

**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
Eric Russo, Courtroom Deputy: (631) 712-5615

***NOTE: In light of the current pandemic 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.**

▶ **Unless otherwise excused, all filing with the Court is to be done electronically through the Court's Electronic Case Filing System ("ECF"). See Rule II.**

I. COMMUNICATIONS WITH CHAMBERS

A. Letters. Except as provided below, communications with the Court **shall be by letter 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. Do not provide courtesy copies of letters filed to ECF. Copies of correspondence between Counsel shall not be filed or sent to the Court. Parties seeking clarification of these Individual Rules or case-specific action should docket their request in a letter to ECF.

B. Requests for Court Action. Any document seeking relief of any kind from the Court must be filed as a "Motion" (and not as a "Letter"), using the ECF "Other Documents" option.

C. Telephone Calls. Telephone calls to Chambers are permitted only in emergency situations requiring immediate attention. When calling in such situations, be prepared to provide your case number. Before calling regarding requests for extension of deadlines, please refer to Rule I(E). NOTE: The Court will not review any messages left on (631) 712-5610; please, call again.

1. Urgent Scheduling and Calendar Matters. For urgent scheduling and calendar matters, call or email Eric Russo, Courtroom Deputy, at (631) 712-

5615 or at “eric_russo@nyed.uscourts.gov.” Email is preferred. (Note the underscore between “Eric” and “Russo”.)

2. **Do not contact Chambers with questions regarding docketing or ECF, including questions seeking ECF filing assistance.** Information regarding the Court’s docketing and Electronic Case Filing System is available on the Court’s website. Questions regarding docketing and ECF filing or training on ECF should be directed to the Clerk’s Office at (631) 712-6010.

D. **Faxes.** Faxes are not permitted without prior permission from the Court.

E. **Requests for Adjournments or Extensions of Time**

1. **All requests for adjournments or extensions of deadlines shall be made as soon as a party is aware of the need and, in any event, at least two business days prior to the scheduled appearance or deadline, absent an emergency.**

2. **Requests for Adjournments of Court Appearance (Including Telephone Conferences) and Extensions of Deadlines.** Requests for adjournments of Court appearances and extensions of deadlines shall be addressed to the Court and shall be filed as a motion in accordance with Rule I(A). **DO NOT** mail courtesy copies to Chambers. The appearance or deadline is not adjourned unless the Court informs counsel – typically by notice to ECF – that the motion has been granted. **All requests for adjournments or extensions of time must state**

- (i) the original scheduled Court date, due date or deadline;
- (ii) the number of previous requests for adjournments or extensions and, if applicable, suggested dates on which all parties are available;
- (iii) whether previous requests were granted or denied;
- (iv) the reason for the request; and
- (v) 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.

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

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 Court’s website. Questions regarding ECF filing or training on ECF should be directed to the 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. However, parties represented by counsel 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 must: (1) file each exhibit as a separate PDF file, i.e., one exhibit per docket entry; and (2) 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 are required for dismissal motions pursuant to Fed. R. Civ. P. 12 and summary judgment motions pursuant to Fed. R. Civ. P. 56.** The Court will set a briefing schedule for dismissal motions and summary judgment motions at the pre-motion conference.
1. **Requesting a Pre-Motion Conference.** To request a pre-motion conference, the moving party shall file a letter motion of no more than three (3) pages, briefly stating the basis for the anticipated underlying motion. The opposing party shall have seven (7) days to submit a letter response, of not more than three (3) pages, setting forth its position in opposition. If applicable, the opposing party shall state whether it seeks to file a cross-motion. All pre-motion letter motions are to be filed in accordance with Rule I(A) above; supporting exhibits are not required.
 2. **Pre-Motion Conferences and Deadlines.** The submission of a pre-motion letter motion 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. **For all other motions, pre-motion conferences are not required.** The Court does not set a briefing schedule and the parties must comply with the Federal Rules and the Local Rules of Civil Procedure. However, 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. The parties' stipulation to change a briefing schedule is ineffective unless "so ordered" by the Court.

D. **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. All requests to file rebuttal, sur-replies, etc., and to exceed page limits must be made by letter motions; such requests are 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.

- E. **Courtesy Copies.** See Rule IV, below.

- F. **Oral Argument.** Requests for oral argument should be made at the time the moving, opposing, or reply papers are filed. If the Court determines it wishes to hear oral argument on the motion, it will schedule a hearing date.

- G. **Summary Judgment Motions.** Adherence to Local Civil Rule 56.1 is required.

1. Any party filing a motion for summary judgment (or partial summary judgment) shall submit with that motion a Local Civil Rule 56.1 Statement. Each numbered paragraph in the Rule 56.1 Statement must contain only one factual assertion. Each factual assertion must be followed by a supporting citation to the record.

2. The party opposing the motion must submit a response to the moving party's 56.1 Statement. The response must contain numbered paragraphs tracking those in the movant's 56.1 Statement, and must state in each paragraph specifically what is admitted and what is disputed, and the basis for any dispute, citing specific portions of the evidentiary record. If additional factual allegations are made by the opposing party, the moving party must file its own responsive 56.1 Statement addressing the additional assertions.
3. **Summary Judgment Exhibits.** See Rule II(D), *supra*, regarding the filing of exhibits on ECF. Depositions submitted in support of a summary judgment motion must be submitted in full (condensed) format.

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:
 - All discovery requests and applications, including motions to stay discovery;
 - Requests to amend the pleadings;
 - Requests for an extension of time to serve, answer, or file amended pleadings;
 - Stipulations concerning amendments to pleadings;
 - Applications concerning confidentiality/protective orders;
 - Motions to substitute counsel; and
 - Pro hac vice motions.
2. **Dispositive Motions.** From time to time, the Court may 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 to the report and recommendation shall be directed to the Court.

I. Bankruptcy and Social Security Appeals

1. **Bankruptcy Appeals.** The parties are directed 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.

2. **Social Security Appeals.** Within sixty (60) days of the filing of the administrative record with the Clerk of the Court, motions for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c) must be made. 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. All papers are to be filed electronically.

IV. **COURTESY COPIES**

***NOTE: In light of the current pandemic 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 that is longer than five (5) pages should be sent to Chambers. Courtesy copies are to 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 filed motion papers. This includes all related materials **and** exhibits. Courtesy copies are to be the filed version of the documents printed from ECF with the automatically generated ECF header.
- C. **Delivery Methods.** Courtesy copies are to be hand delivered or sent via mail to Chambers. **Hard copies are to be submitted: (1) as left-side, spiral-bound or stapled (not velo-bound); (2) with exhibits organized and sequentially separated by tabs.**

V. **CONFERENCES**

- A. Conferences are held in Courtroom 1030 at the U.S. District Court located at 100 Federal Plaza in Central Islip, New York. All parties shall appear promptly at the scheduled time and wait in the courtroom until the case is called.
- B. All counsel appearing at conferences must: (1) have filed a notice of appearance; (2) be fully familiar with the case; (3) be prepared to discuss all aspects of the case; (4) have authority to consummate settlements; and (5) be fully familiar with F=Rule 16 of the Federal Rules of Civil Procedure.

VI. **CIVIL TRIAL PROCEDURES**

- A. **Joint Pretrial Orders.** 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 Rule 26(a)(3) of the Federal Rules of Civil Procedure and the following:

1. The full caption of the action.
2. The names, addresses (including firm names), telephone numbers, and 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 upon 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 and Filings Prior to 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

- **Damages:** Counsel shall file a detailed statement regarding the damages and other relief sought at trial.
- **Motions in limine:** All motions addressing any evidentiary or other issues that should be resolved in limine are to be fully briefed and filed at least fourteen (14) days prior to jury selection.
- **Pretrial memoranda:** In any case where a party believes it would be useful, the party may file a pretrial memoranda addressing the contested legal issues expected to arise at or before trial. Such memoranda shall not exceed twenty-five (25) pages. A courtesy copy shall be delivered to Chambers. See Rule IV.

2. Five Days Prior to Jury Selection. The parties must jointly file three (3) 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

- **Stipulations:** Attorneys are to meet sufficiently before trial to discuss 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 with the Court three (3) days prior to trial.

- **Exhibits**: The parties shall serve on opposing counsel, but not file on ECF, all documentary exhibits. Plaintiff shall use numbers to mark exhibits; defendants shall use letters to mark exhibits. The parties shall also provide the Court with two (2) copies of pre-marked exhibits that are to be assembled and tabbed sequentially in loose-leaf binders, 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.
- **A final witness list.**

C. **Default Deadlines and Filings in Civil Non-Jury/Bench Trials.** 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 Fourteen Days Prior to Trials.**

- **Motions in limine**: All motions addressing any evidentiary or other issues that should be resolved in limine are to be fully briefed and filed at least fourteen (14) days prior to trial.
- **Pretrial Memoranda of Law (aka Trial Briefs)**: The parties shall file their memoranda: 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, and shall not exceed twenty-five (25) pages.

2. **Filings Three Days Prior to Trial.** The parties shall serve on opposing counsel, but not file on ECF, all documentary exhibits. Plaintiff shall use numbers to mark exhibits; defendants shall use letters to mark exhibits. The parties shall also provide the Court with two (2) copies of pre-marked exhibits that are to be assembled and tabbed sequentially in loose-leaf binders, 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.

3. **Fifteen Days After the Conclusion of Trial.** Within fifteen (15) days after the conclusion of trial, the parties shall 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. Parties are not to 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.