

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Judge John Gleeson
Motion and Individual Practices

Contact: Ilene Lee (Case Manager)
Telephone: (718) 613-2455
Fax: (718) 613-2316

225 Cadman Plaza East
Brooklyn NY 11201
Courtroom: 6C
Chambers: 727 S
Telephone: (718) 613-2450
Fax: (718) 613-2456 (**by permission only**)

Motions Returnable

Set by the court. Oral argument is held on all motions, and is generally scheduled on a Friday morning.

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

1. *Case Filings*

A. *Electronic Case Filing (ECF)*

Pursuant to Administrative Order 2004-08, **all case documents must be filed electronically via ECF** for all civil cases other than *pro se* cases and for all criminal cases. The Eastern District's User Guide for electronic case filing is available at <http://www.nyed.uscourts.gov/pub/docs/local/ecf-usermanual.pdf>. This manual also contains contact information for questions regarding ECF. Parties are advised not to contact chambers with questions regarding ECF registration, filing, or other technical issues.

B. *Text-Searchable Formats for Electronic Filing*

Documents consisting primarily of text that are filed electronically with the Court should be in text-searchable format, whether such documents are created directly from an electronic version, or, for scanned documents, because optical character recognition has been applied.

C. *Filing Under Seal*

Written submissions to be filed under seal should also be filed on ECF. Instructions for e-filing sealed documents are available on the Eastern District's

website at
<https://www.nyed.uscourts.gov/sites/default/files/forms/EfilingSealedCV.pdf>
(civil) and
<https://www.nyed.uscourts.gov/sites/default/files/forms/EfilingSealedCR.pdf>
(criminal). Unless prior approval to file under seal has already been granted, each such submission shall be accompanied by an explanation of why sealing is necessary.

D. *Court's Review of ECF Submissions*

As a general matter, materials filed via ECF are reviewed by chambers the first business day after submission. If your submission requires immediate attention, please notify chambers by telephone after you file via ECF.

E. *Courtesy Copies*

Parties shall deliver to chambers courtesy copies of all written submissions filed on ECF that are 25 pages in length or more, inclusive of any exhibits or attachments. Parties are encouraged to use double-sided printing for their courtesy copies. Preferably, the courtesy copies will be reproductions of the document as filed on ECF, with the ECF numbering appearing at the top of each page. If not, the courtesy copy should be prominently labeled "*Courtesy Copy - Original was electronically filed and assigned document number X.*"

F. *Requests for Adjournments or Enlargement of Time*

All requests for adjournments or enlargement of time must be in writing and state:

- i. The original date.
- ii. The number of previous requests for adjournment or enlargement.
- iii. Whether these previous requests were granted or denied.
- iv. Whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent.

If the requested adjournment or enlargement of time affects any other scheduled dates, proposed revised dates must be provided. If the request is for an adjournment of a court appearance, absent an emergency, it shall be made at least 48 hours prior to the scheduled appearance.

2. *Communications with Chambers*

A. *Written Communications with Chambers*

All communications with chambers shall be in writing and filed on ECF, with copies simultaneously delivered to all parties who do not receive automatic

notification through ECF. Copies of correspondence between counsel shall not be sent to the Court.

B. *Telephone Calls*

Telephone calls to chambers are permitted. Please review this document before calling chambers with questions. For docketing, scheduling or calendar matters, call Ilene Lee at (718) 613-2455.

C. *Faxes*

Faxes to chambers are permitted only if prior authorization is obtained. **Submissions filed on ECF need not be faxed to chambers.** For docketing, scheduling or calendar matters, call Ilene Lee at (718) 613-2455.

3. *Motions*

A. *Pre-Motion Conference Requests in Civil Cases*

For discovery motions, follow Local Civil Rules 37.3 and 6.4. For motions other than discovery motions, in all cases in which the parties are represented by counsel, except habeas corpus/prisoner petitions and Social Security and Bankruptcy appeals, a pre-motion conference with the court must be requested before making:

- i. Any motion pursuant to Fed. R. Civ. P. 12 or 56.
- ii. Any motion for a change of venue.
- iii. Any motion to amend a pleading pursuant to Fed. R. Civ. P. 15 where leave of court is required.

To request a pre-motion conference, the moving party shall file and serve a letter not to exceed three (3) pages in length setting forth the basis for the anticipated motion. All parties served may, but are not required to, serve and file a letter response, not to exceed three (3) pages within seven (7) days from service of the notification letter. The Court may act on the initial request before a response is filed.

Rule 12(a) prescribes time requirements for the filing of answers and for the filing of motions permitted under Rule 12. For the purposes of these timing requirements, a pre-motion conference letter requesting permission to file a motion permitted by the Rule shall be considered the equivalent of the motion itself.

In many 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. In other cases, the usefulness of a pre-motion conference will be clear based on the

request. Counsel are informed that such decisions are commonly made before the time for filing response letters has expired, but any such decisions are revisited upon the filing of a timely response letter.

A pre-motion conference request in connection with a proposed Rule 56 motion shall include a preliminary Rule 56.1 statement. A response letter opposing such a pre-motion conference request shall include a preliminary Rule 56.1 counter-statement. Counsel should bear in mind the limited purpose of the preliminary Rule 56.1 statement and counter-statement, which is to determine whether the proposed motion is necessary. The final Rule 56.1 statement and counter-statement submitted upon the briefing of the motion itself may be more extensive than the preliminary Rule 56.1 statement and counter-statement submitted in connection with the pre-motion conference request.

Note that these provisions do *not* apply to motions other than those specifically enumerated. For example, letters requesting pre-motion conferences are not required for motions pursuant to Fed. R. Civ. P. 50, 59 and 60, and counsel should be aware that the Court of Appeals will not accept an argument that compliance with district court motion rules should excuse noncompliance with Fed. R. App. P. 4. *See, e.g., Bowles v. Russell*, 551 U.S. 205, 206-08 (2007) (holding no jurisdiction exists over appeal filed within time permitted by district court but outside time provided by Fed. R. App. P. 4(a)(6)).

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** (excluding tables of authorities and contents), and reply memoranda are limited to **10 pages**. Memoranda exceeding 10 pages shall contain a table of contents.

C. *Filing of Motion Papers*

All motion papers of counseled parties shall be filed on ECF. The “Notice of Electronic Filing” screen in ECF indicates who will receive e-mail notification of your filing. In non-*pro se* civil cases, ECF filing constitutes service in compliance with local civil rules under Fed. R. Civ. P. 5. *See* Local Civ. Rule 5.2. *Pro se* litigants and any other parties whose counsel does not receive email notification must be served as otherwise required by the Federal Rules of Civil Procedure or the Local Rules of this Court.

D. *Oral Argument on Motions*

Oral argument will be held on all motions, and is generally scheduled on a Friday morning. The notice of motion shall state the date and time of the oral argument if the Court has already provided one. Otherwise it shall state that oral argument

will be “on a date and at a time to be designated by the court.” The court will contact the parties to set the specific date and time for oral argument.

4. *Pretrial Procedures*

A. *Joint Pretrial Orders in Civil Cases*

Unless otherwise ordered by the Court, within 60 days from the date for the completion of discovery in a civil case, the parties shall submit to the court a proposed pretrial order, which shall include the following:

- i. The full caption of the action.
- ii. The names, addresses (including firm names), and telephone and fax numbers of trial counsel.
- iii. 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.
- iv. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried.
- v. 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.
- vi. A list by each party as to the fact and expert witnesses whose testimony is to be offered in its case in chief. Only listed witnesses will be permitted to testify except when prompt notice has been given and good cause shown.
- vii. 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.
- viii. A statement of stipulated facts, if any.
- ix. 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 will also include possible impeachment documents and/or exhibits, as well as exhibits that will be offered only on rebuttal. The parties will list and briefly describe the basis for any objections that they have to the admissibility of any exhibits to be offered by any other party. Parties are expected to resolve before trial all issues of authenticity, chain of custody and related grounds. Only exhibits listed will be received in evidence except for good cause shown; and
- x. All exhibits must be premarked for the trial and exchanged with the other parties at least ten days before trial. Where exhibits are voluminous, they should be placed in binders with tabs.

B. *Filings Prior to Trial in Civil Cases*

Unless otherwise ordered by the court, requests to charge and proposed *voir dire* questions in jury cases should be submitted on the Thursday before trial.

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. Word-

processing files of proposed charges should be submitted to chambers pursuant to Section 1.E of this document.

Unless otherwise ordered by the Court, each party shall file 15 days before the date of commencement of trial if such a date has been fixed, or 30 days after the filing of the final pretrial order if no trial date has been fixed:

- i. By claim, a detailed statement regarding damages and other relief sought.
- ii. In non-jury cases, 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.
- iii. In all cases, motions addressing any evidentiary or other issues which should be resolved *in limine*.

C. *Filings Prior to Trial in Criminal Cases*

Unless otherwise ordered by the court, requests to charge and proposed *voir dire* questions in jury cases should be submitted on the Thursday before trial. General instructions will be prepared by the court. Word-processing files of proposed charges should be submitted to chambers pursuant to Section 1.E of this document.