

# Local Rules of Admiralty Procedure

## LR 1000 - Scope and Purpose

### LR 1000-1 Title and Scope

#### (a) Title and Citation Format

The 1000 series rules are the Local Rules of Admiralty Practice for the United States District Court for the District of Oregon. They may be cited as "LR \_\_\_ - \_\_\_."

#### (b) Application

They apply to the maritime and admiralty proceedings as defined in Supplemental Rule (A) of the Federal Rules of Civil Procedure.

#### (c) Relation to Other Rules

The Local Rules of the United States District Court for the District of Oregon apply to all civil cases, including admiralty and maritime proceedings, but if a local rule is inconsistent with an admiralty rule, the admiralty rule will control.

## LR 1005 - Verification Requirements

### LR 1005-1 Verification of Pleadings and of Claims to Property

Verification of pleadings and of claims to property must be by a party or, if a corporation, by an officer of the corporation, or by an attorney for that party or corporation.

If the personal oath or solemn affirmation of a party is demanded, the Court may, on good cause, require the same and stay the proceedings a reasonable time for the securing thereof.

December 1, 2009	
LR 1005-1	Reworded for clarity.

## LR 1010 - Process Generally

### LR 1010-1 Instructions Regarding Process

Any party requiring process to be executed by the U.S. Marshal, or any other authorized person, must prepare and file the appropriate process forms with instructions sufficiently detailed to identify and locate the property subject to execution.

### LR 1010-2 Process Held in Abeyance

If a party files a pleading seeking relief *in rem* or *quasi in rem* which would require the clerk to issue process, and the party does not wish the process to be issued at that time, the party must request that issuance of process be held in abeyance. It will not be the responsibility of the clerk to ensure that process is issued at a later date.

### LR 1010-3 Intangible Property

#### (a) Issuance and Effect of Summons

Summons issued pursuant to Supplemental Rule C(3) must direct the person having control of the funds or other intangible property to show cause, no later than fourteen (14) days after service, why the funds or property should not be delivered to the Court to abide the judgment. The Court, for good cause shown, may shorten or lengthen the time. Service of the summons has the effect of an arrest of the property and brings it within the control of the Court.

#### (b) Payment to Marshal

The person who is served may deliver or pay over to the marshal the property or funds proceeded against, or a part thereof, sufficient to satisfy the claim. If such payment is made, the person served is excused from any duty to show cause.

#### (c) Manner of Showing Cause

The claimant of the property may show cause why the property should not be delivered to the Court by serving and filing a claim as provided in Supplemental Rule C(6) within the time allowed to show cause, and by serving and filing an answer to the complaint within twenty-one (21) days thereafter.

#### (d) Effect of Failure to Show Cause

If a claim is not filed within the time stated in the summons, or an answer is not filed within the time allowed under this rule, the person who was served must deliver or pay over to the marshal the property or funds proceeded against, or a part thereof, sufficient to satisfy plaintiff's claim.

## LR 1010-4 Marshal's Return

The person executing process must file proof of service with the clerk and the marshal, and the marshal will mail a copy of the return to the attorney at whose request the execution was effected.

## LR 1010-5 Seizure of Property in U.S. Custody

Where property in the custody of an officer or employee of the United States is to be arrested or attached, the marshal will deliver a copy of the complaint and warrant for arrest, or summons and process of attachment, to such officer or employee or, if the officer or employee is not found within the district, then to the custodian of the property within the district. The marshal will notify such officer, employee or custodian not to relinquish such property from custody until ordered to do so by the Court.

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Amendment History to LR 1010	
December 1, 2009	
LR 1010-3(a)	Deadline changed from "ten (10)" days to "fourteen (14)" days.
LR 1010-3(c)	Deadline changed from "twenty (20)" days to "twenty-one (21)" days.

## LR 1015 - Attachment and Garnishment

### LR 1015-1 Verification of the Complaint

The affidavit [or declaration](#) verifying a complaint which includes a prayer for process under Supplemental Rule B, if made by a person who does not have personal knowledge of the facts alleged as grounds for the claim, will state the circumstances making it necessary for that person to make the verification and will also state the source of that person's information.

### LR 1015-2 Affidavit [or Declaration](#) Showing Defendant's Absence

The affidavit [or declaration](#) required by Supplemental Rule B must state with particularity the efforts made to locate the defendant within the district.

## LR 1015-3 Order Authorizing Clerk to Issue Process

Pleadings and accompanying affidavits [or declarations](#) must be reviewed by a judge before the clerk will issue a summons and process of attachment and garnishment under Supplemental Rule B. If the judge finds probable cause has been shown, the judge will authorize the clerk to issue process. Alias process may thereafter be issued by the clerk upon application without further order of the Court.

<a href="#">Amendment History LR 1015</a>	
<a href="#">March 1, 2017</a>	
<a href="#">LR 1015-1</a>	<a href="#">Added "or declaration" after "affidavit."</a>
<a href="#">LR 1015-2</a>	<a href="#">Added "or declaration" after "affidavit" in the <b>heading and rule text.</b></a>
<a href="#">LR 1015-3</a>	<a href="#">Added "or declarations" after "affidavits."</a>

## LR 1016 - Process for Arrest

### LR 1016-1 Verification of the Complaint

The affidavit [or declaration](#) verifying a ~~compliant~~ [complaint](#) which includes a prayer for process under Supplemental Rule C, if made by a person who does not have personal knowledge of the facts alleged as grounds for the claim, must state the circumstances making it necessary for that person to make the verification and must also state the source of that person's information.

### LR 1016-2 Process

A warrant of arrest issued by the clerk pursuant to Supplemental Rule C will state on its face that the right exists to an order to show cause and hearing as described in LR 1017.

<a href="#">Amendment History LR 1016</a>	
<a href="#">March 1, 2017</a>	
<a href="#">LR 1016-1</a>	<a href="#">Added "or declaration" after "affidavit" and corrected spelling of "complaint."</a>

## LR 1017 - Hearing

### LR 1017-1 Hearing

A person or entity claiming ownership of, or an interest in, property arrested or attached, or having a right to intervene with respect to such property, may request a prompt hearing under Rule E(4)(f) at which plaintiff must show cause why the arrest or attachment should not be vacated. The person or entity requesting the hearing must give notice to all persons known to have an interest in the property of the time and place of the hearing.

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Amendment History to LR 1017	
December 1, 2009	
LR 1017-1	The rule was rewritten for clarity. The phrase "may request a prompt hearing under Rule E(4)(f) . . ." substituted for "may, upon showing of any improper practice or of a manifest want of equity on the part of the plaintiff, be entitled to an order requiring the plaintiff to show . . ."

## LR 1020 - Security for Costs

### LR 1020-1 Costs - Generally

In an action governed by Supplemental Rule E, any party may file and serve upon an adverse party a demand for security for costs, or for an increase in the amount of security for costs previously posted.

Unless otherwise ordered by the Court, the amount thereof will be \$500. The party notified must post security within seven (7) days after service. A party who fails to post security when demanded may not participate further in the proceedings except for the purpose of seeking relief from the rule.

### LR 1020-2 Costs - In Action for Limitation of Liability

The amount of the security for costs required by Supplemental Rule F(1) is \$500. Unless otherwise ordered by the Court, the security for costs may be combined with the security for value and interest.

### LR 1020-3 Marshal's Fees

## (a) Deposit Required Before Seizure

A party who seeks arrest or attachment of property in an action governed by Supplemental Rule E must deposit a sum with the marshal sufficient to cover the marshal's estimated fees and expenses of arresting and keeping the property for at least fourteen (14) days. The marshal is not required to execute process until the deposit is made.

## (b) Additional Deposit Required After Seizure

A party who has caused the marshal to arrest or attach property will advance additional sums from time to time as requested to cover the marshal's estimated fees or expenses until the property is released or disposed of as provided in Supplemental Rule E. Any party who fails to make an advance when demanded may not participate further in the proceeding except for the purpose of seeking relief from this rule.

## LR 1020-4 Judicial Relief

The marshal will notify the Court if a party fails to advance sums as requested after property has been arrested. The marshal may also apply to a judge for direction if a question arises concerning the obligation of a party to advance moneys required under this rule.

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Amendment History to LR 1020	
December 1, 2009	
LR 1020-1	Deadline to post security changed from "five (5)" days to "seven (7)" days.
LR 1020-3(a)	Time changed from "ten (10)" days to "fourteen (14)" days.

## LR 1024 - Undertakings

### LR 1024-1 Undertakings In Lieu of Arrest

If, in return for foregoing the arrest or stipulating to the release of such vessel or other property, a party accepts the written undertaking of a claimant or other interested person or entity to respond on behalf of the vessel or other property, the undertaking will become a party in place of the vessel or property sued, and will be deemed referred to under the name of the vessel or property in any pleading, order, or judgment.

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Amendment History to LR 1024	
<b>December 1, 2009</b>	
LR 1024-1	Added the phrase "of a claimant or other interested person or entity . . ."

## LR 1025 - Publication Requirements

### LR 1025-1 Publication of Notice of Action and Arrest

The notice required by Supplemental Rule C(4) will be published at least once in accordance with [LR 1050-1](#). The notice must contain the following:

- a. Title and number of the action or proceeding;
- b. Date of the arrest;
- c. Identity of the property arrested;
- d. Name and address of the attorney for the party;
- e. 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 party within fourteen (14) days after the last date of publication; and
- f. A statement that answers to the pleadings must be filed and served within twenty-one (21) days after the filing of claims, and in lieu thereof, default may be noted and condemnation ordered.

Applications for intervention under [Fed.R.Civ.P. 24](#), by persons claiming maritime liens or other interests, must be filed within the time allowed for claims to possession.

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Amendment History to LR 1025	
<b>December 1, 2009</b>	
LR 1025-1(e)	Time for filing statement changed from "ten (10)" days to "fourteen (14)" days.
LR 1025-1(f)	Time for filing answer changed from "twenty (20)" to "twenty-one (21)" days.

## LR 1030 - Default Actions in Rem

### LR 1030-1 Notice Required

A party seeking a default judgment in an action *in rem* must show to the satisfaction of a judge, that due notice of the action and arrest of the property has been given:

- a. By publication as required by LR 1025-1;
- b. By service on the master or other person having custody of the property; and
- c. By delivery, 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.

The party seeking a default judgment may be excused for failing to give notice to such "other person" upon a satisfactory showing that a diligent effort was made to give notice without success.

### LR 1030-2 Persons With Recorded Interests

- a. If the defendant property is a vessel documented under the laws of the United States, the parties must obtain a current Certificate of Ownership, or Abstract of Title copy, from the United States Coast Guard and give notice to the persons named therein who appear to have an interest.
- b. 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 person(s) named in the records of such authority who appear to have an interest.

### LR 1030-3 Manner of Giving Notice

A required notice, other than by publication, of the action and arrest of the property will be given by delivering a copy of the pleadings and warrant of arrest. The delivery may be made by personal service or by certified mail with return receipt requested.

### LR 1030-4 Motion for Default Judgment

Upon a showing that no one has appeared to claim the property and given security, and that due notice of the action and arrest of property has been given, a party may move for judgment at any time after the time to answer has expired.

If no one has appeared, the party may have an *ex parte* hearing before a judge and judgment without notice.

If any person has appeared and does not join in the motion for judgment, such person will be given seven (7) days notice of the motion; provided, however, that upon good cause, a judge can shorten the time of the required notice.

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Amendment History to LR 1030	
December 1, 2009	
LR 1030-4	Time changed from "five (5)" days to "seven (7)" days.

## LR 1035 - Custody of Property

### LR 1035-1 Safekeeping of Property When Seized

When a vessel, cargo, or other property is seized, the marshal will take custody and arrange for adequate and necessary security for the safekeeping of the vessel, cargo, or other property which may include, in the marshal's discretion, the placing of keepers on or near the vessel, or the appointment of a facility or person as custodian of the vessel for the marshal.

### LR 1035-2 Cargo Handling, Repairs, and Movement of Vessel

After the arrest or attachment of a vessel, no cargo handling, repairs, or movement of the vessel, may be made without a Court order and notice to the marshal. The required notice will be given to the marshal prior to the application for such an order.

### LR 1035-3 Petition for Change of Arrangements

After a vessel, cargo or other property has been taken into custody by the marshal, any party then appearing may petition the Court to dispense with keepers; to remove to or place the vessel, cargo or other property at a specified facility; to designate a substitute custodian for the vessel or cargo; or other appropriate relief.

Notice of the petition will be given to the marshal and to counsel for all parties who have appeared. The petition may be brought on for hearing at which time a judge will determine whether such a facility or substitute custodian is capable of and will safely keep the vessel, cargo or other property.

### LR 1035-4 Insurance

The marshal may order insurance to protect the marshal, his deputies, keepers and substitute custodians from liability assumed in arresting a vessel, cargo or other property and while performing whatever services are undertaken to protect the vessel, cargo or other property while such items are maintained in the Court's custody. The party applying for arrest of the vessel, cargo or other property will reimburse the marshal for premiums paid to effect the insurance.

The party applying to remove the vessel, cargo, or other property to another location; for designation of a substitute custodian; or for any other form of relief that will require an additional insurance premium, will reimburse the marshal for the additional premiums. The premiums charged for the liability insurance are taxable as administrative costs while the vessel, cargo or other property is *in custodia legis*.

## LR 1035-5 Claim by Supplier 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, must 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.

The supplier must serve copies of the claim on the marshal (and the substitute custodian if one has been appointed) and the attorneys for all parties appearing in the action. The Court may decline to consider the claim until a hearing is conducted to decide other claims against the property.

## LR 1040 - Release of Property

### LR 1040-1 Appraisal

At the request of any interested party, the clerk will enter an order for appraisal of property so security can be given. If the parties do not agree in writing upon the appraiser, a judge will appoint the appraiser. The appraiser will be sworn to the faithful and impartial discharge of his duties before any federal or state officer authorized by law to administer oaths. The appraiser will give one (1) day's notice of the time and place of making the appraisal to the attorneys who have appeared in the action. The appraiser will file the appraisal with the clerk as soon as it is made.

## LR 1045 - Sale of Property

### LR 1045-1 Notice

Unless otherwise ordered as provided by law, the notice of sale of property in an action *in rem* will be published daily in accordance with LR 1050-1 for a period of at least ninety-six (96) hours prior to the day of sale.

## LR 1045-2 Payment of Bid

The person whose bid is accepted will immediately pay the marshal the full purchase price if the bid is not more than \$500; or a deposit of \$500 or 10 percent of the bid, whichever sum is the greater, if the bid exceeds \$500. The bidder will pay the balance of the purchase price within seventy-two (72) hours thereafter, excluding Saturdays, Sundays and holidays.

If an objection to the sale is filed within that time, the bidder is excused from paying the balance of the purchase price until three (3) days after the sale is confirmed. Payments to the marshal will be made in cash, certified check or cashier's check. A judge may specify different terms in any order of sale.

## LR 1045-3 Penalty for Failure to Pay Balance of Bid

### (a) Late Payment

A successful bidder who fails to pay the balance of the bid within the time allowed under these rules or a different time specified in an order by a judge, will also pay the marshal the costs of keeping the property from the date payment of the balance was due, to the date the bidder takes delivery of the property. The marshal may refuse to release the property until this additional charge is paid.

### (b) Default

A person who fails to pay the balance of a bid within the time allowed is deemed to be in default and a judge may, at any time thereafter, order a sale to the second highest bidder or order a new sale where appropriate. Any sum deposited by the bidder in default will be forfeited and applied to pay any additional costs incurred by the marshal by reason of the forfeiture and default, including costs incident to a resale. The balance of the deposit, if any, will be retained in the registry subject to further order of the Court.

## LR 1045-4 Accounting by the Marshal

At the conclusion of the sale, the marshal will forthwith file a written report to the Court of the fact of sale, the date thereof, the price obtained and the name and address of the buyer.

## LR 1045-5 Confirmation

## **(a) Without Order of Court**

A sale will stand confirmed as of course without any affirmative action by the Court unless

1. A written objection is filed within the time allowed under these rules; or
2. The purchaser is in default for failing to pay the balance due the marshal.

## **(b) 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 a judge. The person seeking a hearing will apply to the Court for an order fixing the date of the hearing and directing the manner of giving notice and will give written notice of the motion to the marshal and all persons who have an interest. The judge may confirm the sale, order a new sale, or grant such other relief as justice requires.

# **LR 1045-6 Objection to the Sale**

## **(a) Manner and Time for Objecting**

A person may object to the sale by filing a written objection with the clerk and depositing a sum with the marshal which will pay the expense of keeping the property for at least seven (7) days. Payment to the marshal will be made in cash, certified check, or cashier's check.

The objector must give written notice of the objection to the successful bidder and the parties to the action. The written objection must be endorsed by the marshal with an acknowledgment of receipt of the deposit prior to filing. The objection must be filed within three (3) days after the sale, excluding Saturdays, Sundays and holidays.

## **(b) Disposition of Deposits**

1. If the 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 will be returned to the objector without delay. The objector will be reimbursed for the expense of keeping the property from the proceeds of a subsequent sale.
2. 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 sale is confirmed, and any balance remaining will be returned to the objector forthwith.

## LR 1045-7 Title to Property Sold

Failure of a party to give required notice of the action and arrest of a 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 the purchaser of the property.

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Amendment History to LR 1045	
December 1, 2009	
LR 1045-1	Time changed from "four (4) days" to "at least ninety-six (96) hours."
LR 1045-2	Time changed from "three (3) days" to "seventy-two (72) hours."

## LR 1050 - Publication of Notices

### LR 1050-1 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 these rules, will be published in a newspaper of general circulation in this district unless a judge directs otherwise.

## LR 1055 - Prejudgment Interest

### LR 1055-1 Rate of Prejudgment Interest Allowed

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

## LR 1056 - Authority of the Marshal to Serve Process

### LR 1056-1 Territory for Service of Process and Seizure of Vessels

Pursuant to Section I of the Oregon Admissions Act, 11 Stat. 383 (1859), providing for concurrent jurisdiction on the Columbia and Snake Rivers within the states of which these rivers form a common boundary, the marshal is empowered to serve process and seize vessels on the Columbia and Snake Rivers which border the State of Oregon.