the position of the originally arresting, attaching or garnishing party as provided herein in order of the delivery of their complaints in

intervention to the Marshal. On the sharing of Marshal's fees and expenses among intervenors, see LR 522(c).

RULE 523

UNDERTAKINGS IN LIEU OF ARREST

If, before or after commencement of the action, all parties accept a written undertaking to respond on behalf of the vessel or other property sued in return for forgoing the arrest or stipulating to the release of the vessel or other property, the undertaking shall be filed with the Court and shall become a party in place of the vessel or other property sued and be deemed referred to under the name of the vessel or other property in any pleading, order, or judgment in the action.

RULE 530

PUBLICATION OF NOTICE OF ACTION AND ARREST

(a) Content of Notice. The notice required by Supplemental Rule C(4) shall be published once in accordance with LR 171. See LR 580. The notice shall contain the following:

- (1) The Court, title and number of the action;
- (2) The date of the arrest;
- (3) The identity of the property arrested;
- (4) The name, address and telephone number of the attorney for the plaintiff;
- (5) A statement that claims of persons entitled to possession or claiming an interest pursuant to Supplemental Rule C(6) must be filed with the Clerk and served on the attorney for the plaintiff within 10 days after the date of publication;
- (6) A statement that answers to the complaint must be filed and served within 30 days after the date of publication and, in the absence thereof, default may be entered and condemnation ordered;
- (7) A statement that applications for intervention under FRCivP 24 by persons claiming maritime liens or other interests shall be filed within the 10 days allowed for claims for possession;
- (8) The name, address and telephone number of the Marshal, and
- (9) Such other information as the Court may order.

(b) Filing of Proof of Publication. Plaintiff shall cause to be filed with the Clerk no later than 30 days after the date of publication sworn proof of publication by or on behalf of the publisher of the newspaper in which notice was published, together with a copy of the proof of publication or reproduction thereof.

RULE 540

DEFAULT IN ACTION IN REM

(a) Notice Required. A party seeking a default judgment in an action in rem shall show to the satisfaction of the Court that due notice of the action and arrest of the property has been given:

(1) By publication, see LR 530;

(2) By personal service on the person having custody of the property, and

(3) By personal service or by certified mail, return receipt requested, to every other person who has not appeared in the action and is known to have an interest in the property; provided, however, that failure to give actual notice to such other person may be excused upon a satisfactory showing of diligent efforts to give such notice without success.

(b) Notice to Persons with Recorded Interests. In providing the notice required by the foregoing subdivision (a)(3), the plaintiff shall satisfy the following requirements, provided, however, that such satisfaction shall not limit the obligation to give notice to any other persons known to have an interest.

(1) If the defendant property is a vessel documented under the laws of the United States, the party must obtain a current certificate of ownership from the United States Coast Guard and give notice to all persons named therein.

(2) If the defendant property is a vessel numbered as

provided in the Federal Boat Safety Act, the party must obtain information from the issuing authority and give notice to the persons named in the records of such authority.

(3) If the defendant property is of such character that there exists a registry of recorded property interests and/or security interests in the property (whether governmental or private), the party must obtain information from each such registry and give notice to the persons named in the records of each such registry.

(c) Evidence of Search for Recorded Interests. As part of the motion for default judgment, the moving party shall provide to the Court a copy of the United States Coast Guard certificate of ownership, the information obtained from the issuing authority under the Federal Boat Safety Act, and/or the information obtained from the private and/or governmental registries.

(d) Motion for Default Judgment. Upon a showing that no one has appeared to claim the property and give security, and that due notice of the action and arrest of the property has been given, a party may move for judgment at any time after the time for answer has expired. See LR 302(b)(17). If no one has appeared, the party may have an ex parte hearing before the Court and judgment without further notice. In any person has appeared and does not join in the motion for judgment, such person shall be given 7 days notice of the motion, see LR 136; provided, however, that the Court can extend or shorten the time of the

required notice on good cause. See LR 142.

RULE 550

CUSTODY OF PROPERTY

(a) Safekeeping of Property When Seized. When a vessel, cargo or other property is seized, the Marshal shall take custody and arrange for adequate and necessary security for its safekeeping which may include, in the Marshal's discretion, the placing of keepers on or near the vessel. The Court may order the appointment of of a facility or person as substitute custodian of the property in lieu of the Marshal on motion of any party or on its own motion.

(b) Cargo Handling, Repairs and Movement of the Vessel. Upon arrest or attachment of the vessel, no cargo handling, repairs or movement of the vessel may be made without a Court order. The applicant for such an order shall give written notice to the Marshal and to all parties who have appeared prior to the application for such order, and the certificate of service of such notice shall be filed with the Clerk before application is made to the Court. For good cause shown, and upon proof of adequate insurance coverage to indemnify for any liability, the Court may direct the Marshal to allow the conduct of cargo handling, repairs, movement of the vessel or other operations on a vessel under arrest or attachment. Neither the United States nor the Marshal shall be liable for the consequence of the undertaking or continuation of any such activities during the arrest or attachment.

(c) Motion for Change in Arrangements. After a vessel, cargo or other property has been taken into custody by the Marshal, any party then appearing may move the Court to dispense with keepers or to remove or place the vessel, cargo or other property at a specified facility, to designate a substitute custodian, or for similar relief. The applicant for such an order shall give written notice of the motion to the Marshal and to all parties who have appeared. At the hearing of the motion, the Court will determine whether such a facility or substitute custodian is capable of and will safely keep the vessel, cargo or other property.

(d) Insurance. The Marshal may order insurance to protect the Marshal, his deputies, keepers and substitute custodians from liability assumed in arresting and holding the vessel, cargo or other property and performing whatever services are undertaken to protect the vessel, cargo or other property and maintain the Court's custody. The party applying for arrest of the vessel, cargo or other property shall reimburse the Marshal for premiums paid for the insurance and shall be an additional insured on the policy. The party applying for removal of the vessel, cargo or other property to another location, for designation of a substitute custodian, or for other relief that will require an additional premium shall reimburse the Marshal therefor. The premiums charged for the liability insurance are taxable as administrative costs while the vessel, cargo or other property is

in the custody of the Court.

(e) Claims by Suppliers for Payment of Charges. A person who furnishes services or supplies to a vessel, cargo or other property in custody who has not been paid and claims the right to payment as an expense of administration shall submit an invoice to the Court for approval in the form of a verified claim at any time before the vessel, cargo or other property is released or sold. See LR 140. The supplier must serve copies of the claim on the Marshal, substitute custodian if one has been appointed, and all parties appearing in the action. The Court may consider the claims individually or schedule a single hearing for all claims against the property.

RULE 560

APPRAISAL

(a) Order for Appraisal. An order for appraisal of property so that security may be given or altered will be entered by the Clerk at the written request of any interested party. If the parties do not agree in writing on the selection of the appraiser, the Court will appoint the appraiser.

(b) Appraiser's Oath. The appraiser shall be sworn to the faithful and impartial discharge of duties before any federal or state officer authorized by law to administer oaths, and a copy of the oath shall be filed with the Clerk.

(c) Appraisal. The appraiser shall give 1 day's notice of the time and place of making the appraisal to the parties who have appeared in the action. The appraiser shall file the appraisal in writing with the Clerk as soon as it is completed and shall serve it on all parties.

(d) Cost of Appraisal. Absent stipulation of the parties or order of the Court to the contrary, the appraiser shall be paid by the party requesting the appraisal. Appraiser's fees shall thereafter be taxed as the Court orders.

RULE 570

SALE OF PROPERTY

(a) Notice. Unless otherwise ordered upon a showing of urgency, impracticality or other good cause, or as provided by law, notice of the sale of property in an action in rem shall be published daily in accordance with LR 171 for a period of 4 days prior to the date of sale. See LR 580.

(b) Payment of Bid. The person whose bid is accepted shall immediately pay the Marshal either the full purchase price if the bid is no more than \$1000 or a deposit of \$1000 or 10 percent of the bid, whichever is greater, if the bid exceeds \$1000. The bidder shall pay the balance of the purchase price within 3 court days following the sale. If an objection to the sale is filed within that time, the bidder is excused from paying the balance of the purchase price until 3 court days after the sale is confirmed. Payments to the Marshal shall be in cash, certified check or cashier's check. The Court may specify different terms in any order of sale.

(c) Penalty for Late Payment of Balance. A successful bidder who fails to pay the balance of the bid within the time allowed under these Rules or a different time specified by the Court shall also pay the Marshal the costs of keeping the property from the date payment of the balance was due to the date the bidder pays the balance and takes delivery of the property. Unless otherwise ordered by the Court, the Marshal shall refuse

to release the property until this additional charge is paid.

(d) Penalty for Default in Payment of Balance. A successful bidder who fails to pay the balance of the bid within the time allowed is in default, and the Court may at any time thereafter order a sale to the second highest bidder or order a new sale as appropriate. Any sum deposited by the bidder in default shall be forfeited and applied to pay any additional costs incurred by the Marshal by reason of the forfeiture and default, including costs incident to resale. The balance of the deposit, if any, shall be retained in the registry subject to further order of the Court, and the Court shall be given written notice of its existence whenever the registry deposits are reviewed.

(e) Report of Sale by the Marshal. At the conclusion of the sale and no later than one court day before payment of the balance is due, the Marshal shall forthwith file a written report with the Court of the fact of sale, the date thereof, the price obtained, the name and address of the successful bidder, and any other pertinent information.

(f) Time and Procedure for Objection to Sale. An interested person may object to the sale by filing a written objection with the Clerk within 3 court days following the sale, serving the objection on all parties, the successful bidder and the Marshal, and depositing a sum with the Marshal that is sufficient to pay the expense of keeping the property for at least 7 days. Payment to the Marshal shall be in cash, certified

check, or cashier's check. The written objection must be endorsed by the Marshal with an acknowledgment of receipt of the deposit prior to filing with the Clerk.

(g) Confirmation of the Sale Without Motion. A sale shall stand confirmed as of course without any affirmative action by the Court unless (1) written objection is filed with the Court within the time allowed under these Rules, or (2) the purchaser is in default for failure to pay the balance due the Marshal. The purchaser in a sale so confirmed as of course shall present a form of order reflecting the confirmation of the sale for entry by the Clerk on or after the fourth day following the sale. The Marshal shall transfer title to the purchaser upon presentation of such order signed by the Clerk.

(h) Confirmation of the Sale on Motion. If an objection has been filed or if the successful bidder is in default, the Marshal, the objector, the successful bidder, or a party may move the Court for relief. The motion will be heard summarily by the Court. The person seeking a hearing on such motion shall apply to the Court for an order fixing the date and time of the hearing and directing the manner of giving notice and shall give written notice of the motion to the Marshal, all parties, the successful bidder and the objector. The Court may confirm the sale, order a new sale, or grant such other relief as justice requires.

(i) Disposition of Deposits.

(1) Objection Sustained. If an objection is sustained, sums

deposited by the successful bidder will be returned to the bidder forthwith. The sum deposited by the objector will be applied to pay the fees and expenses incurred by the Marshal in keeping the property until it is resold, and any balance remaining shall be returned to the objector. The objector will be reimbursed for the expense of keeping the property from the proceeds of a subsequent sale.

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

(j) Title to Property Sold. Failure of a party to give the required notice of the action and arrest of the vessel, cargo or other property or required notice of the sale may afford grounds for objecting to the sale but does not affect the title of a bona fide purchaser of the property without notice of the failure.

RULE 580

PUBLICATION OF NOTICES

Every notice required to be published in a newspaper by any statute of the United States or any rule applying to admiralty and maritime proceedings, including the Supplemental Rules for Certain Admiralty and Maritime Claims and these Local Rules, shall be published in accordance with LR 171.

RULE 590

RATE OF PREJUDGMENT INTEREST ALLOWED

Unless the Court directs otherwise, an award of prejudgment interest shall be computed at the rate authorized in 28 U.S.C. § 1961, providing for interest on judgments.