

NOVEMBER 2011

**INDIVIDUAL RULES OF
JUDGE ROSLYNN R. MAUSKOPF**

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

**Courtroom: 6A (South Wing)
Telephone: (718) 613-2210
Fax: (718) 613-2216**

**Case Manager
Telephone: (718) 613-2215**

At every appearance before the Court, it is expected that counsel will be fully familiar with the case and, in civil matters, authorized to enter into settlement or disposition agreements.

Unless otherwise ordered, matters before Judge Mauskopf shall be conducted in accordance with the following rules:

I. Mandatory Electronic Case Filing (ECF)

- A.** All documents must be filed electronically. Questions regarding ECF filing or training should be directed to the Case Manager at (718) 613-2215.
- B.** Orders will be posted electronically. Parties not registered on ECF will not receive hard copies.
- C.** Courtesy copies of all motion papers (other than those submitted to the assigned Magistrate Judge pursuant to Rule III.A.1 below) must be submitted to Chambers. All such papers must be clearly marked "Courtesy Copy" and indicate that the original was filed by ECF.
- D.** Parties filing voluminous or non-text exhibits shall submit one hard copy clearly marked "Original" for filing with the Clerk of Court and one hard courtesy copy for Chambers.
- E.** *Pro se* litigants are automatically exempt from mandatory ECF filing. However, parties represented by counsel in *pro se* cases must file documents by ECF and mail a hard copy of the documents to the *pro se* litigant(s).
- F.** Applications by attorneys for an exemption from the mandatory policy will be considered only for good cause hardship reasons. Such requests shall be made to the assigned Magistrate Judge.
- G.** Sealed documents or documents containing sealed/sensitive information must be submitted in hard copy only and labeled "File under seal."

II. Communications With Chambers

- A. Except as provided below, communication with Chambers shall be by letter, filed via ECF, with copies simultaneously delivered to all counsel. All papers must indicate the docket number followed by the initials of the Judge (RRM) and the initials of the Magistrate Judge assigned to the case. Copies of correspondence between or among counsel should not be sent to the Court.
- B. Communications regarding docketing, scheduling or calendar matters should be directed exclusively to the Case Manager at (718) 613-2215. Please have the docket number readily available.
- C. Telephone calls to Chambers are permitted only in situations requiring immediate attention.
- D. Faxes to Chambers are permitted only for time-sensitive requests and where copies are also simultaneously faxed or delivered to all counsel. Parties submitting a fax must still file the document via ECF unless otherwise exempted pursuant to Rule I above. No document longer than ten pages may be faxed without prior authorization. Do not follow with a hard copy.
- E. All requests for adjournments or extensions of time shall be filed by ECF, and must state:
 - 1. The original date;
 - 2. The number of previous requests for adjournments or extensions;
 - 3. Whether these previous requests were granted or denied;
 - 4. Whether the adversary consents, and, if not, the reason given by the adversary for refusing to consent; and
 - 5. Whether the extension affects any other scheduled dates. If so, the party must provide a proposed Revised Scheduling Order.

III. Civil Motions

A. Pre-Motion Conferences in Civil Cases

- 1. All motions concerning discovery shall be made to the assigned Magistrate Judge, in accordance with that Magistrate's Individual Rules.
- 2. For any dispositive motion, motion for a change of venue or motion to amend a pleading pursuant to Federal Rule of Civil Procedure 15 (where leave of Court is required), a pre-motion conference is required. The movant shall send a letter to the Court, not to exceed three (3) pages, requesting such conference, with a brief description of the grounds for such motion. Such letter shall be served on all

parties. Parties so served may serve and file a letter response, not to exceed three (3) pages, within five (5) days of service of the letter requesting a pre-motion conference.

3. If a party wishes to make a motion of the type listed in Rule III.A.2 before filing its answer, that party shall simultaneously request an extension of its time to answer when a pre-motion conference is requested.
4. No pre-motion conference shall be required for post-trial motions, *pro se* habeas corpus/prisoner petitions, bankruptcy appeals, or objections to Reports and Recommendations.

B. Content and Filing of Civil Motion Papers

1. Affidavits or affirmations shall not be accepted on motions unless they are confined to factual averments. Attorney's affidavits or affirmations shall not be accepted unless: (a) the facts addressed are within the personal knowledge of the attorney, such as in a discovery dispute; or (b) the attorney is authenticating documents and it is believed that authentication is not in issue. Witness or party affidavits will not be accepted if they violate the rules of evidence, including those pertaining to hearsay, conclusions, and foundation. Argument or case citations, whether from a witness, party, or attorney, contained in affidavits or affirmations may result in rejection of the affidavit or affirmation or striking of the offensive portions.
2. On motions for summary judgment, do not attach complete deposition transcripts as exhibits. Attach only pages containing relevant testimony to which citation is made in the memorandum or affidavits.
3. Except in *pro se* cases, the Local Rule 56.1 statement by a party opposing summary judgment shall quote verbatim the moving party's Local Rule 56.1 statement, and shall respond to each allegation in the moving party's statement immediately beneath each allegation. The opposing statement also may, if necessary, include a separate section of additional material facts alleged to be in dispute. The party opposing summary judgment may obtain from the movant in electronic format a word processing version of the Local Rule 56.1 statement to facilitate compliance with this paragraph. Each paragraph in the Local Rule 56.1 statement shall contain an assertion of a material undisputed fact, not a description of evidence. For example: "John Smith testified at deposition that he crossed the street" is not a statement of fact. The statement of fact is "John Smith crossed the street," and must be sourced with an appropriate citation to the record evidence.
4. All exhibits must be separately tabbed and indexed. The courtesy copy of affidavits with exhibits annexed must have labeled tabs or tab pages protruding from the side or bottom of the affidavit.

5. No motion papers shall be filed with the Court until the motion has been fully briefed. The Notice of Motion and all supporting papers are to be served on the other parties in accordance with the briefing schedule, and shall include a cover letter setting forth whom the movant represents and the papers being served. Once the motion is fully briefed, the original moving party shall be responsible for filing the full set of papers via ECF.
6. A party filing motion papers on ECF shall simultaneously provide Chambers with a full set of courtesy copies of the motion papers, together with a cover letter specifying each document in the package. The adversary is responsible for providing the movant with a courtesy copy of its opposition papers for inclusion in the submission to Chambers. A copy of the cover letter shall be sent to the assigned Magistrate Judge and to opposing counsel.
7. Subject to Court approval, the parties are expected to arrange their own briefing schedule. Approval may be given at the pre-motion conference or by subsequent letter. No party is to serve any motion papers prior to obtaining Court approval of the schedule. No changes in the approved schedule may be made without Court approval.
8. Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages and reply memoranda are limited to ten (10) pages, not including appendices or attachments. Memoranda in excess of ten (10) pages shall contain a table of contents and table of authorities. No letter briefs shall be permitted without prior permission of the Court.
9. The Court will determine whether to hear oral argument and, if so, will advise counsel of the argument date.

C. 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. Criminal Motions

A. Pre-Motion Conferences in Criminal Cases

Counsel shall advise the Court of any motions they want to file at a status conference scheduled by the Court. If no status conference has been scheduled, counsel shall request a pre-motion conference in writing and briefly state the grounds for such motion.

B. Filing of Motion Papers

1. For all cases where electronic filing is required (see Section I above), each party shall be responsible for the electronic filing of its own motion papers on its respective due date. As provided in section B.2 below, a courtesy copy of the motion papers shall not be sent to the Court until the motion has been fully briefed. The notice of motion, memorandum of law, and other 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.

2. Unless otherwise directed by the Court, follow Rules III.B.(6)-(9) above.

C. Sentencing Motions and Adjournments

Applications regarding sentencing shall be made, in writing, by defense counsel at least two weeks prior to the date of sentencing. The Government's response, if any, shall be made, in writing, at least one week before the date of sentencing.

V. 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, and under the supervision of the assigned Magistrate Judge, 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 (including firm names), mailing addresses, e-mail addresses, and telephone and fax numbers 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 statutes and case law relied upon, 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 that remain to be tried, including citations to statutes and case law relied upon. Such summaries shall clearly identify all claims and defenses previously asserted that are not to be tried.
5. A brief statement specifying the damages sought on each claim, cross-claim, counter-claim, or third-party claim, including citations to statutes and case law relied upon.
6. 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.
7. 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).
8. Any stipulations or statements of fact or law that have been agreed to by all parties.

9. 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 statement of the expected testimony of each witness. Only listed witnesses will be permitted to testify except where prompt notice has been given and good cause shown.
10. 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.
11. 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 Cases

Unless otherwise ordered by the Court or specified below, each party shall file, thirty (30) days before the date scheduled for commencement of trial:

1. In jury trials, joint proposed *voir dire* questions, requests to charge, and verdict sheet. Requests to charge should be limited to the elements of the claims, the damages and defenses. General instructions will be prepared by the Court. When feasible, proposed joint jury charges and *voir dire* should be submitted via e-mail in Microsoft Word format as well as in hard copy. Contact Case Manager Winnie Valentin to obtain the appropriate e-mail address.
2. In all cases, motions addressing any evidentiary or other issues that should be resolved *in limine*. Responses, if any, shall be due five (5) days later. Oral argument, if necessary, shall be scheduled at the discretion of the Court.
3. In any case where such party believes it would be useful, a pretrial memorandum.

C. Filings Prior to Trial in Criminal Cases

Unless otherwise directed by the Court, the following procedures shall be followed:

1. Motions addressing any evidentiary or other issues which should be resolved *in limine* must be filed no later than fifteen (15) days before the commencement of jury selection. Responses, if any, shall be due five (5) days later. Oral argument, if necessary, shall be scheduled at the discretion of the Court.

2. Proposed *voir dire* questions, as well as lists of all potential witnesses and any other individuals and entities that may be mentioned at trial, shall be submitted at least ten (10) days before jury selection.

D. Trial Exhibits

At least fifteen (15) days before trial, all exhibits to be used at trial shall be pre-marked and exchanged with the other parties and provided to the Court in tabbed binders containing copies of all exhibits, together with exhibit lists clearly indicating the pre-marked exhibit numbers/letters and a brief description of each exhibit.

V. Post Trial Procedures

In non-jury trials, parties shall file proposed findings of fact and conclusions of law no later than ten (10) days after the conclusion of trial. No responses to such submissions shall be permitted.