

**INDIVIDUAL RULES AND PRACTICES OF
THE HONORABLE JOANNA SEYBERT**

UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF NEW YORK
Alfonse M. D'Amato Federal Building
United States District Court
100 Federal Plaza, Courtroom 1030
Central Islip, New York 11722

Chambers Phone: (631) 712-5610
Chambers Email: Seybert_chambers@nyed.uscourts.gov
Charles Baran, Deputy Clerk: (631) 712-5615
Bonnie Nohs, Judicial Administrative Assistant (631) 712-5612

Note: in light of the current health crisis surrounding COVID-19, parties need not submit Courtesy Copies of documents electronically filed to ECF.

Unless otherwise specified, all matters before the Court shall be conducted in accordance with the following practices.

I. COMMUNICATIONS WITH CHAMBERS

- A. Letters.** Except as provided below, communications with the Court **shall be by letter electronically filed to ECF**, with copies simultaneously delivered to all counsel, via ECF notification or other means. Letters shall include the case name, case number, and may not exceed four (4) pages in length. Please do not provide courtesy copies of letters filed to ECF. Copies of correspondence between Counsel **shall not** be electronically filed or sent to the Court.
- B. Telephone Calls.** Counsel are urged to communicate with the Court by letter electronically filed to ECF whenever possible. Parties seeking clarification of these Individual Rules or case-specific action should docket their request in a letter to ECF.
1. Telephone calls to Chambers are permitted only in emergency situations requiring immediate attention. Before calling, please refer to Rule I(D) regarding urgent scheduling and calendar requests and requests for extension of deadlines. In emergency situations, call Chambers at (631) 712-5610 and please be ready to provide your case number.
 2. The Court will not accept ex parte telephone calls unless otherwise permitted. Counsel for all affected parties should be on the line when a call to Chambers is placed, except to the extent that similarly situated parties have designated a lead counsel to represent them on such a call. Please note

that the Court will not review any messages left on (631) 712-5610 – please call again.

3. **Do not contact Chambers with questions regarding docketing or ECF, including questions seeking ECF filing assistance.** Information regarding the Clerk’s docketing and electronic filing system is available on the Eastern District website. Questions regarding docketing and ECF filing or training on ECF should be directed to the Central Islip Clerk’s office at (631) 712-6010.
 4. For questions concerning procedure, please refer to the Federal Rules of Civil Procedure, the Local Rules of the Eastern District of New York, and these Individual Rules.
- C. **Faxes and Emails.** Faxes and emails are not permitted without prior permission from the Court.
- D. **Requests for Adjournments or Extensions of Time**
1. **All requests for extensions of deadlines and adjournments shall be made as soon as a party is aware of the need for the extension and, in any event, at least two business days prior to the scheduled deadline or appearance, absent an emergency.**
 2. **Urgent Scheduling and Calendar Matters.** For urgent scheduling and calendar matters, call or email Charles Baran, Deputy Clerk, at (631) 712-5615 or at “charles_baran@nyed.uscourts.gov.” Email is preferred and note the underscore between “Charles” and “Baran.”
 3. **Requests for Extensions of Deadlines.** Requests for extensions of deadlines shall be addressed to the Court and shall be filed electronically in accordance with Rule I(A). **DO NOT** mail courtesy copies to Chambers. All requests for adjournments or extensions of time must state (1) the original due date; (2) the number of previous requests for adjournments; (3) whether previous requests were granted or denied; (4) the reason for the request; and (5) whether the adversary consents, and if not, the reasons given by the adversary for refusing to consent. If the requested extension affects any other scheduled dates, the request must list the proposed change for all such other dates. The deadline is not adjourned unless the Court informs counsel – typically by notice to ECF – that the written application has been granted.
 4. **Requests for Adjournment of Court Appearance (Including Telephone Conferences).** For urgent and/or emergency scheduling and calendar matters, see Rule I(D)(2). In all other circumstances, a request for an adjournment of a court appearance shall be made in writing in accordance

with Rule I(A). **DO NOT** mail courtesy copies to Chambers. The request must state: (1) the date of the scheduled appearance, (2) the length of time requested for the adjournment and suggested dates on which all parties are available, (3) whether previous requests were granted or denied; (4) the reason for the request; and (5) whether the adversary consents, and if not, the reasons given by the adversary for refusing to consent. The appearance is not adjourned unless the Court informs counsel – typically by notice to ECF – that the written application has been granted.

5. **Requests for extensions of time to file a responsive pleading** shall be addressed to the assigned Magistrate Judge and shall be filed electronically. See Rule III(H)(1).

E. **Requests for Court Action.** Any document seeking relief of any kind from the Court must be electronically filed as a “Motion” and not as a “Letter” under the ECF “Other Documents” option.

F. **Notification of Settlement.** Any time a settlement is reached, whether prior to jury selection or during trial, the parties are **required** to immediately notify the Court by filing a letter to ECF. The letter shall indicate when the parties expect to execute a formal Stipulation of Settlement or Dismissal. **Do not send courtesy copies to chambers.**

II. **ELECTRONIC CASE FILING**

A. **Generally.** In Accordance with the Local Rules, all documents must be filed electronically on the Court’s Electronic Case Filing System. Information regarding electronic filing is available on the Eastern District website. Questions regarding ECF filing or training on ECF should be directed to the Central Islip Clerk’s office at (631) 712-6010. **Do not contact Chambers with ECF or docketing questions.**

B. **Pro Se Litigants.** Pro se parties are automatically exempt from mandatory electronic filing unless the pro se litigant is a practicing attorney admitted to practice in the Eastern District of New York. Parties represented by counsel, however, must file documents electronically, even in pro se cases.

C. **Text Searchable Documents.** Where possible, all documents filed to ECF must be text searchable.

D. **Exhibits.** Any party filing exhibits to ECF (1) must file each exhibit as a separate PDF file, i.e., one exhibit per docket entry, and (2) must clearly identify and describe each exhibit on ECF. For example, parties should endeavor to describe each exhibit docket entry as: “Exhibit A – Jane Smith Dep.” and not simply “Exhibit A.”

III. MOTIONS

A. **Strict compliance with this Court's Motion Practices, the Federal Rules of Civil Procedure, and the Local Rules of the Eastern District of New York is required. Submissions not in compliance will not be considered by the Court.**

B. **Pre-Motion Conferences in Civil Cases**

1. **Pre-motion conferences are required for summary judgment motions and motions pursuant to Fed. R. Civ. P. 12.** Pre-motion conferences are not otherwise required. The Court will set a briefing schedule for motions to dismiss and summary judgment motions at the pre-motion conference. For all other motions, the Court does not typically set a briefing schedule and the parties must comply with the Federal Rules and the Local Rules of Civil Procedure. The parties may not change a briefing schedule, whether set by the Court or the Federal and/or Local Rules, without permission from the Court, and may not change a briefing schedule by stipulation.

2. **Requesting a Pre-Motion Conference.** To request a pre-motion conference, the moving party shall file a letter to ECF of no more than three (3) pages, briefly stating the basis for the anticipated motion. The opposing party may submit a letter setting forth its position in opposition, of not more than three (3) pages, within seven (7) days after the pre-motion conference request is made. If applicable, the opposing party shall state whether it seeks to file a cross-motion. All pre-motion letters should be filed in accordance with Rule I(A) above. Do not mail courtesy copies of pre-motion letters. The parties need not file supporting exhibits with their pre-motion conference requests and responses. Please carefully review Rule III(F) regarding the exchange of Local Rule 56.1 Statements in advance of summary judgment pre-motion conferences.

3. **Pre-Motion Conferences and Deadlines.** The submission of a pre-motion letter does not stay any future deadlines, except that a pre-motion conference request concerning a motion to dismiss will stay the defendant's time to answer or otherwise move with respect to the Complaint. The parties shall adhere to the deadlines set by the assigned Magistrate Judge and shall file pre-motion conference requests prior to the set deadline for filing dispositive motions.

C. **Page Limitations and Formatting**

1. **Memoranda of Law.** Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to twenty-five (25) pages, and reply memoranda are limited to ten (10) pages. All memoranda must contain an index of cases and all memoranda of ten (10) pages or more shall also contain a table of contents in addition to an

index of cases. Parties shall file requests for rebuttal, sur-reply, etc., and for permission to file additional pages to ECF. These requests will be granted sparingly.

2. **Formatting.** Motion papers shall have 1" margins, 12 pt. Times New Roman or larger font, and be double spaced (no more than 23 lines/page). Footnotes, to the extent necessary, shall be printed in 10 pt. Times New Roman or larger and be single spaced.
3. **Case Caption.** The captions for motion papers must list all plaintiffs and defendants. The use of "et. al." in lieu of the names is prohibited.

D. **Courtesy Copies.** Please see Rule IV, below.

E. **Oral Argument.** Parties may request oral argument at the time the moving, opposing, or reply papers are filed. The Court will determine whether argument will be heard, and if so, will notify counsel of the date – usually through ECF notification. The Court generally does not schedule oral argument absent extraordinary circumstances.

F. **Summary Judgment Motions**

1. **Local Rule 56.1 Statements**

- a) Adherence to Local Civil Rule 56.1 is required and all parties are directed to carefully review Local Rule 56.1. Statements submitted to the Court that are not in strict compliance with Local Rule 56.1 will be rejected.
- b) **Rule 56.1 Statement.** Along with the pre-motion letter described above, a party moving for summary judgment must also include a Local Civil Rule 56.1 Statement containing evidentiary citations. The moving party's failure to comply may constitute grounds for striking the Local Civil Rule 56.1 Statement and/or the denial of the summary judgment motion.
- c) **Rule 56.1 Counterstatement.** Within fourteen (14) days after receipt of the movant's Rule 56.1 Statement, the party opposing the motion must serve the movant with a counter-statement pursuant to Rule 56.1(b) ("Rule 56.1 Counterstatement"). **The paragraphs in the Rule 56.1 Counterstatement must correspond with the paragraphs in the movant's Rule 56.1 statement.** For example, if you are responding to the movant's paragraph 5, your response should be labeled as paragraph 5. Should the non-movant require additional time, the parties may agree among themselves to a reasonable extension. However, the non-movant must either (1) file

its Rule 56.1 Counterstatement to ECF in advance of the pre-motion conference or (2) inform the Court prior to the pre-motion conference that the parties agreed to an extension and the date by which the Rule 56.1 Counterstatement will be filed to ECF.

2. **Exhibits.** See Rule II(D), *supra*, regarding the filing and describing of exhibits on ECF. Depositions submitted in support of a summary judgment motion must be submitted in full (condensed) format complete with a word index.

G. **Pro Hac Vice Motions.** As stated below in Rule III(H)(1), pro hac vice motions are to be directed to the assigned Magistrate Judge and filed electronically. Although there is no need to file a memorandum or law, this motion must comply with the Rules of the Eastern District of New York for admission pro hac vice.

H. **Motions Referred to the Assigned Magistrate Judge**

1. **Non-Dispositive Motions.** All discovery and non-dispositive pretrial motions and applications shall be made to the assigned Magistrate Judge in accordance with that Magistrate Judge's individual rules. Non-dispositive motions and applications include:

- a) Discovery motions and applications, including motions to stay discovery
- b) Motions to amend pleadings
- c) Extensions of time to serve, answer, or file amended pleadings
- d) Stipulations concerning amendment to pleadings
- e) Motions to quash subpoenas
- f) So ordering of subpoenas
- g) Applications concerning confidentiality/protective orders
- h) Sealing/un-sealing orders
- i) Motions to withdraw as counsel and substitution of counsel
- j) Pro hac vice motions
- k) Requests for adjournments or extensions of time concerning arbitration or mediation proceedings

2. **Dispositive Motions.** The Court may, from time to time, refer dispositive motions to the assigned Magistrate Judge for a report and recommendation on whether the pending motion should be granted. After referral, the parties shall direct further papers and filings regarding the motion to the assigned Magistrate Judge, with the exception that requests for extensions of time to file objections shall be directed to the Court. All objections to the assigned Magistrate Judge's orders and reports and recommendations must be served and filed electronically within fourteen (14) days from the date of service of the decision. All papers responding to the objections shall be served and filed within fourteen (14) days from receipt of the objections. A reply, if

any, shall be filed within seven (7) days of service of the opposition. Please consult Fed. R. Civ. P. 6(a) and 72.

- I. **Bankruptcy Appeals.** The Court directs the parties to Bankruptcy Rules 8001-8013 regarding the filing deadlines for Notices of Appeal and submission of briefs, as well as the form and length of briefs. All papers are to be filed electronically.

Social Security Appeals. Motions for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c) must be made within sixty (60) days of the filing of the transcript with the Clerk of the Court. Failure to adhere to this rule will result in dismissal of the appeal, without prejudice and with leave to re-file. Social Security numbers shall be redacted. Social Security appeals must be filed electronically.

IV. **COURTESY COPIES** *Note that in light of the current health crisis surrounding COVID-19, the Court waives its requirements for courtesy copies until further notice.

- A. **ECF-Filed Documents Over Five (5) Pages.** As a general rule, and unless otherwise stated, one courtesy copy of any document filed on ECF longer than five (5) pages should be sent to Chambers. Courtesy copies should be the filed version of the documents printed from ECF with the automatically generated ECF header (e.g., “Case 1:20-cv-01234-JS Document 100 Filed 06/3/2020 Page 1 of 10”).
- B. **Motion Papers.** The parties shall provide the Court with courtesy copies of their respective motion papers at the time the papers are electronically filed. This includes all related materials AND exhibits. Courtesy copies should be the filed version of the documents printed from ECF with the automatically generated ECF header (e.g., “Case 1:20-cv-01234-JS Document 100 Filed 06/3/2020 Page 1 of 10”).
- C. **Delivery Methods.** Courtesy copies should be sent via mail or hand delivery to Chambers. Do not send courtesy copies via multiple delivery methods. **For hard copies, (1) left side spiral-bound or stapled copies are preferred over velobound copies and (2) exhibits shall be organized and sequentially separated by tabs.**

V. **CONFERENCES**

- A. Conferences are held in Courtroom 1030 at the U.S. District Court located in Central Islip. All parties shall appear promptly at the scheduled hour and wait in the courtroom until the case is called.
- B. All counsel appearing at conferences must have filed a notice of appearance, must be fully familiar with the case, prepared to discuss all aspects of the case, and be authorized to consummate settlements. In this regard, counsel are expected to be

fully familiar with Rule 16 of the Federal Rules of Civil Procedure before attending any conferences.

VI. CIVIL TRIAL PROCEDURES

- A. Joint Pretrial Orders in Civil Cases.** Unless otherwise ordered by the Court, within sixty (60) days from the date for the completion of discovery in a civil case or, if a dispositive motion has been filed, within sixty (60) days of a decision resolving the motion, the parties shall submit to the Court for its approval a joint pretrial order setting forth the information required by Fed. R. Civ. P. 26(a)(3) and the following:
1. The full caption of the action.
 2. The names, addresses (including firm names), telephone numbers, and the email addresses 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 relied on and relevant facts as to citizenship and jurisdictional amount.
 4. A brief summary by each party of the claims and defenses that the party has asserted which remains 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 that 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. 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).
 7. Any stipulation or agreed statements of fact or law which have been agreed to by all parties.
 8. A statement by each party as to the witnesses whose testimony is to be offered in its case in chief with a brief narrative statement of the expected testimony of each witness. This list must indicate whether such witnesses will testify in person or by deposition and whether such witnesses will be called for impeachment or rebuttal purposes. A party may not call as a witness an individual who is not listed in its portion of the witness list, except when prompt notice has been given and good cause shown.

9. 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. A list by each party of exhibits to be offered in its case in chief. The opposing party must indicate what exhibits it objects to and the nature of the objection (e.g., “authenticity,” “hearsay,” “Rule 403”). Any objection not listed shall be deemed waived. The schedule will also include possible impeachment documents and/or exhibits, as well as exhibits that will be offered only on rebuttal. Parties are expected to resolve all issues of authenticity, chain of custody, and related grounds before trial. 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. Default Deadlines & Filings Prior to Trial in Civil Jury Trials. Parties appearing pro se are to seek the Court’s guidance at the pretrial conference. The parties should note that the Court may depart from these default deadlines and will notify counsel at a pretrial conference or via ECF notification of any changes or modifications to these deadlines.

1. Fourteen Days Prior to Jury Selection

- a) **Damages:** Counsel shall electronically file a detailed statement regarding the damages and other relief sought at trial.
- b) **Motions in limine:** All motions addressing any evidentiary or other issues that should be resolved in limine are to be fully briefed and electronically filed at least fourteen days prior to jury selection. A courtesy copy of all filings must be mailed to Chambers consistent with Rule IV.
- c) **Pretrial memoranda:** In any case where a party believes it would be useful, the party may file electronically the pretrial memoranda addressing the contested legal issues that the party expects to arise at or before trial. Such memoranda shall not exceed twenty-five (25) pages. The parties shall submit a courtesy copy to Chambers. See Rule IV.

2. Five Days Prior to Jury Selection. The parties must jointly file three separate documents: (1) **proposed voir dire questions** to ask prospective jurors, (2) **requests to charge** (that should be limited to the elements of the claims, the damages sought, and the defenses raised), and (3) a **proposed verdict sheet**. To the extent a party objects to another party’s voir dire questions, requests to charge, or proposed verdict sheet, that party should (1) set forth the grounds for that objection and (2) propose an alternative. All requests to charge, all objections and all alternative proposals must

include citation to supporting authority. The parties must provide the Court with electronic copies of these documents in Word format (not PDF) via e-mail.

3. Three Days Prior to Jury Selection

a) **Stipulations:** Attorneys are to meet sufficiently before trial to discuss with each other the various relevant claims, defenses, issues and facts, and items of evidence, and to stipulate in an informal writing such items that are not in dispute. In addition, where there are no objections to authenticity or admissibility of exhibits, the parties are to so stipulate in an informal writing. This writing shall be filed electronically with the Court three days prior to trial.

b) **Exhibits:** The parties shall serve on opposing counsel, but not file on ECF, all documentary exhibits. Plaintiff shall mark exhibits as numbers and defendants shall use letters. The parties shall also provide the Court with two copies of pre-marked exhibits that should be assembled and tabbed sequentially in a loose-leaf binder, or in separate manila folders labeled with the exhibit numbers and placed in a suitable container for ready reference. Counsel shall also include copies of any deposition testimony to be utilized at trial.

c) **A final witness list.**

C. **Default Deadlines & Civil Non-Jury/Bench Trials.** The parties should note that the Court may depart from these default deadlines and will notify counsel at a pretrial conference or via ECF notification of any changes or modifications to these deadlines.

1. Filings Prior to Non-Jury Civil Trials

a) **Fourteen Days Prior to Trial.**

(1) **Motions in limine:** All motions addressing any evidentiary or other issues that should be resolved in limine are to be fully briefed and electronically filed at least fourteen days prior to trial. A courtesy copy of all filings must be mailed to Chambers consistent with Rule IV.

(2) The parties shall electronically file **pretrial memoranda of law, or trial briefs,** identifying the issues, summarizing the relevant facts and applicable law, and addressing any evidentiary issues that counsel believes will arise at trial. The memoranda shall include a detailed statement of all claims and defenses, together with a summary of the facts.

Such memoranda shall not exceed twenty-five (25) pages. The parties shall submit a courtesy copy to Chambers. See Rule IV.

- b) **Three Days Prior to Trial – Exhibits.** The parties shall serve on opposing counsel, but not file on ECF, all documentary exhibits. Plaintiff shall mark exhibits as numbers and defendants shall use letters. The parties shall also provide the Court with two copies of pre-marked exhibits that should be assembled and tabbed sequentially in a loose-leaf binder, or in separate manila folders labeled with the exhibit numbers and placed in a suitable container for ready reference. Counsel shall also include copies of any deposition testimony to be utilized at trial.
2. **Fifteen Days After the Conclusion of the Trial.** Within fifteen (15) days after the conclusion of trial, the parties shall electronically file proposed findings of fact and conclusions of law, with citations to the trial record, together with supporting legal authority. The parties must provide the Court with an electronic copy in Word format (not PDF) via e-mail.
- D. Witnesses - All Civil Trials.** The Court expects witnesses to be available when needed. Do not run out of witnesses. Witnesses will be taken out of order if the next witness is unavailable. Failure to have witnesses available during trial may result in preclusion of their testimony.
- E. Exhibits - All Civil Trials**
1. Counsel are responsible for marking their own exhibits and all trial exhibits shall be pre-marked. Plaintiff shall mark exhibits as numbers and defendants shall use letters. Counsel must exchange copies of their trial exhibits before the trial begins as stated above.
 2. If a party wishes to publish an exhibit to the jury prior to deliberations, it must use video equipment or provide a copy of each such exhibit for every juror.
 3. Counsel are responsible for maintaining custody of all original exhibits. The Court does not retain them, and the Courtroom Deputy Clerk is not responsible for them.