

**INDIVIDUAL MOTION PRACTICES OF
MAGISTRATE JUDGE ROBERT M. LEVY**

United States District Court

225 Cadman Plaza East

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Fax Page Limit: None listed

Contact: Janine Marino, Secretary

Hours: None listed

Motions Returnable: Set by the court.

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

1. *Communications With Chambers*
 - A. *Letters.* Except as provided below, communications with chambers shall be by letter, with copies simultaneously delivered to all counsel. Copies of correspondence between counsel shall not be sent to the Court. All correspondence must have case name, docket number and initial of judges assigned to the case.
 - B. *Telephone Calls.* In addition to Paragraph 1(D) below, telephone calls to chambers are permitted. For scheduling or calendar matters, call chambers at the number listed above.
 - C. *Faxes.* Faxes to chambers are not permitted unless prior authorization is obtained. Hard copies of faxes to chambers shall not be sent without permission from chambers.
 - D. *Scheduling and Calendar Matters.* For scheduling and calendar matters, call Janine Marino at (718) 260-2340.
 - E. *Request for Adjournments or Extension of Time.* All requests for adjournments or extensions of time must be in writing and must state (1) the original date, (2) the reason for the request, (3) how much additional time is needed, (4) the number of previous requests for adjournment or extension, (5) whether these previous requests were granted or denied, and (6) whether the adversary consents, and if not, the reasons given by the adversary for refusing to consent. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Scheduling order must be included. If

the request is for an adjournment of a court appearance, absent emergency it shall be made at least 48 hours prior to the scheduled appearance. **Please do not call chambers to request an adjournment of a court date except in case of an emergency.** If you have made a request via ECF (Electronic Case Filing), you must send a hard copy to chambers.

2 *Motions*

A. *Pre-Motion Conferences in Civil Cases.* For discovery motions, follow Local Civil Rules 37.3 and 6.4. For motions other than discovery motions, in all cases where the parties are represented by counsel, a pre-motion conference with the court is required before making any dispositive motion, motion for a change of venue, or to amend a pleading pursuant to Rule 15 of the Federal Rules of Civil Procedure where leave of court is required.

To arrange a pre-motion conference, the moving party shall submit a letter not to exceed three (3) pages in length setting forth the basis of the anticipated motion. All parties so served must serve and file a letter response, not to exceed three (3) pages within seven (7) days from the service of the notification letter. Service of the letter by the moving party within the time requirements of Rule 12 of the Federal Rules of Civil Procedure shall constitute timely service of a motion made pursuant to Federal Rules of Civil Procedure 12(b).

B. *Courtesy Copies.* Courtesy copies of all motion papers, marked as such, should be submitted to chambers.

C. *Memoranda of Law.* The court expects counsel to exercise their professional judgment as to the length of briefs and may impose limits if that expectation is not met.

D. *Filing of Motion Papers.* Motion papers shall be filed promptly after service.

E. *Oral Argument on Motions.* Parties may request oral argument by letter at the time their moving or opposing or reply papers are filed. The court will determine whether argument will be heard and, if so, will advise counsel of the argument date.

F. Paragraphs A and D above **do not** apply to any of the motions described in Federal Rules of Appellate Procedure 4(a)(4)(A). A pre-motion conference is not required before making such motions, which should be filed when served.

3. *Pretrial Procedures in Consent Cases*

A. *Joint Pretrial Orders in Civil Cases where Parties Consent to Trial before a Magistrate Judge.* Unless otherwise ordered by the Court, within 60 days after 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. All joint pretrial orders shall include the following:

i. The full caption of the action.

The names, addresses (including firm names) and telephone and fax numbers of trial counsel.

iii. 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.

iv. 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.

v. 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.

vi. Any stipulation or agreed statements of fact or law which have been agreed to by all parties.

vii. A list by each party as to the fact and expert witnesses whose testimony is to 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 when prompt notice has been given and good cause shown.

viii. 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.

ix. A statement of stipulated facts, if any;

x. Exhibit

1) 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. Failure to object in the pretrial order waives all objections at trial, except

objections as to relevance. 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; and

2. All exhibits must be premarked for the trial and exchanged with the other parties at least ten days before trial. Where exhibits are voluminous, they should be placed in binders with tabs.

B. *Filings Prior to Trial in Civil Cases.* Unless otherwise ordered by the Court, each party shall file, 15 days before the date of commencement of trial if such a date has been fixed, or 30 days after the filing of the final pretrial order if no trial date has been fixed:

i. Requests to charge and proposed voir dire questions. 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. When feasible, proposed jury charges should also be submitted on a 3.5" IBM formatted diskette in Word Perfect format.

ii. By claim, a detailed statement regarding damages and other relief sought;

iii. In non-jury cases, 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.

iv. In all cases, motions addressing any evidentiary or other issues which should not be resolved in limine; and

v. In any case where such party believes it would be useful, a pretrial memorandum.