

**INDIVIDUAL MOTION PRACTICE AND RULES
FOR CIVIL CASES ONLY¹**

JUDGE DORA L. IRIZARRY

**United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201**

Chambers: (718) 613-2150 (EMERGENCIES ONLY)

**Courtroom Deputy/Case Manager: Christy Carosella
Telephone: (718)-613-2155
Hours: 10:00AM-5:00PM (Monday – Friday)**

I. MANDATORY ELECTRONIC CASE FILING (ECF)

- A. All documents **MUST** be filed electronically.
- B. Orders will be posted electronically. Parties **not** registered on ECF and **not** exempt from ECF requirements will **not** receive them.
- C. One hard copy of each motion and accompanying exhibits must be provided to chambers immediately upon filing. All such papers must bear the ECF filing header that includes the assigned docket number produced at the time of filing. All exhibits must be properly tabbed and marked.
- D. Parties filing voluminous or non-text exhibits may request the Court’s permission to file only hard copies of those exhibits when electronic filing of those exhibits is impracticable. If permission is granted, one copy must be clearly marked “Original” and the other marked “Courtesy Copy.” Related papers that are not electronically filed must indicate clearly that exhibits have been filed by hard copy.
- E. Non-attorney *pro se* parties automatically are exempt from mandatory electronic filing. Parties represented by counsel in cases where the opposing party is proceeding *pro se* must comply with the following: (1) file documents electronically; (2) mail a hard copy of the documents to the *pro se* litigant; (3) file proof of such service within five days of the issuance of an order to serve a *pro se* litigant; and (4) be aware of the Local Rules of this Court concerning *pro se* matters.
- F. Under certain circumstances, *pro se* parties may register to receive notices of electronic filings (“NEFs”), by contacting the appropriate Clerk’s Office – Brooklyn: 718-613-2665. Central Islip: 631-712-6060.

¹ Last Revised November 10, 2021.

- G. All attorneys must register for ECF and obtain ECF training. Questions regarding ECF filing or training should be directed to Evelyn Levine at (718) 613-2312.
- H. **Filing Sealed Documents:** A party seeking to file a document, or any portion of a document, under seal must comply with the following procedures: (1) submit a letter to the Court setting forth the reasons why sealing is necessary along with a copy of the document to be sealed and a proposed redacted copy for posting on the public docket; and (2) email a PDF of these documents to the Courtroom Deputy (contact Chambers for the address). Such documents are to be sent directly to Chambers and **not** the Clerk's Office. Parties are **not** to file such documents via ECF themselves or use the ECF "Motion to File Under Seal" event. Where there is a filing deadline, a request to seal will serve as compliance with that deadline.
- I. **OCR Readable Format:** Any electronic documents submitted to chambers, including all PDF e-filings, must be in OCR-readable format.
- J. **Formatting:** All documents must be drafted in WORD, using one-inch margins, and 12-point Times New Roman font (or larger). Kerning is not permitted.

II. COMMUNICATIONS WITH CHAMBERS

- A. **Letters:** Except as provided below, communication with Chambers must be by letter filed electronically. Copies of correspondence between counsel must not be sent to the Court or posted on the docket via ECF.
- B. **Telephone Calls:** Except as provided in Rule II(C) below, telephone calls to chambers are permitted **ONLY** in emergency situations requiring **immediate** attention. In such situations **only**, call chambers at the number listed above. Chambers staff is **not** permitted to give legal advice to litigants or their counsel and will not engage in *ex parte* communications. Before calling chambers, be sure to read the Judge's rule(s) concerning the matter at issue.
- C. **Docketing, Scheduling, and Calendar Matters:** For docketing, scheduling, and calendar matters, call the Courtroom Deputy at the telephone number listed above. If the Courtroom Deputy is not immediately available, please leave a voice message, noting your name, telephone number, date and time of the call, case name and docket number, and a brief description of the nature of your call. **DO NOT MAKE REPEATED CALLS AND LEAVE REPEATED MESSAGES.** Your call will be returned as promptly as the Courtroom Deputy is able to do so.
- D. **Requests for Adjournments or Extensions of Time:** All requests for adjournments or extensions of time must be made **NO LATER THAN THREE (3) BUSINESS DAYS PRIOR TO THE DATE IN QUESTION**, by letter motion via ECF and must include:
 - 1. The reason for the request;
 - 2. The original deadline or conference date;

3. The number of previous requests for adjournments or extensions;
4. Whether these previous requests were granted or denied;
5. Whether the adversary consents, and, if not, the reason given by the adversary for refusing to consent; and
6. Proposed date(s) for the adjournment or extension of time.

Parties should not assume that requests made immediately before or on the deadline date will be considered by the Court. Moreover, if no action is taken by the Court, particularly when the request is untimely, parties must assume that they are to complete the required action.

III. MATTERS REFERRED TO ASSIGNED U.S. MAGISTRATE JUDGES

A. The following matters are hereby referred to the assigned U.S. Magistrate Judge and, in connection with the referred matters, parties must adhere to the individual rules and practices of the assigned U.S. Magistrate Judge:

1. Extension of time to serve or answer pleadings;
2. Motions to amend the pleadings;
3. Stipulations amending pleadings;
4. Motions for a more definite statement pursuant to Fed. R. Civ. P. 12(e);
5. Motions for admission *pro hac vice*;
6. Issuance of subpoenas and confidentially/protective orders;
7. Motions to quash subpoenas;
8. Unsealing orders;
9. Motions to be relieved as counsel or substituted as counsel;
10. Requests for adjournments or extensions of time in arbitration or mediation proceedings;
11. Motions for Default Judgment (in all cases **except for** student loan collections)

B. U.S. Magistrate Judges preside over all pretrial case management, discovery, and settlement matters. *See*, 28 U.S.C. § 636(b)(1), (c), and Local Civil Rule 72.2.

IV. CIVIL MOTIONS

A. **Premotion Conferences:**

1. Premotion conferences are **NOT REQUIRED** for the following:
 - (a) motions in lieu of an answer pursuant to Fed. R. Civ. P. 12(b);
 - (b) objections to U.S. Magistrate Judge Reports and Recommendations pursuant to Fed. R. Civ. P. 72;
 - (c) motions for default judgment;
 - (d) appeals from U.S. Magistrate Judge orders;
 - (e) motions for reconsideration/reargument;
 - (f) motions for sanctions;

- (g) motions to remand to state court;
- (h) motions to stay the case; and
- (i) motions to reopen a case.

The time periods for such motions are prescribed by the Federal Rules of Civil Procedure and the Federal Rules of Appellate Procedure. Where the Federal Rules of Civil Procedure and the Federal Rules of Appellate Procedure are silent on time limitations, a fourteen (14)-day limitation will apply. The time periods for the service of answering and reply memoranda, if any, shall be governed by Local Civil Rule 6.1(b).

- 2. For discovery motions, follow Local Civil Rules 6.4 and 37.3, and the Individual Rules and Practices of the assigned U.S. Magistrate Judge.
- 3. **Requests for premotion conferences as to all other motions are required.** To request a premotion conference, the moving party must file a letter motion, **not to exceed three (3) single-spaced pages (including signatures)**, briefly setting forth the basis for the anticipated motion. The respondent must file a letter response, **not to exceed three (3) single-spaced pages**, within seven (7) days from service of the premotion conference request. **REPLIES ARE NOT PERMITTED. DO NOT ATTACH EXHIBITS OR EXCEED THE PAGE LIMIT. FILINGS THAT DO NOT CONFORM TO THESE REQUIREMENTS WILL BE STRICKEN SUMMARILY.**
- 4. Parties attending a premotion conference must be familiar with the factual and legal issues underlying the proposed motion, as well as the procedural posture of the case.

B. **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**, not including appendices or attachments. Reply memoranda are limited to **10 pages**, not including appendices or attachments. Memoranda of 10 pages or more must contain a table of contents. All memoranda of law must be produced in WORD using Times New Roman 12-point font (or higher), have one-inch margins on all sides, and be double spaced. All memoranda must have the date of service plainly visible on the front cover. No letter briefs will be permitted, except by permission of the Court. *See* Local Rule 7.1. Unless otherwise permitted by the Court, all case law citations must be made to official case reporters. To the extent necessary, the Court permits citations to Westlaw and Lexis, with a preference for citations to Westlaw. Memoranda of law that fail to comply with the foregoing requirements will be rejected.

C. **Deposition Transcripts Used in Summary Judgment Motions:** When filing a deposition, the full deposition transcript, and not excerpts, must be submitted. Any other party referring to that deposition transcript must not file a duplicate copy of

the deposition transcript, but, instead, must refer to the previously filed deposition transcript.

D. **Previously Filed Documents:** Parties shall not attach as an exhibit previously filed documents. Instead, parties shall refer to the previously filed document by its ECF docket number. For example, do not include a copy of the complaint as an exhibit in a motion to dismiss.

E. **Motions for Default Judgment:** No pre-motion conference is required to move for default judgment. Once the time for answering (including extensions) has expired, if plaintiff intends to move for a default judgment, plaintiff first must file a request for entry of a notation of default by the Clerk of the Court. Once the notation of default is entered, Plaintiff must move for default judgment by submitting a notice of motion, any necessary affirmations and exhibits, and a memorandum of law (not to exceed 25 pages), setting forth the grounds for awarding damages, attorneys' fees and costs, and file proof of service thereof to the defaulting party or parties.

F. **Filing of Motion Papers:**

1. **Bundle Rule:** The bundle rule **DOES NOT APPLY** to the motions listed in Section IV(A)(1) above and a hard courtesy copy of each submission for which a pre-motion conference is not necessary, must be forwarded to chambers immediately upon filing. As to all other motions, no motion papers are to be filed via ECF nor courtesy copies provided to chambers until the motion has been briefed fully. The notice of motion and all supporting papers are to be served on the other parties along with a cover letter setting forth whom the movant represents, and the papers being served in accordance with the Court-ordered briefing schedule. The adversary is responsible for providing the movant with a PDF version of its opposition papers. In the case of cross-motions, each moving party is responsible for filing its own fully briefed motion. The courtesy copies must bear the ECF filing header that includes the assigned docket number produced at the time of filing.

Courtesy Copies: All such papers must bear the ECF filing header that includes the assigned docket number produced at the time of filing. Exhibits must be tabbed and indexed properly.

2. With respect to motions for summary judgment, the moving party must submit a cover letter and an index listing the documents submitted to the Court, and, in all other respects, comply with Federal Rules of Civil Procedure 56 and Local Civil Rule 56.1. All exhibits must be marked clearly and tabbed in an orderly fashion. Motions that do not comply with this rule will be rejected.

- G. **Oral Argument:** Parties may request oral argument at the time their moving or opposing papers are filed. A request for oral argument must be made by typing “Oral Argument Requested” below the docket number on the moving or opposing papers. The Court will determine whether to hear oral argument and, if so, will advise counsel of the argument date.
- H. For questions about procedures not covered by these rules, please refer to the Federal Rules of Civil Procedure, the Federal Rules of Appellate Procedure, and the Local Rules for the Eastern District of New York.

V. PRETRIAL PROCEDURES

A. Joint Pretrial Orders (“JPTO”):

1. Unless the parties contemplate making dispositive motions, they must submit a joint proposed pretrial order within **30 days** of the date that discovery is certified as complete.
2. The JPTO must be directed to and approved by Judge Irizarry and not the assigned magistrate judge.
3. The JPTO must conform to the format of the attached template [\[which may be accessed by clicking here\]](#) and include, precisely and concisely, the information set forth in items (I) – (VIII) below, labeled with the corresponding numbered headings: **(DO NOT LIST THE INFORMATION IN A SEPARATE DOCUMENT ATTACHED TO THE TEMPLATE)**
 - I. The full names, addresses (including e-mail addresses), and telephone and fax numbers of all trial counsel.
 - II. A brief statement by the plaintiff as to the basis of subject matter jurisdiction, and a brief statement by other parties as to the presence or absence of subject matter jurisdiction. Such statements must include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount. As noted in Section III below, if a party believes subject matter jurisdiction is lacking, that must be raised in a dispositive motion **BEFORE** filing the JPTO.
 - III. A brief summary by each party of the claims and defenses such party has asserted that **REMAIN** to be tried, including citations to all statutes relied upon, without reciting evidentiary matter. The brief summary also should include a detailed statement, by claim, regarding damages and other relief sought. Such summaries must identify all claims and defenses previously asserted that are not to be tried. **DO NOT RECITE THE ENTIRE PROCEDURAL HISTORY OF THE CASE.**

Parties should not be raising, especially for the first time, any defenses relating to violations of statutes of limitations, lack of subject matter or personal jurisdiction, or failure to state a claim, as these issues should be resolved prior to filing the JPTO by way of summary judgment or partial summary judgment, if they could not have been raised on a motion to dismiss prior to engaging in discovery.

Proposed motions addressing evidentiary or other issues to be resolved *in limine* must be addressed prior to filing the JPTO by requesting a premotion conference.

- IV. A statement by each party as to whether the case is to be tried nonjury or before a jury and the number of trial days needed per party.
 - V. A statement as to whether or not all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented).
 - VI. Stipulations of fact and law. Such stipulations are encouraged.
 - VII. A list of the names and addresses of all witnesses, including possible witnesses who will be called only for impeachment or rebuttal purposes and so designated, together with a brief narrative statement of the expected testimony of each witness. The parties will list and briefly describe the basis for any objections to witnesses offered by any other party. Mere citation to a rule from the Federal Rules of Evidence is insufficient. Unless prompt notice is given and good cause shown, only listed witnesses will be permitted to testify.
 - VIII. 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 also shall include possible impeachment documents and/or exhibits, as well as exhibits that will be offered on rebuttal. The parties are to list and briefly describe the basis for any objections to the admissibility of any exhibits. Merely citing to a Federal Rule of Evidence is insufficient. A party's failure to object to an exhibit in the JPTO waives all objections at trial. Parties are expected to resolve all issues of authenticity, chain of custody, and related grounds before trial. Meritless objections based on these grounds may result in the imposition of sanctions. Except for good cause shown, only listed exhibits will be received in evidence.
- B. **Exhibits:** All exhibits must be premarked for trial and exchanged with other parties at least ten (10) days before trial. Plaintiff's exhibits must be premarked with numbers, *e.g.*, "Pl. 1." Defendant's exhibits must be premarked with letters, *e.g.*, "Def. A." Exhibits should be placed in binders with tabs. No later than two

business days prior to trial, all parties are to provide the Court with two (2) sets of tabbed binders containing copies of all exhibits. All documents to be offered in evidence that contain multiple pages must be paginated by counsel in advance of trial. The courtroom is equipped with electronic technology for the use and display of exhibits at trial. The parties are responsible for arranging training in the use of the equipment with the Court's IT Staff by calling 718-613-2290.

- C. **Pretrial Conference:** The Court will schedule a pretrial conference upon the filing of the JPTO. Absent an emergency, requests for adjournments of the pretrial conference must be made at least three (3) business days prior to the scheduled appearance and in accordance with Rule II(D) above.

VI. FILINGS PRIOR TO TRIAL

Unless otherwise ordered by the Court, the parties must submit the following at least fifteen (15) days before the commencement of trial:

- A. Proposed *voir dire* questions, jury instructions, and verdict sheet with any special interrogatories, which will be discussed with the parties at the pretrial conference.
- B. In non-jury cases, each party shall submit a statement of the elements of each claim and defenses involving each claim together with a summary of the facts relied upon to establish each element.

VII. EXPECTATIONS AND REQUIREMENTS FOR TRIAL

- A. These will be discussed with counsel at the final pretrial conference. The Court fully expects all counsel and the parties to be punctual and to conduct themselves courteously, respectfully, and professionally at all times. Parties are on notice that the Court will not tolerate delays due to witness scheduling or the raising of legal issues that could have been raised and resolved by the Court in advance of trial. The Court will not keep a jury waiting while such issues are resolved. Parties should arrange to have sufficient witnesses available to testify throughout the day until at least 5:00 PM.