

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA**

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Administrative Order 14-04

In Re:

**Adoption of Interim Local Rule 7069-1(D) and
Clarification of Status of Garnishment Deposits
Currently Deposited in the Court Registry**

Local Rule 7069-1(D) provides that writs of garnishments shall be issued in accordance with Florida law. Florida Statutes § 77.28 was amended, effective July 1, 2014, and now requires the party seeking a writ of garnishment to pay the \$100 garnishment deposit to the garnishee instead of depositing the funds into the registry of the court.

The court has determined that amendment to this court's existing Local Rule 7069-1(D) is required and that there are exigent circumstances which justify implementation of these changes by an interim local rule.

Accordingly, the court **ORDERS** as follows:

1. Local Rule 7069-1(D) is amended by substituting the following text as Interim Local Rule 7069-1(D):

D) Writs of Garnishment. Writs of garnishment shall be issued in accordance with Florida law.

*(1) Issuance of Writ. Required Notice To Garnishee. The party seeking issuance of a writ of garnishment shall file a motion accompanied by a prepared writ, a certified copy of the judgment, and any bill of costs entered. If the writ is issued against an individual, the clerk shall attach to the writ a copy of the Local Form "Notice Pursuant to Florida Statutes § 77.041 to Defendant of Right Against Garnishment of Wages, Money and Other Property" with attached "Claim of Exemption and Request for Hearing" (with the caption of the case filled in on the form "Claim of Exemption and Request for Hearing"). The following notice must accompany service of the writ: **"Under Florida Statutes § 77.28, upon issuance of any writ of garnishment, the party applying for it shall pay \$100 to the garnishee on the garnishee's demand at any time after the service of the writ, for the payment or part payment of his or her attorney's fees which the garnishee expends or agrees to expend in obtaining representation in response to the writ."** In addition to service of other garnishment papers, a copy of this rule shall be served on the defendant. If the writ is being sought pursuant to Florida Statutes § 77.0305 (continuing writ of garnishment against salary or wages) or Florida Statutes § 77.031 (issuance of writ before judgment), the filing of the writ must be accompanied by a motion and a proposed order.*

(2) Objection to Claim of Exemption. An objection to a defendant's "Claim of Exemption and Request for Hearing" shall be set for hearing in accordance with Local Rule 9073-1.

(3) Dissolution of Writ by Clerk. The clerk shall automatically dissolve the writ and notify the parties of the dissolution by mail upon failure of the plaintiff timely to contest the defendant's claim of exemption.

(4) Deadlines. Absent further order of the court, the procedures and deadlines set forth in Florida Statutes § 77.041 shall apply to writs of garnishment issued in this court.

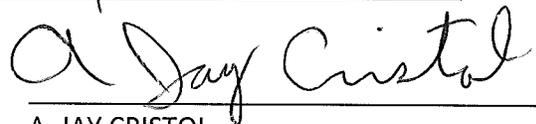
2. All cross references in the Local Rules to Local Rule 7069-1(D), including any references contained in the official comments thereto and in all court forms, guidelines, and clerk's instructions, shall be deemed to refer, respectively, to Interim Rule 7069-1(D).

3. Funds currently on deposit in the court registry on behalf of a garnishee prior to entry of this order shall be maintained in the non-interest bearing U.S. Treasury Registry account of the court. Upon written demand by the garnishee, the court shall order the release of the funds in the name of the garnishee or, if specifically requested, the attorney for the garnishee. If the garnishee fails to make written demand for the funds within, if pre-judgment writ, 60 days after conclusion of the case (including all appeals), or, if post-judgment writ, 60 days after proceedings on the writ have concluded (including all appeals), the court may, *sua sponte*, order the funds returned to the depositor.

4. The Local Form "Notice Pursuant to Florida Statutes § 77.041 to Defendant of Right Against Garnishment of Wages Money and Other Property" shall be amended to incorporate all current provisions included in the NOTICE TO DEFENDANT OF RIGHT AGAINST GARNISHMENT OF WAGES, MONEY, AND OTHER PROPERTY as set forth in Florida Statutes § 77.041.

5. The Clerk of Court is directed to provide notice of entry of this Order and to update the Local Rules as published by this court to reflect Interim Local Rule 7069-1(D).

ORDERED in the Southern District of Florida on September 15, 2014.



A. JAY CRISTOL

Emeritus Acting Chief Judge

United States Bankruptcy Court

On behalf of Chief Judge PAUL G. HYMAN, JR.

c: All SD Bankruptcy Judges
Clerk of Court