

INDIVIDUAL MOTION PRACTICES OF
JUDGE RAYMOND J. DEARIE

United States District Court
225 Cadman Plaza East
Brooklyn, NY 11201
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Fax (by permission only): (718) 613-2437
Contact: Ellen Mulqueen, Case Manager
Telephone: (718) 613-2435

I. ELECTRONIC CASE FILING (ECF)

- A.** Counsel must file all documents electronically. Orders will be posted electronically; parties not registered on ECF (with the exception of pro se parties) will not receive them.
- B.** Written requests by attorneys for an exemption from electronic filing will be considered for good cause by the assigned Magistrate Judge.
- C.** Pro se parties are automatically exempt from mandatory electronic filing. However, parties represented by counsel in cases involving a pro se litigant must still use electronic filing, and they must mail a hard copy of all documents to the pro se litigant.
- D.** Hard copies of all papers filed electronically, including motions, letters, and stipulations, must be provided to Chambers. All such papers must be clearly marked “Courtesy copy, original filed by ECF, docket number _____.”
- E.** Parties filing voluminous or non-text exhibits may choose to file only hard copies of those exhibits when filing them electronically is impractical. If exhibits are not electronically filed, one copy of each exhibit must be clearly marked “Original” and another “Courtesy Copy.” Related papers that are electronically filed must clearly indicate that exhibits have been filed by hard copy.
- F.** Sealed documents or documents containing sealed/sensitive information must be submitted in hard copy only and labeled “Sealed” or “Sensitive.”
- G.** Questions regarding the technical aspects of electronic filing, including questions about training, should be directed to Evelyn Levine at (718) 613-2312.

II. CORRESPONDENCE WITH CHAMBERS

- A. General.** Communications with Chambers shall be via letter and filed electronically. Copies shall be delivered simultaneously to all counsel and either mailed or hand-delivered to Chambers. Copies of correspondence between counsel shall not be sent to the Court.

B. Requests for Adjournments and Extensions of Time. 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 these previous requests were granted or denied, and (4) whether the adversary consents, and, if not, the reasons the adversary gives for refusing to consent. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Scheduling Order must be attached. If the request is for an adjournment of a court appearance, it shall be made at least 48 hours prior to the scheduled appearance, except in an emergency. If a request for an extension of time is being made without the consent of all parties, it should be made at least one week before the due date.

C. Telephone calls. When calling Chambers, please state the full case name and docket number. Only attorneys and their staff may call Chambers; the parties themselves may not. Attorneys with scheduling questions should call Ms. Mulqueen, Case Manager, at (718) 613-2435. Pro se litigants may not call Chambers and may instead call the pro se office at (718) 613-2665.

D. Faxes. Permitted in emergencies only, and only with prior authorization from Chambers.

III. MOTIONS

A. Pre-Motion Conferences in Civil Cases. For discovery motions, follow Local Civil Rules 37.3 and 6.4. A pre-motion conference with the Court is required before any dispositive motions or motions for change of venue are filed, except when one or more of the parties is pro se or the case is a habeas corpus petition, a prisoner petition, a Social Security appeal, or a bankruptcy appeal.

To arrange a pre-motion conference, the moving party must submit a letter of no longer than three pages that sets forth the basis for the anticipated motion. All parties served with this letter must respond in writing within seven days; these responses shall not exceed three pages. A pre-motion conference letter constitutes timely service under Rule 12 if served within the time required by the Rule.

B. Briefing Schedule. Before serving motion papers, parties must set a briefing schedule. The schedule must be approved by the Court at the pre-motion conference or in writing thereafter. No changes to the schedule may be made without Court approval.

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, not including appendices and attachments; reply memoranda are limited to 10 pages. Objections to the Reports and Recommendations of Magistrate Judges, and responses to objections, are limited to 15 pages. Memoranda of 10 pages or more shall contain a table of contents.

D. Filing of Motion Papers.

1. **No motion papers shall be filed until the motion has been fully briefed.** The movant must serve each party by 5 p.m. on the due date with a hard copy of its notice of motion, all supporting papers, and a cover letter stating whom the movant represents and which documents are attached. A copy of the cover letter only shall be filed electronically and mailed to Ms. Mulqueen. Adversaries must serve the movant with two copies of their opposition papers (one copy for inclusion in the later submission to Chambers) by 5 p.m. on the due date, along with a cover letter that must also be filed electronically and mailed to Ms. Mulqueen.
2. Each party is responsible for filing its motion papers electronically on the day the motion is fully briefed. The movant shall also provide Chambers with a full set of courtesy copies of the motion papers together with a cover letter specifying each document in the package. A copy of the cover letter shall be sent to the assigned Magistrate Judge and to opposing counsel. Please contact Ms. Mulqueen with any questions concerning these procedures.

E. Oral Arguments on Motions. Where the parties are represented by counsel, oral argument will generally be held on motions. The notice of motion shall state that the oral argument will be held “on a date and at a time to be designated by the court.” The Court will advise the parties of the oral argument date and time by order posted electronically.

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

IV. PRE-TRIAL PROCEDURES

A. Joint Pretrial Orders In Civil Cases. Unless otherwise ordered by the Court or the assigned Magistrate Judge, the parties shall submit for the Court’s approval a joint pretrial order within sixty days of the completion of discovery. The order shall include the following:

- The full caption of the action.
- The names, firm names, addresses, and telephone and fax numbers of trial counsel.
- 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. These statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount.
- A brief summary by each party of the claims and defenses which that party has asserted and which remain to be tried. This summary shall not include a recital of evidentiary matter but shall include citations to all relevant statutes. The summary shall also identify

all claims and defenses previously asserted that are not to be tried.

- 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.
- A statement as to whether all parties have consented to trial before a Magistrate Judge. The statement shall not identify which parties have or have not consented.
- Any stipulations or statements of fact or law to which all parties have agreed.
- A list by each party as to the witnesses who shall offer testimony in chief. The list shall include all fact and expert witnesses and shall indicate whether the testimony will be delivered in person or by deposition. Only listed witnesses will be permitted to testify except when prompt notice has been given and good cause shown for calling other witnesses.
- A designation by each party of deposition testimony to be offered in chief, with any cross-designations and objections that have been raised.
- 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 they have to the admissibility of exhibits being offered by other parties. Parties will resolve all issues of authenticity, chain of custody, and related grounds before trial. Only exhibits listed in the schedule will be received in evidence, unless good cause is shown. All exhibits must be pre-marked for the trial and exchanged with the other parties at least ten days before trial. Voluminous exhibits should be placed in binders with tabs.

B. Filings Prior To Trial In Civil Cases. Unless otherwise ordered, the following must be submitted no later than five days before the date the trial is scheduled to begin, or, if no trial date has been fixed, thirty days after the filing of the pre-trial order.

- For jury trials, the parties shall submit a Joint Request to Charge. This filing shall include the elements of the claims, the damages sought, the defenses, and any special requests to charge. In preparing the Joint Request, 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 an accompanying memorandum of law. Parties should also submit a joint proposed jury charge on a disk in Word Perfect format.
- Each party may submit proposed voir dire questions no later than the Thursday before trial.
- In non-jury cases, each party shall file a statement of the elements of each claim or defense, along with a summary of the facts relied upon to establish each element.
- Each party shall file a detailed statement regarding damages and other relief sought.