

**INDIVIDUAL RULES OF
DISTRICT JUDGE JOAN M. AZRACK
United States District Court
Eastern District of New York
Long Island Courthouse
100 Federal Plaza
Central Islip, NY 11722**

**Courtroom: 920
Chambers: (631) 712-5600
Courtroom Deputy: Lauren Posillico (631) 712-5609
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Rules at a Glance

	Issue	Requirement	Indiv. Rule No.	Page
Court Filings	Electronic Case Filing	Mandatory, except for <i>pro se</i> litigants.	I.	3
	Courtesy Copies	Should not be provided unless the submission exceeds 20 pages.	II.	4
Communications with Chambers	Telephone Calls	For docketing, scheduling, or calendar matters, call Lauren Posillico at (631) 712-5609.	III.A	4
	Requests for Adjournments/ Extensions	Must be made in the form of a letter filed by ECF at least 48 hours before the deadline or court appearance.	III.B	4
	Urgent Communications	Notify Chambers by telephone after filing on ECF.	III.C	5
Motions	Motions Made to Magistrate Judges	See rule for full list.	IV.A	5
	Pre-Motion Conference	Required before making any motion except for those listed in the rule. Moving party shall file a letter not to exceed 3 pages. Responses (not to exceed 3 pages) are due within 7 days.	IV.B	5
	Memoranda of Law	Memoranda of law in support of, and in opposition to, motions are limited to 25 pages, and reply memoranda are limited to 15 pages.	IV.C	6
	Citations	Court prefers WestLaw citations to unpublished opinions.	IV.D	6

	Summary Judgment Motions	Parties must follow the Court’s formatting and filing rules for Local Rule 56.1 statements and evidentiary filings.	IV.E	6
	Magistrate Judges	All appeals and objections to Reports and Recommendations must be filed within 14 days of service of order. Responses are due within 14 days.	IV.F	7
	Filing of Motion Papers	Bundling Rule: no motion papers shall be filed on ECF until the motion is fully briefed. See rule for full list of requirements.	IV.G	7
	Motions Implicating Time-Limiting Rules	No pre-motion conference required and bundling rule does not apply.	IV.H	8
	Default Judgments/ Petitions to Confirm Arbitration Awards	Party moving shall submit a proposed order for the Court’s signature.	IV.I	8
Social Security Appeals	Bundling Rule	Briefing must the “bundling rule”. Administrative Transcript shall only be filed on ECF contemporaneously with the fully-briefed motion.	V.A	9
Pre-Trial Procedures	Joint Pretrial Orders in Civil Cases	Shall be prepared under the supervision of the assigned Magistrate Judge. See rule for list of what should be included in order.	VI.A	10
	Filings Prior to Trial in Civil Cases	See rule for full list of requirements.	VI.B	10
Criminal Cases	Sentencing	Defendant’s sentencing memorandum due 3 weeks prior to sentencing. Government’s response due 2 weeks prior.	VII.	12
Junior Lawyers		Junior lawyers are invited to address the Court during conferences, argue motions, and to question witnesses.	VIII.	12

Unless otherwise ordered by Judge Azrack in a specific case, matters before Judge Azrack shall be conducted in accordance with the following practices:

I. ELECTRONIC CASE FILING (ECF)

- A. All documents must be filed electronically.
- B. All written submissions and supporting materials must be text-searchable, to the extent practicable.
- C. Chambers staff are unable to assist with filing via ECF. For ECF assistance, call (631) 712-6030. Attorneys should also refer to the Court's website at:
<https://www.nyed.uscourts.gov/attorneys>
https://www.nyed.uscourts.gov/court-info/faq/CM_ECF
- D. Attorneys will receive all notifications and orders from the Court electronically through ECF.
- E. Parties filing voluminous or non-text exhibits that are impracticable to file electronically should contact Chambers prior to filing.
- F. Litigants proceeding *pro se* are exempt from ECF requirements. Chambers mails copies of any orders to *pro se* parties. *Pro se* parties are responsible for maintaining a current address on file with the Court. *Pro se* parties without ECF access shall file all documents through the Clerk's Office and shall not fax any document to Chambers without prior approval.
- G. In *pro se* cases, parties represented by counsel must still submit documents electronically. For questions about filing and serving documents in cases where one or more parties are proceeding *pro se*, contact the *pro se* office at (631) 712-6060.

II. COURTESY COPIES

- A. **Hard copies of documents filed by ECF should not be provided to Chambers unless the submission exceeds 20 pages, including exhibits.** Any courtesy copies submitted to Chambers must be clearly marked “Courtesy Copy,” “Original Filed by ECF,” and “Assigned Document Number [indicate document number from docket sheet].” Any exhibits or appendices should be clearly labeled and tabbed in the courtesy copy. Where a filing is of substantial length, the filer should submit the hard copy in a binder.
- B. Courtesy copies should be mailed to Chambers on the filing date; overnight or expedited mail is not required unless the Court orders otherwise.
- C. Courtesy copies of any pleadings permitted under Federal Rule of Civil Procedure (“FRCP”) 7(a) and any filing directed to the assigned Magistrate Judge should not be provided to Judge Azrack.
- D. Proposed orders, jury instructions, and other such writings a party wishes the Court to adopt should be submitted to chambers in Microsoft Word format as well as filed on ECF in PDF format. However, parties need not submit word-processing files of stipulations of dismissal or settlement unless specifically requested to do so. Counsel may send the files to: Azrack_Chambers@nyed.uscourts.gov.

III. COMMUNICATIONS WITH CHAMBERS

- A. **Telephone Calls:** Parties may contact Courtroom Deputy Lauren Posillico at (631) 712-5609 regarding docketing, scheduling, or calendar matters. If parties have questions concerning the application of Judge Azrack’s individual rules, they shall jointly contact Chambers at (631) 712-5600.
- B. **Requests for Adjournments or Extensions of Time:** All requests for adjournments of court appearances or extensions of time must be made in the form of a letter filed by ECF at least **48 hours** before the deadline or court appearance. The request must indicate: (1) the original date and time; (2) the reason for the request; (3) how much additional time is requested; (4) the number of previous requests; (5) whether the adversary consents, and, if not, the reasons given by the adversary for refusing consent; (6) proposed alternative dates when all parties are available; and (7) whether the request affects any other scheduled deadline or court appearance (in which case alternative dates must be proposed). *See* § IV(A), *infra*, for further details.

- C. Urgent Communications:** Materials filed via ECF may not be reviewed the same day they are filed. If a submission requires immediate attention, please notify Chambers by telephone after filing on ECF.

IV. MOTIONS

- A. Judge to Whom Motions Are to Be Made:** All dispositive motions, including motions to dismiss, motions for summary judgment, motions to change venue, motions to remand, and motions for class certification are to be made to Judge Azrack.

The assigned Magistrate Judge will preside over pretrial case management, discovery, and settlement. Unless otherwise specifically ordered, all discovery and other non-dispositive pretrial motions and applications are to be made to the Magistrate Judge in accordance with the Magistrate Judge's individual rules. Non-dispositive motions and applications include:

1. Discovery motions and applications, including motions to stay discovery.
2. Motions to amend pleadings.
3. Extensions of time to serve, answer, or file amended pleadings.
4. Stipulations concerning amendments to pleadings.
5. Stipulations to transfer venue.
6. Motions to quash subpoenas.
7. So ordering of subpoenas.
8. Applications concerning confidentiality/protective orders.
9. Sealing and unsealing orders.
10. Motions to withdraw as counsel.
11. *Pro hac vice* motions.
12. Substitutions of counsel.
13. Motions to disqualify counsel.
14. Requests for adjournments or extensions of time concerning arbitration or mediation proceedings.
15. Motions for conditional certification under the Fair Labor Standards Act.

- B. Pre-Motion Conference:** Except as noted below, a pre-motion conference is required before making any motion addressed to Judge Azrack. To arrange a pre-motion conference, the moving party shall file (via ECF) a letter not to exceed three pages in length setting forth the basis or bases for the anticipated motion. All parties so served must file a letter response (also via ECF), not to exceed three

pages, within seven days of service. Service of a pre-motion letter by the moving party within the time requirements established by statute or the Federal Rules of Civil Procedure for the filing of a motion (such as FRCP 12), shall constitute timely service of the motion.

No pre-motion conference is required for motions pursuant to FRCP 50, 52, 59, and 60, habeas corpus/prisoner petitions, Social Security and Bankruptcy appeals, objections to Reports and Recommendations by Magistrate Judges, motions for default judgment, motions to remand, and motions filed by *pro se* parties. Counsel should be aware that the Court of Appeals will not accept an argument that compliance with district court motion rules should excuse non-compliance with Federal Rule of Appellate Procedure 4.

In some cases, it will be apparent from the letter requesting a pre-motion conference that such a conference will not be a useful expenditure of the parties' time, and a motion schedule will be set without a pre-motion conference. However, if a party advises the Court in its pre-motion argument request that an attorney with seven years or less of experience as a licensed attorney will be representing the party at the conference, the Court may schedule a pre-motion conference.

Additionally, counsel should note that, in appropriate cases, the pre-motion letter along with counsel's argument at the pre-motion conference, may be construed, at the discretion of the Court, as the motion itself.

- C. Memoranda of Law:** Unless prior permission has been granted, memoranda of law in support of, and in opposition to, motions are limited to 25 pages, and reply memoranda are limited to 15 pages. Memoranda of 10 pages or more shall contain a table of contents.
- D.** The Court prefers WestLaw citations to unpublished opinions.
- E. Summary Judgment Motions:** Except in *pro se* cases, Local Rule 56.1 statements 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 alleged to be in dispute. If the opposing statement includes a separate section of additional facts, the moving party must file a reply statement addressing the additional assertions.

On motions for summary judgment, do not attach complete deposition transcripts as exhibits. Attach only pages containing relevant testimony to which citation is

made in the motion papers.

F. Magistrate Judge Appeals and Objections to Magistrate Judge Reports and Recommendations

In accordance with FRCP 72, all Magistrate Judge appeals and objections to Reports and Recommendations must be served upon all parties and filed with the Court within 14 days of service of the challenged order or report. The party opposing an appeal or objection shall file an opposition within 14 days of service. All appeals and objections must set forth the specific aspects of the order or report that are being challenged.

For appeals from Magistrate Judge orders concerning discovery, the appeal must be in the form of a letter, not exceeding three pages in length.

For all other Magistrate appeals and objections to Reports and Recommendations, the parties shall follow the page limits set forth in Section IV(c) above.

G. Filing of Motion Papers

1. For motions in which a pre-motion conference request is required, if the motion goes forward, the Court will set a briefing schedule at the pre-motion conference. For all other motions, the parties shall submit a proposed briefing schedule to the Court.
2. Judge Azrack follows the “bundling rule.” Except for motions pursuant to FRCP 50, 52, 59, and 60, motions to remand, and motions where the movant is *pro se*, **no motion papers shall be filed on ECF until the motion is fully briefed.** The movant shall serve the notice of motion and all supporting papers on the other parties in accordance with the briefing schedule. When the adversary serves its opposition papers, the adversary will also provide the movant with one additional copy of the opposition papers (and, if the adversary is represented by counsel, with a PDF version of the opposition papers). Once the motion is fully briefed, the moving party is responsible for filing the full set of motion papers via ECF. The moving party is also responsible for providing Chambers with one courtesy copy of all motion papers, together with a cover letter specifying each document in the package. A copy of the cover letter shall be sent to opposing counsel.
3. **Oral Argument:** Parties may request oral argument at the time their moving, opposition, or reply papers are filed. The Court will determine whether argument will be heard and, if so, will advise counsel of the

argument date.

4. Notices of motion shall not contain a return date.
5. Exhibits must be plainly labeled on ECF, not simply listed as an “Exhibit,” in a manner substantially similar to the following:

ANSWER to Complaint by John Lempke. (Attachments: # [1](#) Exhibit Hearing Minutes I, # [2](#) Exhibit Hearing Minutes II, # [3](#) Exhibit Plea Minutes, # [4](#) Exhibit Sentence Minutes, # [5](#) Exhibit Brief on Appeal, # [6](#) Exhibit Respondent Brief on Appeal, # [7](#) Exhibit Pro Se Supplemental Brief, # [8](#) Exhibit Respondent Pro Se Supplemental Brief, # [9](#) Exhibit Leave Letter, # [10](#) Exhibit Opposition to Leave Letter, # [11](#) Exhibit Appellate Division Decision, # [12](#) Exhibit Court of Appeals Decision)

or

STATE COURT RECORD (Attachments: # [1](#) Exhibit A Suppression Hearing, # [2](#) Exhibit B1 Trial Jury Selection, # [3](#) Exhibit B2 Trial 1-207, # [4](#) Exhibit B3 Trial 208-390, # [5](#) Exhibit B4 Trial 391-518, # [6](#) Exhibit C Sentencing, # [7](#) Exhibit D1 Direct Appeal Defendant's Brief, # [8](#) Exhibit D2 Direct Appeal People's Brief, # [9](#) Exhibit D3 Direct Appeal AD Decision, # [10](#) Exhibit D4 Direct Appeal Leave Appl, # [11](#) Exhibit D5 Direct Appeal Leave Opp, # [12](#) Exhibit D6 Direct Appeal

H. Motions Implicating Fed. R. App. P. 4(a)(4)(A) or Similar Time-Limiting Rules

As indicated above, these practices do not require a pre-motion conference or that a motion be fully briefed before it is filed when strictly enforced time limits must be met to preserve rights. Regardless, if any party concludes in good faith that delaying the filing of a motion, in order to comply with any aspect of these individual practices, will deprive the party of a substantive right, the party may file the motion within the time required by the Federal Rules of Civil and/or Appellate Procedure, together with an explanation of the basis for the conclusion.

I. Default Judgments/Unopposed Petitions to Confirm Arbitration Awards

A party moving for default judgment or moving to confirm an unopposed petition to confirm an arbitration award shall submit a proposed order for the Court’s signature. The proposed order shall contain evidentiary citations, with affidavits and other documentary evidence.

V. SOCIAL SECURITY APPEALS

- A. Briefing in Social Security Appeals shall comply with the “bundling rule” described in Individual Rule IV(F). **The Administrative Transcript shall only be filed on ECF contemporaneously with the fully-briefed motion.**
- B. In all cases in which the plaintiff is represented by counsel, along with its motion for judgment on the pleadings, as required by this district’s Administrative Order 2015-05 (“In re: Scheduling in Social Security Cases”)(ii)(A), the plaintiff shall provide a “Statement of Contentions.” This statement, conceptually similar to that required for summary judgment motions by Local Rule 56.1, shall set forth a separate, short, and concise statement, in numbered paragraphs, the contentions of the plaintiff as to the alleged legal errors in the Secretary’s determination and/or the specific findings of the decision of the Administrative Law Judge (“ALJ”) that, the plaintiff contends, is not supported by substantial evidence. Failure to submit such a statement may constitute grounds for denial of the motion, and failure to identify a legal error or finding unsupported by substantial evidence may be deemed a waiver of such argument. See *Selian v. Astrue*, 708 F.3d 409, 420 (2d Cir. 2013) (discussing forfeiture of arguments not presented to district court); *Estrella v. Berryhill*, 925 F.3d 90, 98 (2d Cir. 2019) (“claimants in Social Security cases must preserve legal arguments—not necessarily factual ones”).
- C. The responsive papers filed by the defendant, as required by AO(ii)(B), shall include an “Opposing Statement of Contentions,” containing correspondingly numbered paragraph responding to each numbered paragraph in the statement of the moving party. The failure to include such an opposing statement may result in the striking of the opposition to the motion.
- D. Each contention by the movant and opponent made pursuant to this rule must be followed by pinpoint citations to the administrative record, identifying evidence supporting and/or rebutting each said contention. By way of example, if plaintiff contends that the ALJ failed to properly assess plaintiff’s residual functional capacity, plaintiff’s Statement of Contentions should identify with particularity the aspects of plaintiff’s purported disability which were disregarded by the ALJ along with specific page citations identifying evidence supporting this claim. The Government, in turn, in its Opposing Statements should provide citations identifying the evidence which it believes the ALJ properly relied upon in reaching a determination as to those specific findings.

VI. PRETRIAL PROCEDURES

A. Joint Pretrial Orders in Civil Cases: A joint pretrial order shall be prepared under the supervision of the assigned Magistrate Judge in accordance with the schedule set by the Magistrate Judge. The parties are directed to cooperate with each other in the preparation of the joint pretrial order, which shall include the following:

1. The full caption of the action.
2. The names, addresses (including firm names), and telephone and fax numbers of trial counsel.
3. 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.
4. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matters, but including citations to all statutes relied on. The parties shall identify all claims and defenses previously asserted which are not to be tried.
5. Any stipulations of fact or law that have been agreed to by all parties.
6. A statement regarding damages and other relief sought.
7. A brief statement by plaintiff as to the basis of subject matter jurisdiction and a brief statement by each other party as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount.
8. Names of all witnesses (fact and expert), together with a brief narrative statement of the expected testimony of each witness and an indication whether the witness will testify in person or by deposition. Only listed witnesses will be permitted to testify except when prompt notice has been given and good cause shown.
9. Schedule of exhibits to be offered in evidence by each party. To the extent practicable, counsel should identify any anticipated objections to an opposing party's exhibits. Exhibits admitted by stipulation are to be designated as such. Only exhibits listed shall be offered in evidence except when prompt notice has been given and good cause shown.
10. A designation by each party of deposition testimony to be offered in its case-in-chief, with any cross-designations.

11. A statement as to whether all parties have consented to trial of the case by a Magistrate Judge (without identifying which parties have or have not so consented).

B. Filings Prior to Trial in Civil Cases: After the parties have filed their joint pretrial order, the Court will set deadlines for submission of the following trial materials:

1. **In All Trials:** Two courtesy copies of all exhibits, which shall be appropriately labeled and indexed, including a table of contents. All exhibits must be premarked for trial and exchanged with the other parties at least ten days before trial. Where exhibits are voluminous, they should be paginated and placed in binders with tabs.

2. **In Jury Trials:**

- i. *Voir dire* questions. Only questions specifically addressing the issues to be tried should be submitted. Routine questions are not necessary. Unless otherwise notified, the Court (or a magistrate judge) will conduct all *voir dire*.
- ii. A joint list of all persons, entities, or places that may be mentioned at trial.
- iii. A joint, brief, summary of the case that will be read to the jury during *voir dire*.
- iv. Proposed verdict forms.

A joint request to charge. General instructions will be prepared by the Court. The joint request to charge shall include the elements of the claims, the damages sought, the defenses, any special requests to charge, and supporting authority. In preparing the joint request to charge, the parties shall confer in good faith and attempt to resolve any disagreements. Areas of honest disagreement should be highlighted, clearly identified, and supported by authority. In addition to filing the joint request to charge on ECF and providing a courtesy copy to the Chambers, an electronic copy should be emailed to Chambers at Azrack_chambers@nyed.uscourts.gov. If the parties cite to jury instructions from another case as authority for their proposed instructions, the parties shall submit a PDF version of those instructions to Chambers at Azrack_chambers@nyed.uscourts.gov.

- v. Fully briefed motions addressing any evidentiary or other issues that should be resolved *in limine*.

- vi. A pretrial memorandum where a party believes it would be useful.
3. **In Non-Jury Trials:** Legal memoranda addressing all contested legal issues.

VII. Sentencing in Criminal Cases

Defendant's sentencing memorandum, if any, is due three weeks prior to sentencing. The Government's response, if any, is due two weeks prior to sentencing. Sentencing memoranda and any objections to the Presentence Report must be provided to the Probation Department.

VIII. Junior Lawyers

Junior members of legal teams representing clients are invited to address the Court during conferences, argue motions they have helped prepare, and to question witnesses with whom they have worked. Opportunities to train young attorneys in oral advocacy are rare because of the decline of trials. Where junior lawyers are familiar with the matter under consideration, but have little experience arguing before a court, they should be encouraged to speak in court when possible. This court is amenable to permitting a number of lawyers to argue for one party if this creates an opportunity for a junior lawyer to participate. The ultimate decision of who speaks on behalf of the client is, of course, for the lawyer in charge of the case, not for the Court.