

**INDIVIDUAL PRACTICE RULES OF
JUDGE DIANE GUJARATI**

Revised February 26, 2021

United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201
Courtroom: 4B South
Chambers: (718) 804-2730
Courtroom Deputy Kelly Almonte: (718) 804-2735

Rules at a Glance

	Issue	Requirement	Individual Rule No.	Page
Case Filings	Electronic Case Filing (“ECF”)	Mandatory, except for <i>pro se</i> litigants.	I.A	1
	Filing Under Seal	File via ECF under seal.	I.B	1
	Courtesy Copies	Suspended until further notice.	I.C	1
	Text-Searchable Submissions	Mandatory for all submissions.	I.D	2
	Redline Copies of Amended or Supplemented Pleadings	Attach a redline comparison (or equivalent) as an exhibit.	I.E	2
	Requests for Adjournments/Extensions	Provide at least two (2) business days’ notice.	I.F	2
Communications with Chambers	Written Communications	File via ECF.	II.A	2
	Telephone Calls	Permitted for urgent matters or if adjourning an appearance scheduled to take place within 24 hours.	II.B	2
Civil Motions	Pre-Motion Conferences	Required for <i>Daubert</i> motions and motions under Fed. R. Civ. P. 12 or 56 in all cases except bankruptcy appeals, social security appeals, habeas corpus/prisoner petition cases, or cases in which one or more parties are proceeding <i>pro se</i> . Three (3) pages for letter requesting pre-motion conference. Three (3) pages for response, due within five (5) business days.	III.A	3
	Briefing Schedule	To be set by the Court. (If there is a pre-motion conference, to be set at conference.) As a courtesy, the Court requests that parties refrain from filing motion papers until a motion is fully briefed, unless doing so might cause a party to miss an applicable deadline.	III.B	3

**INDIVIDUAL PRACTICE RULES OF
JUDGE DIANE GUJARATI**

	Issue	Requirement	Individual Rule No.	Page
	Memoranda of Law	Twenty-five (25) pages for opening and opposition briefs, ten (10) pages for reply briefs; tables of contents and tables of authorities required.	III.C	4
	Evidentiary Citations	Required for any submission that cites record material.	III.D	5
	Oral Argument on Motions	Parties may request on moving or opposing papers.	III.E	5
Criminal Motions	Scheduling	Initial conference set by the Court after Government notification of a new case; motions briefing schedules set by the Court after notification of anticipated motion.	IV.A	5
	Speedy Trial Act Exclusions of Time	Parties must be prepared to state the ground(s) supporting an exclusion at the time the exclusion is requested.	IV.B	5
	Applications Regarding Bail Status	Notify the Court of the anticipated application as soon as practicable and in advance of any proceeding at which the Court will be asked to rule on the application.	IV.C	6
	Memoranda of Law	<i>See</i> Rule III.C.	IV.D	6
	Evidentiary Citations	<i>See</i> Rule III.D.	IV.E	6
	Oral Argument on Motions	Set by the Court.	IV.F	6
	Civil Pretrial Procedures	Sixty (60) Days Post-Discovery	File a proposed joint pretrial order. (If summary judgment motion, the Court to set deadline for proposed joint pretrial order.)	V.A
Thirty (30) Days Before Trial		File motions <i>in limine</i> .	V.B.1	8
Ten (10) Days Before Trial		File requests to charge, proposed verdict sheets, and proposed <i>voir dire</i> questions.	V.B.2	8
Friday Before Trial		Provide the Court with three (3) tabbed binders containing copies of all exhibits.	V.C.1	8
Notification of Settlement	Timing and Procedures	Immediate notification by telephone followed by formally executed Stipulation of Settlement or Discontinuance via ECF.	VI	9

**INDIVIDUAL PRACTICE RULES OF
JUDGE DIANE GUJARATI**

	Issue	Requirement	Individual Rule No.	Page
Criminal Pretrial Procedures	Thirty (30) Days Before Trial	File motions <i>in limine</i> .	VII.A.1	9
	Ten (10) Days Before Trial	File requests to charge, proposed verdict sheets, and proposed <i>voir dire</i> questions.	VII.A.2	9
	Friday Before Trial	Provide the Court with three (3) tabbed binders containing copies of all exhibits.	VII.B.1	9
Post-Trial Procedures	Non-Jury Civil and Criminal Cases	File proposed findings of fact and conclusions of law no later than ten (10) days post-trial; no responses permitted.	VIII	10
Sentencing	Sentencing Memoranda	Due two (2) weeks before sentencing for defendants and one (1) week before sentencing for the Government.	IX.A	10
	Applications for Adjournments	Due at least five (5) business days before the date of sentencing.	IX.B	10
Matters Involving <i>Pro Se</i> Litigants	Responsibilities of <i>Pro Se</i> Litigants	Communicate with the Court in writing and ensure that contact information is current.	X.A	10
	Responsibilities of Represented Parties	Ensure adherence to and compliance with all applicable rules; provide copy of the Court's Individual Practice Rules to <i>pro se</i> litigants.	X.B	10

**INDIVIDUAL PRACTICE RULES OF
JUDGE DIANE GUJARATI**

Unless otherwise ordered, matters before Judge Gujarati will be conducted in accordance with the following practices:

I. Case Filings

A. Electronic Case Filing (ECF)

1. Counsel must file all documents electronically via ECF.
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 via ECF and must also mail a hard copy of all documents to the *pro se* litigant. See Rule X below (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. Any request for relief from the Court, including a request for an adjournment or extension of time, must be filed as a “motion” on ECF.
5. 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 via 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>

Unless prior approval has been granted, each submission shall be accompanied by an explanation of why sealing is necessary.

C. Courtesy Copies

Courtesy copy requirements are suspended until further notice.

**INDIVIDUAL PRACTICE RULES OF
JUDGE DIANE GUJARATI**

D. Text-Searchable Submissions

All written submissions and supporting materials must be text-searchable, to the extent practicable. The Court may strike non-compliant submissions.

E. Redline Copies of Amended or Supplemented Pleadings

Except for *pro se* parties, any party filing an amended or supplemented pleading shall attach as an exhibit to the filing a redline comparison (or equivalent) against the prior filing.

F. Requests for Adjournments or Extensions of Time

1. All requests for adjournments or extensions of time must be in writing and state: **(i)** the reason for the request; **(ii)** the original deadline; **(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 date, the party seeking the adjournment should propose revisions of the additional affected date(s).
3. Absent an emergency, requests for adjournments of court appearances and extensions of filing deadlines shall be made at least two (2) business days prior to the scheduled appearance or filing deadline. Requests for adjournments of sentencings shall be made at least five (5) business days before the scheduled sentencing.

II. Communications with Chambers

A. Written Communications with Chambers

Except in emergency situations requiring immediate attention or as otherwise noted in these Individual Practice Rules, all communications with chambers shall be in writing and filed via 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

Telephone calls to chambers are generally disfavored but are permitted for urgent matters.

A party must call chambers when seeking to adjourn a court appearance scheduled to take place within 24 hours.

**INDIVIDUAL PRACTICE RULES OF
JUDGE DIANE GUJARATI**

III. Civil Motions

A. Pre-Motion Conferences

1. Pre-motion conferences are not required in bankruptcy appeals, social security appeals, habeas corpus/prisoner petition 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 **any motion pursuant to Fed. R. Civ. P. 12 or 56, or before filing a *Daubert* motion.**
2. To request a pre-motion conference, the moving party must file and serve a letter, not to exceed three (3) 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 (5) business days of service of the moving party's letter. The response shall not exceed three (3) pages.
4. The purpose of pre-motion letters is to aid the Court by providing a synopsis of the arguments to be set forth in any motion or opposition. Pre-motion letters and responses must contain sufficient legal authority to serve this purpose. When a party responds to a pre-motion letter in anticipation of a motion to dismiss, the party should state whether it will seek leave to amend in light of one or more of the alleged pleading defects or, instead, whether it prefers to proceed to briefing on the contemplated motion. Additionally, responses to letters submitted in advance of Rule 56 motions must set forth the material facts claimed to be disputed. 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.
5. The provisions of this section of these Individual Practice Rules do not apply to motions other than *Daubert* motions and motions filed pursuant to Fed. R. Civ. P. 12 or 56. For example, letters requesting pre-motion conferences are not required for motions pursuant to Fed. R. Civ. P. 50, 59, or 60.
6. Counsel should be aware that the Court of Appeals will not accept an argument that compliance with district court motion rules should excuse noncompliance with Fed. R. App. P. 4.

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

**INDIVIDUAL PRACTICE RULES OF
JUDGE DIANE GUJARATI**

schedule without holding a 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 three weeks).
3. Parties may not serve motion papers before the Court enters a briefing schedule. No changes in a briefing schedule may be made without the Court's approval.
4. **As a courtesy to the Court, the Court requests that the parties refrain from filing motion papers until the motion has been fully briefed, unless doing so might cause a party to miss an applicable deadline.** If the parties follow this practice, the notice of motion and all 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. Only a copy of the cover letter shall be electronically filed on ECF in advance of the fully briefed motion, and it must be filed as a letter, not as a motion. On the day the motion is fully briefed, the movant shall electronically file all of the parties' motion papers. Separate docket entries should be used for each party's papers and a separate docket entry should be used for any reply brief.
5. Parties are reminded that the Court of Appeals will not accept an argument that compliance with district court motion rules should excuse noncompliance with the time limits set forth in Fed. R. App. P. 4.¹

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 twenty-five (25) double-spaced pages, not including tables of contents or tables of authorities (both of which are required), exhibits, appendices, or attachments. Reply memoranda are limited to ten (10) double-spaced pages, not including tables of contents or tables of authorities (both of which are required), exhibits, appendices, or attachments.
2. All memoranda of law shall be produced in 12-point font, including footnotes, 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.

¹ **If any party concludes in good faith that delaying the filing of a motion in order to comply with any aspect of these Individual Practice Rules will deprive the party of a substantive right, the party may file the motion within the time required by the Federal Rules of Civil, Criminal, and/or Appellate Procedure.**

**INDIVIDUAL PRACTICE RULES OF
JUDGE DIANE GUJARATI**

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.

IV. Criminal Motions

A. Scheduling

1. Assistant United States Attorneys are responsible for informing chambers as soon as a new case has been assigned to Judge Gujarati. Telephone calls to chambers are permitted for these purposes. Upon such notification, an initial conference will be scheduled.
2. As promptly as possible and prior to the initial conference, the United States Attorney’s Office must inform chambers *whether or not* the Criminal Division of the United States Attorney’s Office for the Southern District of New York had any involvement in the case’s investigation or prosecution prior to September 22, 2020.²
3. Where practicable, counsel is encouraged to advise the Court at the initial conference of any motions that counsel anticipates filing; where not practicable, counsel shall advise the Court of any anticipated motions at a subsequently scheduled status conference.
4. The Court will set a motions briefing schedule.
5. Parties may not serve motion papers before the Court enters a briefing schedule. No changes in a briefing schedule may be made without the Court’s approval.³

B. Speedy Trial Act Exclusions of Time

Any party seeking an exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161, should be prepared to state at the time the exclusion is requested: the

² The same notification must be made promptly for any criminal matter assigned to Judge Gujarati while on Miscellaneous Duty.

³ See footnote 1 above.

**INDIVIDUAL PRACTICE RULES OF
JUDGE DIANE GUJARATI**

ground(s) supporting the exclusion and the relevant statutory section(s).

C. Applications Regarding Bail Status

Any party appealing a Magistrate Judge's order of release or order of detention shall include with such motion a copy of the transcript of the proceeding before the Magistrate Judge. Where the transcript is not available, the audio recording shall be provided to the Court.

Any party anticipating an application to change bail status at any stage shall notify the Court of the application as soon as practicable and before any proceeding at which the application will be made.

D. Memoranda of Law

See Rule III.C above.

E. Evidentiary Citations

See Rule III.D above.

F. Oral Argument on Motions

Oral argument on criminal motions will be heard on a date set by the Court.

V. Civil Pretrial Procedures

A. Joint Pretrial Orders in Civil Cases

Timing of Joint Pretrial Orders. Unless otherwise ordered by the Court, in the absence of a motion for summary judgment, within sixty (60) days of the completion of discovery in a civil case, the parties shall jointly submit to the Court a proposed pretrial order. If a party moves for summary judgment, the Court will set the deadline for the joint pretrial order at the time it rules on the motion. The parties should anticipate the deadline to be set for thirty (30) days after the Court's ruling.

Contents of Joint Pretrial Orders. Joint pretrial orders shall include:

1. *Caption.* The full caption of the action.
2. *Parties and Counsel.* The names (including firm names), addresses, 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)**

**INDIVIDUAL PRACTICE RULES OF
JUDGE DIANE GUJARATI**

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. The summaries shall also identify all claims and defenses previously asserted which will not be tried.
5. *Jury or Bench Trial.* A statement by each party as to whether the case will 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 schedule by each party of witnesses (fact and expert) whose testimony is to be offered in its case-in-chief and potential witnesses whose testimony may be offered only for impeachment or rebuttal purposes. As to each witness, the schedule shall include name, address, and a brief narrative statement of the expected testimony, and shall indicate whether the witness will testify in person or by deposition. 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.* Any stipulations or statements of fact or law that have been agreed to by all parties.
11. *Exhibits.* A schedule by each party listing exhibits to be offered in evidence and, if not admitted by stipulation, the party or parties that will be offering them. The schedule shall 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. The parties are expected to

**INDIVIDUAL PRACTICE RULES OF
JUDGE DIANE GUJARATI**

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

1. Unless otherwise ordered by the Court, any motions addressing evidentiary or other issues that should be resolved *in limine* shall be filed thirty (30) days before the commencement of trial; a motion response, if any, is due ten (10) days after the motion is filed; replies are not permitted.
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 ten (10) days 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. The parties should endeavor to agree upon the requests to charge, to the extent possible, and must submit a single, joint document setting forth all agreed-upon requests to charge and, where no agreement is reached, each party's proposed charge and/or one party's proposed charge with an explanation of the other party's objection to that charge.

C. Trial Exhibits

1. The parties shall provide the Court with three (3) tabbed binders containing copies of all exhibits on the Friday before trial, unless otherwise ordered by the Court. 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 the witness's direct testimony, counsel shall have (i) two copies of each document for the Court and (ii) at least one copy for the court reporter, each present opposing counsel, and each juror.
2. The parties shall exchange their exhibits with each other at least ten (10) days before trial and are strongly encouraged to resolve disputes relating to exhibits in advance of trial where possible and, where not possible, to raise disputes with the Court in advance of trial. Sidebars during trial are

**INDIVIDUAL PRACTICE RULES OF
JUDGE DIANE GUJARATI**

disfavored.

VI. Notification of Settlement in Civil Cases

Any time a settlement is reached, whether prior to jury selection or during trial, the parties are required to immediately notify the Court during business hours by telephoning chambers and shall follow up with a formally executed and electronically filed Stipulation of Settlement or Discontinuance.

VII. Criminal Pretrial Procedures

A. Filings Prior to Trial

1. Unless otherwise ordered by the Court, any motions addressing evidentiary or other issues that should be resolved *in limine* shall be filed thirty (30) days before the commencement of trial; a motion response, if any, is due ten (10) days after the motion is filed; replies are not permitted.
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 ten (10) days before trial, unless otherwise ordered by the Court. Requests to charge should be limited to the elements of the crimes charged and defenses. General instructions will be prepared by the Court. The parties should endeavor to agree upon the requests to charge, to the extent possible, and must submit a single, joint document setting forth all agreed-upon requests to charge and, where no agreement is reached, each party's proposed charge and/or one party's proposed charge with an explanation of the other party's objection to that charge.

B. Trial Exhibits

1. The parties shall provide the Court with three (3) tabbed binders containing copies of all exhibits on the Friday before trial, unless otherwise ordered by the Court. The Government'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 the witness's direct testimony, counsel shall have **(i)** two copies of each document for the Court, and **(ii)** at least one copy for the court reporter, each present opposing counsel, and each juror.
2. The parties shall exchange their exhibits with each other at least ten (10) days before trial and are strongly encouraged to resolve disputes relating to exhibits in advance of trial where possible and, where not possible, to raise disputes with the Court in advance of trial. Sidebars during trial are disfavored.

**INDIVIDUAL PRACTICE RULES OF
JUDGE DIANE GUJARATI**

VIII. Post-Trial Procedures for Non-Jury Civil and Criminal Trials

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. Responses to such submissions are not permitted.

IX. Sentencing

- A. The defendant's sentencing memorandum, if any, is due two (2) weeks prior to sentencing. The Government's sentencing memorandum, if any, is due one (1) week prior to sentencing. The Government should advise the Court if a victim will be making a victim impact statement.

- B. Applications regarding sentencing adjournments shall be made in writing at least five (5) 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.

X. *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. Communicate with the Court in writing only.
 - 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.** 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 Practice Rules and file a certificate of service as early as practicable in the litigation.