

US Marshals Northern District of California Civil Section - Admiralty

Procedures for USMS Admiralty Seizures

- 1) Prior to the issuance of a *Warrant of Arrest in Rem/Writ of Attachment* please provide to the US Marshals Civil Section a copy of all documents for review.
- 2) Once signed - Filed **Original** Complaint, Warrant of Arrest/Writ of Attachment and Substitute Custodial Order. Provide Court Documents (4 sets) to the US Marshals Civil Section along with form USM-285. In addition a deposit will be required prior to any seizure. The general deposit schedule is as follows:
 - a. \$5000- Vessel under 50' in length (approximately)
 - b. \$10,000 – Larger vessels (over 50'), Container Ships, Cruise Ships and Tankers*Additional deposit may be necessary depending on circumstances (See local Admiralty Rules 4-6)
- 3) United States Marshals Service (USMS) will obtain insurance and schedule with the substitute custodian a date and time to seize the vessel (due to manpower constraints the USMS requires at least **2** business days to serve most maritime orders once the order is received)
- 4) USMS will seize the vessel and transfer vessel to the substitute custodian
- 5) USMS will await further direction from the court or a settlement agreement between parties
- 6) USMS may request an additional deposit as needed. If no deposit is received and existing funds are extinguished the USMS will release the vessel (See local Admiralty Rules 4-6)

Warrant of Arrest/Writ of Attachment should include (See Local Admiralty Rules 9-1):

- 1) Authority to move the vessel at the discretion or direction of the harbor master or United States Coast Guard
- 2) Directions for how to deal with the ship's crew and other innocent third parties
- 3) Directions for how to deal with cargo (large vessel)
- 4) Directions for how to deal with personal property (small vessel)

Order for Substitute Custodian should include:

- 1) An affidavit from the custodian.
- 2) Directions for USMS to transfer custody to custodian.
- 3) Statement that plaintiff will cover expenses for substitute custodian
- 4) Statement that expenses of substitute custodian should be considered *custodia legis*
- 5) Statement that releases the USMS from all liability and responsibility once vessel is transferred to the substitute custodian
- 6) Statement that plaintiff is to hold harmless and indemnify the United States and the USMS from any claims while the substitute custodian has possession
- 7) Custodian must be bonded or insured for a minimum of 1 million dollars.

Charges and Fees (See 28 USC 1921):

- 1) Service fee is \$55.00 per deputy/per hour (also may apply to extended consultation with USMS)
- 2) Mileage to site is charged at the GSA mileage rate (as of 2/12 – 0.51 per mile)
- 3) Insurance for deputies (required)
- 4) Survey's and pilots to move vessel as required
- 5) Fees for crew resupply as required
- 6) All unused funds will be returned to plaintiff upon settlement or sale

Release of Vessel

- 1) The USMS will release a vessel for one of three circumstances:
 - a. An order for release has been provided to the USMS and signed by a judge.
 - b. A stipulation or agreement between parties that has been presented and signed by the Clerk of the Court.
 - c. If there is a lack of funds to continue arrest, the USMS will notice the court and request release.

Sale of Vessel: USMS commission for sale of a vessel will be 3% for the first \$1000 collected and 1.5% in excess of any amount over \$1000, with a maximum of \$50,000.