

**INDIVIDUAL PRACTICE RULES OF
JUDGE RACHEL P. KOVNER**

Effective April 10, 2020

United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201
Courtroom: 4E-N
Chambers: (718) 613-2450
Courtroom Deputy Tsz Chan: (718) 613-2455

Rules at a Glance

	Issue	Requirement	Indiv. Rule No.	Page
Court Filings	Electronic Case Filing	Mandatory, except for <i>pro se</i> litigants.	I.A	1
	Filing Under Seal	File on ECF as sealed document.	I.B	1
	Courtesy Copies	No courtesy copies should be delivered to chambers until the stay-at-home order in New York State is lifted.	I.C	1
	Word-Processing Files	Mandatory for proposed orders, jury instructions, and similar filings.	I.D	1
	Text-Searchable Submissions	Mandatory for all submissions.	I.E	2
	Requests for Adjournment	Provide at least 48 hours' notice.	I.F	2
Communications with Chambers	Written Communications	File on ECF.	II.A	2
	Telephone Calls	For docketing, scheduling, or calendar matters, please call Tsz Chan at (718) 613-2455.	II.B	2
	Faxes	Permitted only with prior authorization.	II.C	2
	Urgent Communications	Contact chambers by telephone.	II.D	3
Magistrate Judges	Matters Referred to Magistrate by Default	See rule for full list.	III	3

**INDIVIDUAL PRACTICE RULES OF
JUDGE RACHEL P. KOVNER**

	Issue	Requirement	Indiv. Rule No.	Page
Motions	Pre-Motion Conferences	Required for motions under Fed. R. Civ. P. 12 or 56, motions to change venue, and motions to amend pleadings pursuant to Fed. R. Civ. P. 15 if leave of the Court is required, in all cases except bankruptcy appeals, social security appeals, habeas cases, or cases in which one or more parties are proceeding <i>pro se</i> .	IV.A	3
	Briefing Schedule	The Court will set the briefing schedule at the pre-motion conference as applicable.	IV.B	4
	Memoranda of Law	25 pages for opening and opposition briefs; 10 pages for reply briefs.	IV.C	5
	Evidentiary Citations	Required for all submissions that cite record material.	IV.D	5
	Oral Argument	Parties may request. Higher likelihood if arguing attorney has less than five years of experience.	IV.E	5
Sentencing	Sentencing Memoranda	Due two weeks before sentencing for defendants and one week before sentencing for the government.	IV.F.1	5
	Applications for Sentencing Adjournment	Due at least five business days before the date of sentencing.	IV.F.2	5
Pretrial Procedures	60 Days Post-Discovery	File a proposed joint pretrial order.	V.A	6
	Two Weeks Before Trial	File motions <i>in limine</i> .	V.B.1	7
	One Week Before Trial	File requests to charge, proposed verdict sheets, and proposed <i>voir dire</i> questions.	V.B.2	7
	Friday Before Trial	Provide Court with three tabbed binders containing copies of all exhibits.	V.B.3	7
Post-Trial Procedures	Non-Jury Trial	File proposed findings of fact and conclusions of law 10 days after trial. No responses permitted.	VI	8
Cases with Pro Se Litigants	Responsibilities of <i>Pro Se</i> Litigant	Communicate with Court in writing and ensure contact information is current.	VII.A	8
	Responsibilities of Represented Parties	Ensure adherence to and compliance with all applicable rules.	VII.B	8
Notification of Settlement	Timing and Procedures	Immediate notification by phone, followed by filing of formally executed Stipulation of Settlement or Discontinuance.	VIII	8

**INDIVIDUAL PRACTICE RULES OF
JUDGE RACHEL P. KOVNER**

I. Court Filings

A. Electronic Case Filing (ECF)

1. Counsel must file all documents electronically.
2. *Pro se* parties are exempt from electronic filing. Nevertheless, a party represented by counsel in a case involving a *pro se* litigant must still file all documents electronically on ECF and must also mail a hard copy of all documents to the *pro se* litigant. See Rule VII (governing *pro se* litigants).
3. Orders will be posted electronically and will not otherwise be mailed or provided to litigants (except in the case of *pro se* litigants not registered for electronic filing).
4. Chambers staff cannot help with filing via ECF. For ECF assistance, please call the ECF helpline at (718) 613-2285.

B. Filing Under Seal

Any party seeking to file a submission under seal shall file the proposed sealed document(s) and sealing motion on ECF in accordance with the instructions on the Eastern District's website at:

- <https://img.nyed.uscourts.gov/files/forms/EfilingSealedCV.pdf>
(civil filings)
- <https://img.nyed.uscourts.gov/files/forms/EfilingSealedCR.pdf>
(criminal filings)

Parties must comply with Administrative Order No. 2004-05, *In Re: Requests to Seal Documents* (E.D.N.Y. Apr. 20, 2004), which can be found at <https://img.nyed.uscourts.gov/files/general-ordes/adminorder04-05.pdf>.

C. Courtesy Copies

Parties should not send courtesy copies of ECF filings to chambers until the stay-at-home order currently in place in New York is lifted.

D. Word-Processing Files of Proposed Orders, Jury Instructions, and Similar Filings

Proposed orders, jury instructions, and other writings a party requests the Court adopt shall be filed on ECF and also provided via e-mail, in PDF and Microsoft Word format, to Kovner_Chambers@nyed.uscourts.gov. However, parties need not submit word-processing files of stipulations of dismissal or settlement unless specifically requested to do so.

**INDIVIDUAL PRACTICE RULES OF
JUDGE RACHEL P. KOVNER**

E. Text-Searchable Submissions

All written submissions and supporting materials must be text-searchable, to the extent practicable.

F. Requests for Adjournments or Extensions of Time

1. All requests for adjournments or extensions of time relating to matters not referred to a Magistrate Judge (*see* Rule III) must be in writing and state: **(i)** the reason for the request; **(ii)** the original date; **(iii)** the number of previous requests for adjournments or extensions; **(iv)** whether any previous requests were granted or denied; **(v)** whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent; and **(vi)** proposed date(s) for adjournment or extension of time.
2. If the requested adjournment or extension affects any other scheduled dates, the party seeking the adjournment should propose revisions of the additional affected dates.
3. Absent an emergency, requests for adjournments of court appearances and extensions of filing deadlines shall be made at least two working days prior to the scheduled appearance or filing deadline.
4. Any party seeking an adjournment of a court appearance within 24 hours of the appearance shall file their adjournment request on ECF and then call chambers to advise the Court of the request.

II. 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

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

C. Faxes

Faxes to chambers are permitted only with prior authorization. All faxes should be simultaneously provided to all counsel and followed with an electronic filing.

**INDIVIDUAL PRACTICE RULES OF
JUDGE RACHEL P. KOVNER**

D. Urgent Communications

If a submission requires immediate attention, please notify chambers by telephone after filing on ECF.

III. Matters Referred to Assigned Magistrate Judges

Unless the Court directs otherwise, the following matters are hereby referred to the assigned Magistrate Judge:

- A. Extensions of time to serve, answer, or file amended pleadings;
- B. Stipulations amending pleadings;
- C. Stipulations transferring venue or remanding to state court;
- D. *Pro hac vice* motions;
- E. So ordering of subpoenas and confidentiality/protective orders;
- F. Discovery motions, including motions to quash subpoenas;
- G. Unsealing orders;
- H. Motions to be relieved or substituted as counsel; and
- I. Requests for adjournments or extensions of time in arbitration or mediation proceedings.

All such applications shall be directed to the assigned Magistrate Judge in compliance with that Magistrate Judge's individual rules.

IV. Motions

A. Pre-Motion Conferences

- 1. Pre-motion conferences are not required in bankruptcy appeals, social security appeals, habeas cases, or cases in which one or more parties are proceeding *pro se*. In all other cases, a party must request a pre-motion conference with the Court before filing:

(1) any motion pursuant to Fed. R. Civ. P. 12 or 56;

**INDIVIDUAL PRACTICE RULES OF
JUDGE RACHEL P. KOVNER**

(2) any motion for a change of venue; or

(3) any motion to amend a pleading pursuant to Fed. R. Civ. P. 15 where leave of court is required.

2. To request a pre-motion conference, the moving party is to file and serve a letter, not to exceed three pages, setting out the bases for the anticipated motion. Service of that letter within the time requirements of Fed. R. Civ. P. 12 or 56 shall constitute timely service of a motion made pursuant to those provisions.
3. All parties served with the moving party's pre-motion conference letter are required to serve and file a letter response within five business days of service of the moving party's letter. The response shall not exceed three pages.
4. If a party wishing to file a motion concludes in good faith that delaying the filing of the motion in order to comply with the pre-motion conference requirements or any other 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 party's conclusion.
5. In appropriate cases, the Court may exercise its discretion to construe the pre-motion letter, along with counsel's arguments at the pre-motion conference, as the motion itself.

B. Briefing Schedule

1. The Court may determine in some cases after a pre-motion conference request is filed that such a conference is unnecessary and may set a briefing schedule without holding a conference. If, however, a party advises the Court in its pre-motion conference request that an attorney with less than five years of experience as a licensed attorney will be representing the party at the conference, the Court is more likely to schedule a pre-motion conference.
2. If the Court holds a pre-motion conference, the Court will set a briefing schedule at the conference. Parties should anticipate a briefing schedule that will require the movant to file the motion within a short time after the pre-motion conference (usually two weeks).
3. Motion papers are to be filed promptly, according to the briefing schedule. Parties should not wait until a motion is fully briefed to file their motion papers.

**INDIVIDUAL PRACTICE RULES OF
JUDGE RACHEL P. KOVNER**

C. Memoranda of Law

1. Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 double-spaced pages, not including tables of contents, tables of authorities, exhibits, appendices, or attachments. Reply memoranda are limited to 10 double-spaced pages, not including tables of contents, tables of authorities, exhibits, appendices, or attachments.
2. All memoranda of law shall be produced in 12-point font, with footnotes in 10-point font, and shall have one-inch margins on all sides. All memoranda must be filed in a text-searchable format and must have the date of service printed on the front cover. Case law citations shall be to official case reporters or, for decisions not available in official reporters, to the Westlaw or Lexis electronic case database.

D. Evidentiary Citations

Parties must provide evidentiary citations, including specific transcript pages, in any submission that cites record material.

E. Oral Argument on Motions

The Court will determine whether to hear oral argument. Parties may request oral argument by noting “Oral Argument Requested” below the docket number on the moving or opposing papers. The likelihood of oral argument is increased if a party notifies the Court that the attorney who will argue the motion or opposition has less than five years of experience as a licensed attorney. A party may note that fact below its oral argument request.

F. Sentencing

1. The defendant’s sentencing memorandum, if any, is due two weeks prior to sentencing. The government’s sentencing memorandum, if any, is due one week prior to sentencing.
2. Applications regarding sentencing adjournments shall be made in writing at least five business days prior to the date of sentencing and must state the reason for the request and whether the opposing party consents. If the opposing party does not consent, the application for adjournment must provide the reasons given by the opposing party for declining to consent.

**INDIVIDUAL PRACTICE RULES OF
JUDGE RACHEL P. KOVNER**

V. Pretrial Procedures

A. Joint Pretrial Orders in Civil Cases

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

1. *Caption*: The full caption of the action.
2. *Parties and Counsel*: The names, addresses (including firm names), and telephone numbers of trial counsel.
3. *Jurisdiction*: A brief statement by the plaintiff explaining the basis of subject matter jurisdiction, and a brief statement by the defendant on the presence or absence of subject matter jurisdiction. These statements shall include citations to all (i) statutes and legal doctrines relied on, and (ii) relevant facts concerning citizenship and jurisdictional amount.
4. *Claims and Defenses*: A brief summary by each party of the elements of its remaining asserted claims and defenses. These summaries shall include citations to all statutes relied on, but should not recite evidentiary matters.
5. *Jury or Bench Trial*: 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. *Consent to Trial by a Magistrate Judge*: A statement as to whether all parties have consented to trial of the case by a magistrate judge. The statement shall not identify which parties have or have not consented.
7. *Statement of Relief Sought*: A detailed statement of the damages and other relief sought by the plaintiff. In non-jury cases, parties should also provide 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.
8. *Witnesses*: A list of fact and expert witnesses whose testimony is to be offered in each party's case in chief, along with the address of each witness and 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 upon good cause shown.
9. *Deposition Testimony*: 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. *Stipulations*: A statement of stipulated facts, if any.

**INDIVIDUAL PRACTICE RULES OF
JUDGE RACHEL P. KOVNER**

11. *Exhibits*: 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 should not include exhibits that a party intends to use solely for impeachment and/or rebuttal purposes. Copies of statements proposed to be read to the jury as “learned treatises” under Fed. R. Evid. 803(18) shall be listed as exhibits. The plaintiff’s exhibits shall be identified by numbers, and the defendant’s exhibits shall be identified by letters. Except for good cause shown, only exhibits listed will be received in evidence.

The parties shall list and briefly describe the basis for any objections to the admissibility of exhibits to be offered by any other party and set out the proponent’s responses to those objections. Parties are expected to resolve before trial all issues of authenticity, chain of custody, and related matters. Meritless objections on these grounds may result in sanctions.

12. *Motions in Limine*: A list of motions *in limine* each party intends to file (pursuant to the deadline set forth in Rule V.B.1 below), with a brief description of each such motion.

The parties are directed to cooperate with each other in the preparation of the Pretrial Order. The Pretrial Order will control the subsequent course of the action unless the order is modified by consent of the parties and the Court, or by order of the Court to prevent manifest injustice.

B. Filings Prior to Trial in Civil and Criminal Cases

1. Any motions addressing evidentiary or other issues which should be resolved *in limine* shall be filed 14 days before the commencement of trial, unless otherwise ordered by the Court.
2. Requests to charge, proposed verdict sheets and proposed *voir dire* questions in jury cases shall be filed on ECF and provided to chambers in PDF and Microsoft Word formats no later than one week before trial, unless otherwise ordered by the Court. 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.
3. The parties shall provide the Court with three tabbed binders containing copies of all exhibits on the Friday before trial, unless otherwise ordered by the Court. All exhibits must be pre-marked for the trial and placed in binders with tabs. The plaintiff’s exhibits must be pre-marked with numbers. The defendant’s exhibits must be pre-marked with letters. Documents to be offered in evidence that contain multiple pages shall be paginated by counsel in advance of trial. When counsel anticipates that a witness will refer to documentary evidence during his or her direct testimony, counsel shall have (i) two copies of each document for the Court,

**INDIVIDUAL PRACTICE RULES OF
JUDGE RACHEL P. KOVNER**

and (ii) at least one copy each for the court reporter, each present opposing counsel, and each juror.

VI. Post-Trial Procedures

In non-jury trials, parties shall file proposed findings of fact and conclusions of law no later than 10 days after the conclusion of trial. Responses to such submissions are not permitted.

VII. Pro Se Litigants

In all cases involving one or more *pro se* litigants, the following shall apply:

A. Responsibilities of Pro Se Litigant – A *pro se* litigant shall:

1. Only communicate with the Court in writing.
2. Ensure that contact information on file remains current. Failure to comply with this rule may unavoidably result in dismissal of claims and/or entry of default judgment.

B. Responsibilities of Counsel in Matters involving Pro Se Litigants

In all cases involving a *pro se* litigant, counsel for represented parties shall:

1. Ensure adherence to and compliance with all applicable rules, including Local Civil Rules 7.2, 12.1, 33.2, and 56.2.
2. Provide *pro se* litigants with a copy of this Court's individual rules and file a certificate of service as early as practicable in the litigation.

VIII. 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 by telephoning (718) 613-2450 and/or 2455 and shall follow up with a formally executed Stipulation of Settlement or Discontinuance. This Stipulation is to be filed electronically.

* * *