

**INDIVIDUAL MOTION PRACTICES OF  
JUDGE JOANNA SEYBERT (Amended May 2009)**

UNITED STATES DISTRICT JUDGE  
EASTERN DISTRICT OF NEW YORK

Alfonse M. D'Amato Federal Building  
United States District Court  
100 Federal Plaza  
P.O. Box 9014  
Central Islip, NY 11722  
Chambers: (631) 712-5610  
Contacts: Charles Baran, Deputy Clerk, (631) 712-5615  
Bonnie Nohs, Judicial Assistant

**Unless otherwise specified, all matters before the Court shall be conducted in accordance with the following practices:**

**I. COMMUNICATIONS WITH CHAMBERS:**

**A. *Letters***

Except as provided below, communications with Chambers shall be by letter filed electronically with copies simultaneously delivered to all counsel and a courtesy copy to Chambers indicating that the original was filed electronically on ECF.

Copies of correspondence between Counsel shall not be sent to the Court.

The Court will not consider any ex parte correspondence or documents.

**B. *Telephone Calls***

Counsel are urged to communicate by letter whenever possible. For questions concerning procedure, please refer to the Federal Rules of Civil Procedure, the Local Rules of the Eastern District of New York, and these Individual Rules.

There shall be no ex parte telephone calls to Chambers, unless concerning the scheduling of matters or as otherwise permitted by these rules.

For scheduling matters, please contact Charles Baran, Deputy Clerk.

C. *Faxes and Emails*

In Civil Matters, faxes or e-mails to Chambers are absolutely prohibited absent prior permission of the Court. Any faxes or e-mails received without permission will be discarded.

When calling to seek permission to send a fax or e-mail, please note that faxes and e-mails should be limited to time sensitive materials only. Do not send a courtesy copy by mail of faxes or e-mails. Parties are directed to fax or e-mail all parties to the action.

D. *Docketing, Scheduling, and Calendar Matters*

For docketing, scheduling, and calendar matters, call Charles Baran, Deputy Clerk, at (631) 712-5615.

E. *Requests for Adjournments or Extensions of Time*

A request for an extension of time to file a responsive pleading shall be made to the assigned Magistrate Judge.

Requests for adjournments or extensions of time for other matters shall be filed electronically. DO NOT mail courtesy copies of such requests to the Court.

All requests for adjournments or extensions of time must state (1) the original date; (2) the number of previous requests for adjournment or extension; (3) whether previous requests were granted or denied; and (4) whether the adversary consents, and if not, the reasons given by the adversary for refusing to consent. 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.

## II. ELECTRONIC CASE FILING

**In accordance with the Local Rules, all documents must be filed electronically on the Court's Electronic Case Filing System.**

A. *Questions Regarding ECF*

Questions regarding ECF training should be directed to the following: In Central Islip, Cinthia Mahon at 631-712-6011; in Brooklyn, Terry Vaughn or Marilyn Glenn at 718-260-2330 or 2610; General questions regarding ECF can be directed to 631-712-6010.

For further information regarding the Electronic Case Filing System, attorneys should refer to the Court's website at: [http://www.nyed.uscourts.gov/CM\\_ECF/cm\\_ecf.html](http://www.nyed.uscourts.gov/CM_ECF/cm_ecf.html).

B. *Courtesy Copies*

1. As noted above, courtesy copies of requests for extensions of time, adjournments, or an increase in page limitation **shall not** be sent to the Court.
2. All motion papers, including all related materials AND exhibits, **MUST** be filed electronically with courtesy copies provided to Chambers. All such papers must be clearly marked “Courtesy Copy of ECF Document” and indicate the document number assigned.
3. All transcripts from related proceedings must be filed electronically with courtesy copies to Chambers indicating the document number assigned.
4. All letters and stipulations, absent those listed in Section II B1, *supra*, should be filed electronically with courtesy copies to Chambers indicating the original was filed electronically and the document number assigned.
5. Pro se parties are automatically exempt from mandatory electronic filing unless the pro se litigant is a practicing attorney. Parties represented by counsel, however, **must** file documents electronically, even in pro se cases.

**III. CONFERENCES:**

Conferences will be held in Courtroom 1030 at the Long Island Federal Courthouse, Central Islip, New York. All parties shall appear at the courthouse promptly at the scheduled hour and wait in the courtroom until the case is called.

All counsel appearing at conferences should be fully familiar with the case, prepared to discuss all aspects of the case, and should be authorized to consummate settlements. In this regard, counsel are expected to be fully familiar with Fed. R. Civ. P. 16 before attending any conferences.

**IV. MOTIONS:**

**Strict compliance with the Court’s Motion Practices, the Federal Rules of Civil Procedure, and the Local Rules of the Eastern District of New York is required. Submissions not in compliance will not be considered by the Court.**

A. *Courtesy Copies*

Courtesy copies of all motion papers shall be provided to Chambers upon filing. *See supra*, Section II B.

B. ***Briefing Schedule***

**For summary judgment motions, a briefing schedule will be established by the Court at the summary judgment pre-motion conference.**

The following briefing schedule applies to all other motions, with the exception of: (1) motions in conjunction with Bankruptcy and Social Security Appeals; (2) objections to orders and reports and recommendations of Magistrate Judges; (3) petitions for writs of habeas corpus, and (4) and motions for default (which should be submitted to the judgment clerk for the Clerk's certification prior to filing with Chambers):

1. The Notice of Motion, supporting affidavits, exhibits, and memoranda of law shall be served on all other parties that have appeared in the action and filed with the Court electronically by the moving party; and
2. any opposing affidavits and answering memoranda of law shall be served on all other parties that have appeared in the action and filed electronically with the Court within ten (10) days after service of the moving papers; and
3. any reply affidavit and reply memoranda of law shall be served on all other parties that have appeared in the action and filed electronically with the Court within five (5) days after service of the opposing papers.

**No changes in the briefing schedule may be made without permission from the Court.**

C. ***Page Limitation and Formatting***

1. Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to twenty-five (25) pages, and reply memoranda are limited to ten (10) pages. All memoranda of ten (10) pages or more shall contain a table of contents.
2. Motion papers shall have 1" margins, 12 pt. Times New Roman or larger font, and be double spaced (i.e., no more than 23 lines/pg). Footnotes, to the extent they are necessary, shall be printed in 10 pt. Times New Roman or larger font and be single spaced.
3. The captions for motions papers must list all Defendants by name. The use of "et al." in lieu of the named Defendants in the caption of motion papers is prohibited.

D. ***Oral Argument***

Any party may request oral argument at the time the moving or opposing or reply papers are filed. The Court will determine whether argument will be heard, and if so, will notify counsel of the argument date. It should be noted that the Court generally does not schedule oral argument absent extraordinary circumstances.

D. *Pre-motion conferences*

Except as provided below with respect to motions for summary judgment or unless required by law, leave of the Court or a pre-motion conference is not required prior to making a motion.

E. *Motions for Summary Judgment:*

1. Exchange of 56.1 Statements

A party seeking to file a motion for summary judgment must first serve a statement pursuant to Rule 56.1 of the Local Rules for the Eastern District of New York setting forth the material facts as to which the moving party contends there is no genuine issue to be tried. Each statement of material fact must be followed by a citation to admissible evidence, as set forth and required by Rule 56(e) of the Federal Rules of Civil Procedure.

All parties receiving a Rule 56.1 Statement and wishing to oppose the motion must serve on the movant, within seven (7) days of receiving the movant's Rule 56.1 Statement, an original and two copies of a counter-statement pursuant to Rule 56.1(b) ("Rule 56.1 Counter-Statement"). Should the non-movant require additional time, the parties may agree among themselves to a reasonable extension.

**THE PARAGRAPHS IN THE COUNTER-STATEMENT MUST CORRESPOND WITH THE PARAGRAPHS IN THE MOVANT'S STATEMENT.**

Rule 56.1 Statements and Counter-Statements shall not be filed with the Court until the moving party requests a summary judgment pre-motion conference (see below).

2. Summary Judgment Pre-motion Conference

After receiving the opposing party's Rule 56.1 Counter-Statement pursuant to Local Civil Rule 56.1, should the movant still wish to move for summary judgment, the movant shall write to Judge Seybert and request a pre-motion conference. This letter should be filed electronically with a courtesy copy to Judge Seybert indicating that the original letter was filed electronically and the

document number assigned. In no more than three (3) pages, the letter should briefly state the basis for the anticipated motion. The letter shall also contain a copy of the movant's Rule 56.1 Statement and the non-movant's Rule 56.1 Counter-Statement. The supporting exhibits need not be filed with the Court until the parties submit their supporting memoranda in accordance with the briefing schedule set by the Court.

Within seven (7) days of receiving the movant's letter, the party opposing summary judgment must serve and file a letter of no more than three (3) pages setting forth the nature of the opposition to the motion.

The arrangements for a pre-motion conference must be made with Judge Seybert prior to any deadline established by the Magistrate Judge for the making of dispositive motions.

Adherence to Local Civil Rule 56.1 is required. A pre-motion conference will not be held until such time that the parties are in compliance with Local Civil Rule 56.1. **All parties are directed to review Local Rule 56.1 carefully. Statements submitted to the Court that are not in strict compliance with Local Rule 56.1 shall be rejected.**

5. Summary Judgment Briefing Schedule

At the pre-motion conference, if the movant decides to make a motion for summary judgment, a briefing schedule will be set by the Court.

Motions for summary judgment must comply with the page limitations and formatting requirements set forth in Section III. C, *supra*.

F. ***Motions for Admission Pro Hac Vice:***

Pro hac vice motions should be directed to the assigned Magistrate Judge and should be filed electronically. Although there is no need to file a memorandum of law, this motion must comply with the Rules of the Eastern District of New York for admission pro hac vice.

G. ***Bankruptcy Appeals:***

The Court directs the parties to Bankruptcy Rules 8001 - 8013 regarding the filing deadlines for Notices of Appeal and submission of briefs, as well as the form and length of briefs. All papers are to be filed electronically with a courtesy copy sent to Chambers. **No extensions will be granted.** Briefs shall be filed electronically with a courtesy copy to chambers so indicating.

H. *Social Security Appeals:*

Motions for judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c) must be made within sixty (60) days of the filing of the transcript with the Clerk of the Court. Failure to adhere to this rule will result in dismissal of the appeal, without prejudice and with leave to re-file. **No extensions will be granted.** Social Security Appeals shall be filed electronically with a courtesy copy to Chambers so indicating. Social Security numbers shall be redacted to eliminate any privacy concerns regarding ECF.

I. *Objections to Magistrate Judge Orders and Recommendations*

All objections to orders and reports and recommendations of Magistrate Judges must be served and filed electronically with a courtesy copy to Chambers so indicating, within ten (10) days from the date of service of the decision. All papers responding to the objections shall be served and filed electronically with a courtesy copy to Chambers so indicating within ten (10) business days from receiving the objections. A reply, if any, shall be filed within five (5) business days of service of the opposition. Please consult Fed. R. Civ. P. 6(a) and 72.

V. **PRETRIAL PROCEDURES:**

A. *Joint Pretrial Orders in Civil Cases*

Unless otherwise ordered by the Court, within sixty (60) days from the date for the completion of discovery in a civil case, the parties shall submit to the Court for its approval a joint pretrial order, which shall include the following:

1. The full caption of the action.
2. The names, addresses (including firm names), telephone, fax numbers, and email addresses of trial counsel.
3. 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.
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 matter but including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried.
5. 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. 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).
7. Any stipulations or agreed statements of fact or law which have been agreed to by all parties.
8. 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. Only listed witnesses will be permitted to testify except when prompt notice has been given and good cause shown.
9. 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.
10. 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. Meritless objections based on these grounds may result in the imposition of sanctions. Only exhibits listed will be received in evidence except for good cause shown.

**B. *Filings Prior to Trial in Civil Jury Trials:***

**Unless otherwise ordered by the Court, each party represented by counsel shall comply with the following requirements and schedule.** Parties appearing pro se are to seek the Court's guidance at the pretrial conference.

1. **Seven Days Prior to Jury Selection**
  - i. Damages: Counsel shall submit a detailed statement regarding damages and other relief sought.
  - ii. Motions in limine: All motions addressing any evidentiary or other issues which should be resolved in limine are to be filed electronically with a courtesy copy to Chambers so indicating. Any opposition shall be filed three (3) days prior to jury selection

with a courtesy copy to Chambers so indicating. Any reply should be made in the same manner one (1) day prior to jury selection.

- iii. Pretrial memorandum: In any case where a party believes it would be useful, the party may file electronically the pretrial memorandum addressing the contested legal issues in the case seven (7) days prior to trial date with a courtesy copy to Chambers so indicating.

## 2. **Five Days Prior to Jury Selection**

- i. Proposed voir dire questions and final witness list: Counsel for all parties shall electronically file the proposed voir dire questions and the final witness list five (5) days prior to the jury selection date with a courtesy copy to Chambers so indicating.

## 3. **Three days Prior to Jury Selection**

- i. Exhibits: Each party must electronically file and provide two (2) sets of legible, unstapled exhibits in three-ring binder(s), tabbed sequentially (Plaintiffs shall use numbers and Defendants shall use letters), with an accurate, complete list of the exhibits and a brief description, at the front of each binder. The exhibits must be marked prior to trial and exhibit numbers or letters must conform with the joint pretrial order. Counsel also should include copies of any deposition testimony to be utilized at trial. Exhibits shall be submitted to the Judge and exchanged with counsel three (3) days prior to trial. Parties filing voluminous or nontext exhibits that are impracticable to file electronically should contact Chambers prior to filing.
- ii. Stipulations: Attorneys are to meet sufficiently before trial to discuss with each other the various relevant claims, defenses, issues and facts, and items of evidence, and to stipulate in an informal writing such items that are not in dispute. In addition, where there are no objections to authenticity or admissibility of exhibits, the parties are to so stipulate in an informal writing. This writing shall be filed electronically with the Court three (3) days prior to trial with a courtesy copy to Chambers so indicating.
- iii. Requests to Charge and Proposed Verdict Sheets: Requests to charge should be limited to the elements of the claims, the damages sought, and the defenses raised and should be filed electronically three (3) days prior to jury selection with a courtesy

copy to Chambers so indicating. Parties also shall file electronically a proposed verdict sheet with a courtesy copy to Chambers so indicating.

**C. *Filings in Bench Trials***

**1. Seven Days Prior to Trial**

- i. Pretrial Memoranda- Pretrial memoranda of law, or trial briefs, shall be submitted containing any legal argument that counsel wishes the Court to consider on any legal issue that counsel believes will arise at trial. The memoranda shall include a detailed statement of all claims and defenses, together with a summary of the facts relied upon to establish each element. Such memoranda shall not exceed ten (10) pages. Original should be filed electronically seven (7) days prior to trial with a courtesy copy to Chambers so indicating.

**2. Three Days Prior to Trial**

- i. Exhibits- Each party shall electronically file and provide two (2) sets of legible, unstapled exhibits in three-ring binder(s), tabbed sequentially (Plaintiff(s) shall use numbers and Defendant(s) shall use letters), with an accurate, complete list of the exhibits and a brief description, at the front of each binder. The exhibits must be marked prior to trial and exhibit numbers or letters must conform with the joint pretrial order. Counsel also should include copies of any deposition testimony to be utilized at trial. Exhibits shall be submitted to the Judge and exchanged with counsel three (3) days prior to trial. Parties filing voluminous or nontext exhibits that are impracticable to file electronically should contact Chambers prior to filing.

**3. Fifteen Days After the Conclusion of the Trial**

- i. Proposed findings of fact and conclusions of law- Within fifteen (15) days after the trial concludes, parties shall file electronically proposed findings of fact and conclusions of law, with citations to the trial record, together with supporting legal authority with a courtesy copy to Chambers so indicating.

**VI. NOTIFICATION OF SETTLEMENT:**

Any time a settlement is reached, whether prior to jury selection or while on trial,

the parties are required to immediately notify the Court. During business hours, counsel shall telephone Chambers at (631) 712-5610 or 5615, and shall follow up with a formally executed Stipulation of Settlement or Discontinuance. This Stipulation should be filed electronically with a courtesy copy to Chambers so indicating. After business hours or on weekends, counsel shall leave a message for Charles Baran at (631) 712-5615.

*Updated May 26, 2009*