

JUDGE LEONARD D. WEXLER

Senior United States District Court Judge
944 Federal Plaza
Central Islip, New York 11722
(631) 712-5640

Courtroom Deputy Clerk: Eric L. Russo
(631) 712-5645

*** Chambers does not accept communication by fax without prior permission. ***

INDIVIDUAL MOTION PRACTICE AND RULES

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

1. Communication with Chambers

A. Letters

Except as provided below, communication with Chambers shall be by letter, with copies simultaneously delivered to all counsel. All correspondence to Chambers must also be electronically filed.

B. Telephone Calls

Telephone calls to Chambers are permitted. For matters other than those listed in paragraph (D) below, call Chambers at the number listed above.

C. Faxes

Faxes to Chambers are not permitted without prior authorization of the Court.

D. Trial Scheduling and Calendar Matters

All calls concerning these matters should be made to the Courtroom Deputy Clerk, Eric L. Russo, at (631) 712-5645.

E. Requests for Adjournments or Extensions of Time

All requests for adjournments or extensions of time must state: (1) the original date; (2) the number of previous requests for adjournments or extensions; (3) whether these

previous requests were granted or denied; and (4) 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 attached. If the request is for an adjournment of a court appearance, absent an emergency, it shall be made at least forty-eight (48) hours prior to the scheduled appearance.

2. Motions

A. Discovery Motions

Discovery motions are to be directed to the Magistrate Judge assigned to the case.

B. Pre-motion Conferences in Civil Cases

A pre-motion conference with the Court is required before making any motion.

To arrange for a pre-motion conference, the moving party shall submit a letter not to exceed three (3) pages in length setting forth the basis for the anticipated motion. All parties served with such a letter shall serve and file a letter response, not to exceed three (3) pages, within seven (7) days from 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 Rule 12(b). Service of such a letter shall also constitute timely service of all other motions. Letters seeking pre-motion conferences are to be electronically filed as letters, and not motions. Courtesy copies of such letters are to be sent to Chambers.

C. Courtesy Copies

In addition to letters and motion papers, courtesy copies of pleadings, marked as such, shall be submitted to Chambers, as soon as practicable after filing.

D. Memorandum 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 shall contain a table of contents and a table of authorities. All material contained within memoranda, including footnotes, must be in twelve point type.

E. Filing of Motion Papers

No motion papers shall be filed until the motion is fully briefed. 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. A copy of the cover letter only is to be mailed to Chambers and to the Magistrate Judge assigned to the case.

A briefing schedule will be established by the Court at the pre-motion conference. The parties may revise the schedule on consent and notice and approval by the Court.

Each party shall be responsible for filing its own motion papers. The moving party is further obligated to furnish to Chambers a full set of courtesy copies of the motion papers together with a cover letter specifying each document in the package. A copy of the cover letter shall be sent to the assigned Magistrate Judge and to opposing counsel.

F. Oral Argument

In the ordinary course, motions are taken on submission. Parties may request oral argument by letter upon the filing of the motion. The Court will determine whether argument will be heard and, if so, will advise counsel of the argument date.

G. Stay of Discovery

Discovery is not stayed during the time period when a motion is pending before the court.

H. Motions Implicating Fed. R. App. P. 4(a)(4)(A) or Similar Time-Limiting Rules

If any party concludes in good faith that delaying the filing of a motion, in order to comply with any aspect of these individual practices, will deprive the party of a substantive right, the party may file the motion within the time required by the Federal Rules of Civil and/or Appellate Procedure, together with an explanation of the basis for the conclusion.

3. Completion of Discovery

Discovery in cases before Judge Wexler is expected to be completed within nine (9) months of the conference held pursuant to Rule 16 of the Federal Rules of Civil Procedure.

4. Pretrial Procedures

A. Joint Pretrial Orders in Civil Cases

Unless otherwise ordered by the Court or the Magistrate Judge assigned to the case, the parties shall submit for approval, within sixty (60) days from the date for the completion of discovery in a civil case, to the Magistrate Judge assigned to the case, a joint pretrial order, which shall include the following:

- I. the full caption of the action;
- II. the names, addresses (including firm names), and telephone and fax numbers of trial counsel;

- III. a statement by each party that indicates whether the case is to be tried with or without a jury, and the number of trial days estimated to be needed;
- IV. a list by each party of 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 is given and good cause shown;
- V. a designation by each party of deposition testimony to be offered in its case in chief, with any cross-designation and objections by any other party;
- VI. a list by each party of exhibits to be offered in its case in chief. All exhibits listed are to be exchanged among the parties. Only listed and exchanged exhibits maybe offered at trial. The list of exhibits shall indicate clearly whether there are objections to any exhibit, whether on the ground of authenticity or other ground. Any objections regarding any listed exhibit shall be brought to the attention of the court prior to trial.

5. Proposed Voir Dire

Proposed voir dire is not required. Such voir dire may, however, be submitted to the court two (2) business days prior to the date scheduled for jury selection.

6. Requests to Charge

Requests to charge, if any, are to be submitted to the court two (2) business days prior to the first day of trial.

7. Assessment of Jury Costs

In any civil case in which a **settlement is reached**, or in which this Court is notified of settlement **later than 1:00 PM on the last business day before** jurors are to appear for jury

selection, this Court will impose the Court's costs of compensating jurors for their needless appearance **against the attorneys for both sides**. Each side will contribute **50% of said costs**. Exact costs are to be determined by the Jury Department currently at a rate of **\$40.00 per day plus travel reimbursement, per juror**. Funds so collected shall be deposited by the Clerk of Court into the Treasury of the United States.

8. Rules Regarding Electronic Case Filing (ECF)

A. Questions regarding ECF filing or training should be directed to the ECF Help Desk at (718) 613-2290.

B. Counsel must provide courtesy copies to Chambers of all documents electronically filed with the Court, including motions, letters and stipulations. All such papers must be clearly marked "Courtesy Copy of ECF Document."

C. Motion papers are to be filed electronically only when the motion is fully briefed and courtesy copies of the motion are provided to the Court. Each party is to bear the burden of filing its own motion papers and such papers are not to be electronically filed until the motion is fully briefed. Voluminous or non-text exhibits need not be filed electronically. Related papers that have been filed electronically must indicate that exhibits have been filed in hard copy only. The court may require the electronic filing of such exhibits. Full copies of all exhibits are to be included in courtesy copies provided to the Court.

D. Sealed documents or documents containing sealed information should be submitted in hard copy only and be so labeled.

E. Requests to be exempt from electronic filing requirements may be made before the Magistrate Judge assigned to the case.