

Individual Practice Rules of

MAGISTRATE JUDGE VERA M. SCANLON

United States District Court
Eastern District of New York
225 Cadman Plaza East, 1214 South
Brooklyn, New York 11201
Courtroom: 13A—South Wing
Telephone: (718) 613-2300
Fax: (718) 613-2305
Courtroom Deputy: Krista Quinlan

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

I. Electronic Case Filing (ECF)

- a. Pursuant to this Court’s Administrative Order 2004-08 dated June 22, 2004, all documents in all cases must be filed electronically on the ECF system. Failure to comply with ECF requirements will result in the rejection of papers that are not electronically filed. Litigants proceeding *pro se* in civil cases are exempt from this requirement. Any attorney wishing to be exempted from ECF requirements must first complete ECF training and then, if an exemption is still desired, may make a written application to Magistrate Judge Scanlon.
- b. All letters and motions submitted to Magistrate Judge Scanlon requesting Court intervention, including those sent pursuant to the Local Civil Rules, or requesting an adjournment, must be electronically filed as a “Motion” under the “Motion and Related Filings” option, and not as a “Letter” under the ECF “Other Documents” option.
- c. Attorneys will receive notifications and orders from the Court electronically. Hard copies will not be mailed to attorneys. Accordingly, attorneys are responsible for maintaining accurate, current email information with the Clerk’s Office to ensure receipt of all ECF notifications.
- d. ECF policies and procedures can be studied on the Court’s Web site at <http://www.nyed.uscourts.gov>. Questions regarding ECF filing should be directed to

the Court's Docket Section at (718) 613-2610. To schedule ECF training, contact (718) 613-2312. For ECF technical help, contact (718) 613-2290.

- e. Courtesy copies should only be provided upon request of the Court. No courtesy copies of dispositive motions made to the assigned District Judge need be provided to Judge Scanlon, unless the motion is referred to Magistrate Judge Scanlon or the District Judge's rules so require.
- f. If a time-sensitive submission is made on ECF, the filing party may also fax it to Chambers at (718) 613-2305. If a submission is faxed to Chambers for this reason, the filing party must also send the fax to all other parties. If a time-sensitive matter has been filed on ECF and faxed to Chambers, but has not been decided, counsel may call Chambers at (718) 613-2300 to note its pendency.
- g. Particular documents may not be suited for ordinary ECF filing. Magistrate Judge Scanlon will make this designation when appropriate. For example, parties may file documents electronically under seal provided they first file a letter motion for leave to do so and obtain the Court's permission.

II. Communications with Chambers:

a. Telephone Calls and Case-Related Inquiries:

Generally speaking, parties should only call Chambers with emergencies or exceptionally time-sensitive requests that cannot be addressed per Rule I(f), above. A party telephoning Chambers must state whether it obtained the consent of all other parties for any request being made.

b. Request for Adjournments or Extensions of Time: All requests for adjournment of conferences or extensions of time must be filed as motions on ECF no later than 2 business days in advance of the conference date or deadline (and for settlement conferences, no later than 7 business days in advance), and state the following:

- 1) The original date of the conference and/or deadline;
- 2) The number of previous requests for adjournment or extension, and whether these previous requests were granted or denied;
- 3) Whether the adversary consents and, if not, the reasons given by the adversary for refusing to consent;
- 4) The reason for the adjournment request;

- 5) At least three *suggested* adjournment dates that suit all parties (even if the adversary does not consent, the moving party should inquire as to viable adjournment dates in the event the Court grants his/her request); and
- 6) If the requested adjournment or extension affects any other scheduled dates, a proposed revised scheduling order must be attached.

III. Motions

- a. **Pre-Motion conferences** are not required for any motions submitted to Magistrate Judge Scanlon. As a general matter, all non-dispositive pretrial motions are to be made to Magistrate Judge Scanlon.
- b. **Discovery or Other Non-Dispositive Motions:** Litigants shall make discovery or other non-dispositive motions by letter motion, in accordance with Rule I(b), above. A letter motion must be filed electronically as a motion, not as a letter, and may not exceed four pages in length, exclusive of attachments. A response not exceeding four pages in length, exclusive of attachments, must be served and filed within three business days of receipt of the letter motion. Replies are not permitted on letter motions. To the extent the parties are able to raise their discovery issues in a joint letter, they should do so. A joint letter may be up to ten pages long.

Parties must make a good faith effort, pursuant to the Federal and Local Civil Rules to resolve disputes before making a motion.

- c. **Dispositive Motions:** Dispositive motions, such as motions to dismiss and motions for summary judgment, must be made to the presiding District Judge, in conformance with his or her Individual Rules, unless the parties have consented to Magistrate Judge Scanlon's jurisdiction in accordance with 28 U.S.C. § 636(c)(1).

If the parties have so consented, the following rules apply to dispositive motions:

- 1) **Compliance with Local Rules:** All motions for summary judgment must comply with Rule 56 of the Federal Rules of Civil Procedure as well as Local Civil Rule 56.1. If the non-movant is proceeding *pro se*, the movant must also comply with Local Civil Rule 56.2. Any represented party moving to dismiss or for judgment on the pleadings against a party proceeding *pro se* must comply with Local Civil Rule 12.1.
- 2) **Schedule:** The parties are to set their own briefing schedule which is to be submitted to the Court for approval. No revisions to the schedule will be made

without the Court's approval. The briefing schedule must provide that the moving papers be served by the date for a dispositive motion set in the discovery schedule.

- 3) **Memoranda of Law:** Memoranda of law in support of and in opposition to motions on notice are limited to 25 pages, and reply memoranda are limited to 10 pages, unless permission for additional pages is granted by the Court. *See generally* Local Civil Rule 7.1.
- 4) **Fully Briefed Motions:** Motion papers may only be filed with the Court when the motion has been fully briefed. The movant shall be responsible for filing all of the motion papers no more than two days after the date the reply brief is scheduled to be served. A party may, but need not, file a letter with the Court noting that its motion papers have been served. Such a letter should not be filed as a motion. **Notwithstanding this individual rule, upon notice to the Court and all parties, a party may file a motion before briefing is completed if waiting to file a fully briefed motion would result in the loss of an appellate or other right. For example, motions pursuant to FRCP 50, 59 and 60 must be filed within the time requirements set forth in those rules; counsel should be aware that the Court of Appeals will not accept an argument that compliance with the District Court or Individual Judge's Rules should excuse noncompliance with FRAP 4.**
- 5) **Courtesy Copies:** After electronic filing, one hard copy of the motion papers, marked as "Courtesy Copy," should be submitted to Magistrate Judge Scanlon. Bound exhibits must be tabbed.
- 6) **Oral Argument:** When filing a dispositive motion, the parties should indicate by cover letter whether they wish to have oral argument. The Court will inform the parties if and when oral argument will be held.

IV. Pretrial Procedures in Cases to Be Tried Before Magistrate Judge Scanlon

- a. **Joint Pretrial Orders:** On the date specified in the scheduling order, the parties shall submit a joint pretrial order which includes the following:
 - 1) The full caption of the action;
 - 2) The names, addresses (including firm names), telephone and fax numbers of trial counsel;

- 3) A brief statement as to the basis of subject matter jurisdiction or its absence. 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 its claims and defenses that remain to be tried. Such summary shall include citations to all statutes on which the party is relying, but it shall not include reference to evidentiary matter. Such summary 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) Any stipulations or statement of facts that have been agreed to by all parties;
 - 7) A list by each party of the fact and expert witnesses whose testimony will be offered in its case in chief, indicating whether such witnesses will testify in person or by deposition. Only listed witnesses will be permitted to testify except for good cause shown;
 - 8) 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; and
 - 9) A list of exhibits to be offered in evidence and, if not admitted by stipulation, the party or parties who will be offering them. Where possible, the schedule must also include potential impeachment documents and/or exhibits, as well as exhibits that will be offered only in rebuttal. The parties must 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. Failure to object in the pretrial order waives all objections at trial, except objections as to relevance. Parties are expected to resolve before trial all issues of authenticity, chain of custody, and related grounds. Only the exhibits listed will be received in evidence except for good cause shown. All exhibits must be pre-marked for the trial, placed in binders with tabs, and exchanged with the other parties with two courtesy copies to Magistrate Judge Scanlon at least 10 days before trial.
- b. **Filings Prior to Trial:** Unless otherwise ordered by the Court, the parties shall submit via ECF the following:

- 1) At least 15 days prior to the commencement date of trial: proposed *voir dire* questions; proposed verdict form; and requests to charge. Requests to charge should be limited to the elements of the claim, the damages sought, and defenses. General instructions will be prepared by the Court. Proposed jury charges must also be emailed to Scanlon_Chambers@nyed.uscourts.gov in Microsoft Word or WordPerfect format.
- 2) At least 7 days prior to the commencement date of trial: fully briefed motions *in limine*. All motions addressing any evidentiary or other issues should be resolved *in limine*.

V. Settlement Procedures

- a. If the parties would like to schedule a settlement conference with the Court, they may make a joint request by letter motion on ECF and include at least three dates on which all counsel and parties with full settlement authority are available to attend in person.
- b. Unless otherwise ordered by the Court, at least a week before a scheduled settlement conference, each party must submit an ex parte letter describing the party's settlement position, assessment of the strengths and weaknesses of the case, and the history of settlement negotiations. The letter may be submitted by email to Scanlon_Chambers@nyed.uscourts.gov. The parties with full settlement authority are expected to attend the settlement conference.