

Hector Gonzalez
United States District Judge
225 Cadman Plaza East
Brooklyn, New York 11201
Courtroom: 6A South
Telephone: (718) 613-2520

Contact: Pierre Neptune (Courtroom Deputy)
Telephone: (718) 613-2525

INDIVIDUAL PRACTICES

Unless otherwise ordered, all civil and criminal matters before Judge Gonzalez must be conducted in accordance with the following practices:

I. COMMUNICATIONS WITH CHAMBERS

A. *Written Communications with Chambers*

1. In newly-filed civil actions, except *pro se* cases, all matters, including discovery matters, will be heard by Judge Gonzalez rather than a Magistrate Judge unless an Order of Referral or a Stipulation Consenting to Magistrate Judge Jurisdiction has been entered. All communications with the Court in such cases should therefore be addressed to Judge Gonzalez in accordance with these Individual Practices.
2. Except as provided below, communications with Chambers shall be by letter electronically filed with the Court, with copies simultaneously delivered or mailed to any *pro se* litigant. Counsel must provide a brief description of the subject matter of the letter in the ECF entry field (e.g., "Joint Letter in connection with Initial Status Conference") not simply, "Letter." No hard copies of letters, including letters requesting extensions or adjournments, shall be delivered to Chambers or to the Court.

B. *Telephone Calls and Urgent Communications*

1. Telephone calls to Chambers with questions about these Individual Practices are permitted. For docketing, scheduling or calendar matters, call Courtroom Deputy Pierre Neptune at (718) 613-2525. Unless it is an emergency, telephone calls to Chambers or to the Courtroom Deputy are permitted between 9:00 a.m. and 4:00 p.m.
2. *Ex parte* telephone calls to Chambers about the substance of cases are *not* permitted. Please do not call Chambers or the Courtroom Deputy with procedural questions that are covered by the Local Rules of this Court or the Federal Rules of Civil or Criminal Procedure.

3. If a submission requires immediate attention, please notify Chambers by telephone after filing on ECF.
- C. ***Faxes and Emails.*** Faxes and emails are *not* permitted except with prior approval of Chambers or as otherwise allowed for in these Individual Practices.
- D. ***Requests for Adjournments or Extensions of Time***
1. Absent an emergency, and unless otherwise provided for by these Individual Practices, all requests for adjournments or extensions of time must be made at least three business days prior to a scheduled deadline or appearance. Any such request shall be designated as a “Motion” on ECF even if made in the form of a letter or a joint stipulation with a proposed order, and the ECF entry line must identify the nature of the request as related to an adjournment or extension. Requests for extensions will ordinarily be denied if made after the expiration of the original deadline.
 2. All requests for adjournments or extensions of time must be filed by ECF Letter only (except for *pro se* litigants), and must state: (a) the original date; (b) the number of previous requests for adjournment or extension; (c) whether these previous requests were granted or denied; (d) whether the adversary consents, and, if not, the reasons by the applicant, and by the adversary, for and against the relief requested; (e) all other dates previously scheduled, including dates for conferences with the Court, and a suggested modified schedule, agreed to by all other counsel; and (f) the grounds for the extension or adjournment. The consent of the adverse party is not a sufficient ground for an extension or adjournment.
 - a) In criminal matters, if a party seeks an exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161, it must confer with the opposing party and indicate in its letter-motion whether the parties consent. The party seeking exclusion must include in its request for adjournment or extension facts that would permit the Court to make an independent finding whether or not to exclude time in conformance with 18 U.S.C. § 3161, and must also submit to the Court a proposed order excluding time under the Speedy Trial Act.
 3. Discovery extensions in civil cases will not be granted based on an opponent’s or non-party’s non-compliance with discovery obligations unless the movant has exhausted, promptly upon the non-compliance, all legal remedies to obtain compliance. Failure to timely request relief for non-compliance by an opponent or non-party may result in a waiver of the requested discovery.

II. COURT CONFERENCES

- A. ***Attendance by Principal Trial Counsel.*** Absent leave of Court, the attorney who will serve as principal trial counsel must appear at all conferences with the Court.

Any attorney appearing before the Court must enter a notice of appearance on ECF.

- B. ***Participation of Lawyers.*** Notwithstanding Section II.A, above, the Court nevertheless encourages the participation in court proceedings by women and diverse lawyers, who historically have been underrepresented in the federal bar, as well as younger lawyers, particularly where that attorney played a substantial role in drafting the underlying filing or in preparing the relevant witness. The Court may be inclined to grant a request for oral argument, which it generally disfavors, or to permit more than one lawyer representing a party to argue, where doing so would afford the opportunity for a lawyer described herein to gain courtroom experience.

III. ELECTRONIC CASE FILING (ECF)

A. ***Mandatory ECF Filing***

1. Counsel must file all documents via ECF. All written submissions and supporting materials must be text-searchable, to the extent practicable.
2. Correspondence between or among the parties shall *not* be filed on ECF.
3. Orders and other notices from the Court will be posted via ECF; parties not registered for ECF will not receive them.
4. *Pro se* parties are exempt from mandatory ECF filing. However, parties represented by counsel must file documents electronically, even if that party's adversary is *pro se*. For questions about filing and serving documents in cases in which one or more parties are proceeding *pro se*, contact the *Pro Se* Office at (718) 613-2665.
5. All requests for relief from the Court, whether by letter or formal motion papers, shall be designated as a "Motion" on ECF. In addition, the ECF entry line must designate the subject matter of the letter or motion (*e.g.*, "Letter motion requesting extension of time to respond to interrogatories") not simply "Letter."
6. Parties filing non-text exhibits that are impractical to file electronically should submit an electronic version on a compact disc to the Clerk's Office (labeled "Original") and to Chambers (labeled "Courtesy Copy").
7. For questions regarding ECF, call (718) 613-2610. For technical assistance, call (718) 613-2290. Attorneys should also refer to the Court's website: <https://www.nyed.uscourts.gov>.

- B. ***Sealing of Submissions.*** Motions for leave to file documents under seal should be filed via ECF in accordance with the EDNY's instructions for filing sealed documents. The proposed sealed document(s) should be attached to the motion

for leave to file under seal. Instructions for filing sealed documents in civil cases are at <https://img.nyed.uscourts.gov/files/forms/EfilingSealedCV.pdf>; instructions for filing sealed documents in criminal cases are at <https://img.nyed.uscourts.gov/files/forms/EfilingSealedCR.pdf>.

- C. ***Word Processing Files of Certain Submissions.*** Proposed orders, jury instructions, and other submissions for adoption by the Court shall be filed on ECF and emailed to Chambers in PDF and Microsoft Word format. Parties need not submit word processing files of stipulations unless specifically requested to do so. Please telephone Chambers to obtain the email address.
- D. ***Courtesy Copies.*** Except for parties proceeding *pro se*, parties shall deliver to Chambers a courtesy copy of all written submissions filed on ECF that are 25 pages in length or more, inclusive of any exhibits or attachments. All courtesy copies must be clearly marked “Courtesy Copy,” and any documents that have been filed under seal must also be marked as “SEALED.” All courtesy copies must include the stamp generated when a document is filed via ECF (including the document number as listed on the docket). Parties are encouraged to use double-sided printing for their courtesy copies, and to spiral-bind larger documents or packets on the left side using tabs to identify documents and exhibits in the submission. If a courtesy copy is voluminous (*i.e.*, more than two 2-inch binders), please call Chambers for instructions on whether to submit the courtesy copy in a digital format via compact disc containing separate and appropriately named PDF files for each item in the submission, including exhibits.

IV. CIVIL MOTIONS

A. ***Pre-Motion Conferences***

- 1. For discovery motions, follow Local Civil Rule 37.3. However, in lieu of separate letters by the parties, counsel must describe their dispute(s) in a single letter, jointly composed. The letter may not exceed five pages. Separate and successive letters will not be reviewed. Strict adherence to Fed. R. Civ. P. 37(a)(1), the meet and confer rule, is required, and should be described in the joint submission as to time, place, and duration, naming the counsel involved in the discussion.
- 2. A pre-motion conference is required before a party may file any non-discovery motion, except for motions described in Section IV.A.2.a, below. Parties must request a pre-motion conference in writing by ECF. The moving party shall submit a detailed letter not to exceed three pages in length setting forth the basis for the anticipated motion.
 - a) A pre-motion conference is not required for motions related to habeas corpus petitions, social security appeals, bankruptcy appeals, or cases in which any *pro se* party is incarcerated.

Additionally, a pre-motion conference is not required, in any type of case, for motions related to provisional remedies, motions for reconsideration, or motions made pursuant to Fed. R. Civ. P. 50, 52, 54, 59, or 60.

3. Service of the pre-motion conference request letter within the time requirements of Fed. R. Civ. P. 12 or 56 shall constitute timely service of a motion made pursuant to those provisions.
4. If the motion is for summary judgment under Rule 56, the movant's pre-motion conference letter must also include a copy of the movant's Rule 56.1 Statement (*see* Section IV.B.7, below, regarding requirements for the statement and opposing statement).
5. All parties served with the moving party's pre-motion conference letter are required to serve and file a letter response within five business days of service of the moving party's letter. The response shall not exceed three pages. If the movant is seeking to file a motion for summary judgment under Rule 56, the non-movant's response letter must include the non-movant's Rule 56.1 opposing statement.
6. Pre-motion conference letters related to any proposed motions for summary judgment or motions to exclude the testimony of experts pursuant to Rules 702-705 of the Federal Rules of Evidence and the *Daubert v. Merrill Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) line of cases shall be filed ten business days after the completion of fact or expert discovery, whichever occurs later.
7. Similarly situated parties (*i.e.*, multiple defendants moving to dismiss on overlapping grounds) should make reasonable efforts to consolidate their pre-motion conference letter to avoid duplication.
8. The moving party may *not* file a reply letter.
9. There shall be no cross-motions. Any motions not raised in a pre-motion letter by the relevant deadline will not be considered.
10. If a pre-motion conference is requested in connection with a proposed motion to dismiss, the request will stay the deadline for the requesting party to move or answer, and a new deadline will be set at the conference or after the motion is decided.
11. A party need not comply with the pre-motion conference requirement where it reasonably believes that delay in filing might result in the loss of a right. In that event, the party should file, along with the motion, a letter explaining why the party believes it might be prejudiced if it complied with the pre-motion conference requirement.

12. Counsel attending the pre-motion conference must be thoroughly familiar with the merits of their position regarding the proposed motion. The pre-motion conference is often the only opportunity for oral argument on the motion. Counsel should also anticipate a schedule that will require the filing of their motion within a short time after the conference (usually 10 business days).
13. In appropriate cases, the Court may exercise its discretion to construe the pre-motion letter, along with counsel's arguments at the pre-motion conference, as the motion itself.

B. *Motion Papers*

1. Motion papers shall be filed promptly. Do not hold motion papers until all papers are complete. In other words, the Court does not follow a "bundling rule."
2. Unless prior permission has been granted, memoranda of law in support of or in opposition to motions are limited to 25 double-spaced pages and reply memoranda are limited to 10 double-spaced pages. Use Times New Roman 12-point font for all text, including footnotes, and one-inch margins on all sides. Condensing or kerning of character spacing is *not* permitted. All memoranda 10 pages or longer shall contain a table of contents and table of authorities.
3. Requests to file memoranda exceeding the page limits set forth herein must be made in writing five business days prior to the due date, except with respect to reply briefs, in which case the written request must be made at least three business days prior to the due date. Similarly situated parties (*i.e.*, multiple defendants moving to dismiss on overlapping grounds) should make reasonable efforts to consolidate their submissions to avoid duplication. The Court will consider requests to enlarge applicable page limits to facilitate the filing of combined memoranda.
4. Notices of supplemental authority regarding decisions issued after the completion of briefing may be filed without leave of the Court. The length and content of such letters shall comply with the requirements of Fed. R. App. P. 28(j).
5. Affidavits or affirmations shall not be accepted on motions unless they are confined to factual averments. Attorney affidavits or affirmations shall not be accepted unless: (a) the facts addressed are within the personal knowledge of the attorney, such as in a discovery dispute; or (b) the attorney is authenticating documents and the attorney reasonably believes that authentication is not in issue. Witness or party affidavits, including any exhibits referenced in such affidavits, will not be accepted if they violate the Federal Rules of Evidence, including those pertaining to

hearsay, conclusions, and foundation. Argument or case citations, whether from a witness, party, or attorney, contained in affidavits or affirmations may result in rejection of the affidavit or affirmation or striking of the offensive portions. All exhibits to affidavits or affirmations must be separately tabbed and indexed, whether on ECF or courtesy copies.

- a) Parties are limited to a total of five affidavits each in support of or in opposition to a motion. Affidavits may not exceed 10 double-spaced pages. Use Times New Roman 12-point font for all text and one-inch margins on all sides. Parties are limited to a total of 15 exhibits, including exhibits attached to an affidavit, in support of or in opposition to any motion. Each exhibit – other than the complaint – is limited to 15 pages. If possible, the exhibits should be excerpted to include only the relevant material.
6. On motions for summary judgment, do not attach complete deposition transcripts as exhibits to affidavits or affirmations. Attach only pages containing relevant testimony to which citation is made in the memoranda or affidavits. However, any excerpted submissions must anticipate and comply with Fed. R. Evid. 106. In other words, include the portion of the excerpt necessary for completeness.
 7. Motions for summary judgment may be denied if the Local Rule 56.1 statements do not conform with the requirements described in these Individual Practices, in addition to those set forth in the Local Rule. Except in *pro se* cases, the Local Rule 56.1 statement by a party opposing summary judgment shall quote verbatim the moving party's Local Rule 56.1 statement and shall respond to each allegation in the moving party's statement immediately beneath each allegation. The opposing statement also may, if necessary, include a separate section of additional material facts relevant to the motion. The party opposing summary judgment may obtain from the movant in electronic format a word processing version of the Local Rule 56.1 statement to facilitate compliance with this paragraph.
 - a) The moving party's Local Rule 56.1 statement may not exceed 25 double-spaced pages without prior permission of the Court. The opposing statement may not exceed twice the length of the moving party's statement. If the opposing statement includes a separate section of additional material facts, that separate section may not exceed 10 double-spaced pages. Use Times New Roman 12-point font for all text and one-inch margins on all sides.
 - b) Each paragraph in the Local Rule 56.1 statement shall contain an assertion of a material undisputed fact, not a description of evidence. For example: "John Smith testified at deposition that he crossed the street" is not a statement of fact. The statement of fact

is “John Smith crossed the street.” If the statement of fact can only be characterized as “undisputed” by including its source, then it is probably not undisputed.

- c) Do not point out the absence of evidence to support an opponent’s position in a Local Rule 56.1 statement. Do it in the memorandum of law.
 - d) Do not state or summarize the claims, defenses, matters apparent on the docket sheet, timetable, or history of the litigation in the Local Rule 56.1 statement. Just tell the story of the events giving rise to the case through the undisputed facts.
- C. **Oral Argument.** Parties may request oral argument by noting “Oral Argument Requested” in their Notice of Motion or opposing memorandum and, if applicable, shall advise the Court that an attorney who intends to participate in the oral argument meets the criteria described in Section II.B, above. The Court will determine whether argument will be heard and, if so, will advise counsel of the argument date.

V. MOTIONS IN CRIMINAL CASES

- A. Any party appealing a Magistrate Judge’s Order of Release or Order of Detention shall include a copy of the transcript before the Magistrate Judge with their motion.
- B. Counsel shall advise the Court of any contemplated motion at a status conference scheduled by the Court or, if no status conference is scheduled, counsel shall request a pre-motion conference in writing and briefly state the grounds for such a motion before filing any motion. Oral argument, if any, on all criminal motions will be heard on a date set by the Court.
- C. Motions in criminal matters must comply with the requirements set forth in Section IV.B.2, above.

VI. PRETRIAL PROCEDURES

A. *Criminal Cases*

1. **Initial Matters.** Upon assignment of a criminal case to Judge Gonzalez, the parties shall immediately arrange with Courtroom Deputy Pierre Neptune for a prompt initial conference, at which the defendant will be present. The Assistant United States Attorney (“AUSA”) shall provide to Chambers, as soon as practicable, a courtesy copy of the indictment or information, and a courtesy copy of the complaint, if one exists.
2. **Status Conferences.** At least two business days prior to any status conference, including the initial conference described above, if a party will

seek an exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161, it must provide the Court a letter setting forth sufficient facts that would permit the Court to make an independent finding whether or not to exclude time in conformance with 18 U.S.C. § 3161.

3. **Filings.** In a multi-defendant case, all filings must designate the defendant or defendants, and only the defendant or defendants, as to whom the filing pertains.
4. **Guilty Pleas.** The AUSA shall provide a courtesy copy of the plea agreement by email to Chambers at least three business days before a change-of-plea hearing. If the defendant intends to waive indictment and plead guilty to an information at the change-of-plea hearing, a copy of the information should also be provided to the Court along with the plea agreement.

B. *Civil Cases*

Unless otherwise ordered by the Court, the parties shall submit to the Court a proposed joint pretrial order either: (a) within 60 days of the completion of fact or expert discovery, whichever occurs later; or (b) if a summary judgment motion has been filed, within 30 days after a decision on such motion. The joint proposed pretrial order shall include the following:

1. **Caption.** The full caption of the action.
2. **Parties and Counsel.** The names, addresses (including firm names), and telephone numbers of trial counsel.
3. **Jurisdiction.** A brief statement by the plaintiff explaining the basis of subject matter jurisdiction, and a brief statement by the defendant on the presence or absence of subject matter jurisdiction. These statements shall include citations to all (i) statutes and legal doctrines relied on, and (ii) relevant facts concerning citizenship and jurisdictional amount.
4. **Claims and Defenses.** A brief summary by each party of the elements of its remaining asserted claims and defenses. These summaries shall include citations to all statutes relied on but should not recite evidentiary matters.
5. **Jury or Bench Trial.** A statement by each party as to whether the case is to be tried with or without a jury, and the number of trial days needed.
6. **Consent to Trial by a Magistrate Judge.** A statement as to whether all parties have consented to trial of the case by a magistrate judge. The statement shall not identify which parties have or have not consented.

7. **Statement of Relief Sought.** A detailed statement regarding damages and other relief sought for each claim or counterclaim. In non-jury cases, parties should also provide a statement of the elements of each claim or defense involving such party, together with a summary of the facts relied upon to establish each element.
8. **Witnesses.** A list of fact and expert witnesses whose testimony is to be offered in each party's case in chief, along with the address of each witness and a brief narrative statement of the expected testimony of each witness. Only listed witnesses will be permitted to testify, except when prompt notice has been given and upon good cause shown.
9. **Deposition Testimony.** A designation by each party of deposition testimony to be offered in its case in chief, with any cross-designations and objections by any other party. The Court strongly encourages the parties to resolve all objections without the Court's intervention.
10. **Stipulations.** A statement of stipulated facts, if any.
11. **Exhibits.** A schedule listing exhibits to be offered in evidence and, if not admitted by stipulation, the party or parties that will be offering them. The schedule should not include exhibits that a party intends to use solely for impeachment and/or rebuttal purposes. Copies of statements proposed to be read to the jury as "learned treatises" under Fed. R. Evid. 803(18) shall be listed as exhibits. The plaintiff's exhibits must be identified with numbers using the prefix "PX," and the defendant's exhibits must be identified with numbers using the prefix "DX." Except for good cause shown, only exhibits listed will be received in evidence.

The parties shall list and briefly describe the basis for any objections to the admissibility of exhibits to be offered by any other party and set out the proponent's responses to those objections. Descriptions need be no longer than several sentences, but they should include more than just a list of the rules upon which objections are based. Parties are expected to resolve before trial all issues of authenticity, chain of custody, and related matters. Meritless objections on these grounds may result in sanctions.

12. **Motions in Limine.** A list of motions *in limine* each party intends to file (pursuant to the deadline set forth in Section VI.C.1, below), with a brief description of each such motion.

The parties are directed to cooperate with each other in the preparation of the Pretrial Order. The Pretrial Order will control the subsequent course of the action unless the order is modified by consent of the parties and the Court, or by order of the Court to prevent manifest injustice.

C. ***Filings Prior to Trial in Civil and Criminal Cases***

1. Any motions addressing evidentiary or other issues which should be resolved *in limine* shall be filed 30 days before the commencement of trial, unless otherwise ordered by the Court. Any responses are due 10 business days after the motions are filed. All motions *in limine* by a party must be filed in a single submission. Replies to motions *in limine* are *not* permitted. All memoranda regarding motions *in limine* must be prepared in accordance with the requirements of Section IV.B.2, above, specifying the proper formatting and page limits for memoranda. Requests to file memoranda exceeding the page limits set forth herein must be made in writing three business days prior to the due date. The Court will notify the parties whether oral argument is necessary.
 - a) Motions to exclude the testimony of experts pursuant to Rules 702–705 of the Federal Rules of Evidence and the *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), line of cases, shall be made by the deadline for dispositive motions and shall not be treated as motions *in limine*.
2. Requests to charge, proposed verdict sheets and proposed *voir dire* questions shall be filed on ECF and provided to Chambers in PDF and Microsoft Word formats no later than 10 business days before trial, unless otherwise ordered by the Court. Requests to charge should be limited to the elements of the claims, the damages sought, and defenses. General instructions will be prepared by the Court.
3. The parties shall provide the Court with three tabbed binders containing copies of all exhibits on the Friday before trial, unless otherwise ordered by the Court. If in the judgment of the parties the volume of exhibits makes this requirement impracticable, please call Chambers at least 10 business days before trial for instructions on how to submit courtesy copies of the exhibits.
4. All exhibits must be pre-marked for the trial and placed in binders with tabs. In civil cases, the plaintiff's exhibits must be pre-marked with numbers using the prefix "PX," and the defendant's exhibits must be pre-marked with numbers using the prefix "DX." Documents to be offered in evidence that contain multiple pages shall be paginated by counsel in advance of trial. When counsel anticipates that a witness will refer to documentary evidence during their direct testimony, counsel shall have (i) two copies of each document for the Court and (ii) at least one copy each for the court reporter, each present opposing counsel, and each juror.

VII. POST-TRIAL PROCEDURES

In all non-jury trials, parties must file proposed findings of fact and conclusions of law no later than 10 business days after the conclusion of trial. Responses to such submissions are not permitted.

VIII. SENTENCING

- A. ***Adjournments.*** Applications regarding sentencing adjournments shall be made in writing at least 10 business days prior to the date of sentencing. The response, if any, shall be made in writing at least six business days before the date of sentencing.
- B. ***Sentencing Memorandum.*** Defendant's sentencing memorandum, if any, is due 10 business days prior to sentencing. The government's response, if any, is due five business days prior to sentencing. Sentencing memoranda and any objections to the Presentence Report must be provided to the Probation Department.
- C. ***Violation of Supervised Release.*** The Court will not accept a guilty plea on a violation of supervised release without 24 hours' notice of the intent to plead, specifying the violations as to which the defendant intends to plead guilty.

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