

**INDIVIDUAL MOTION PRACTICES OF
JUDGE NINA GERSHON**
United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201

Telephone: 718-613-2650 - *Chambers*
Contact: Victor Joe, *Case Manager*
Telephone: 718-613-2655
Hours: 8:30 AM - 5 PM (Monday - Friday)

Motions Returnable: Set by the Court
Revised as of April 20, 2021

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

1. **Electronic Case Filing** (*ECF*) *For Civil and Criminal Cases.*

A. *All documents* in civil and criminal actions shall be filed electronically.

B. *Orders* will be posted electronically, and parties not registered on ECF will not receive them.

C. *Hard copies* of all papers filed electronically, including motions, exhibits, letters and stipulations, must be provided to Chambers. All such papers must be clearly marked "Courtesy Copy," and "Original Filed by ECF." The document number that ECF assigns to the document should be indicated on the lower right corner of the courtesy copy.

D. *Parties filing voluminous and non-text exhibits* that are impracticable to file electronically, should, if possible, submit a Portable Document Format (PDF) or Microsoft Word version on a compact disk to the Clerk's office (labeled *original*) and Chambers (labeled *courtesy copy*). For exhibits that cannot be electronically filed, or submitted in PDF or Microsoft Word, submit the original to Clerk's Office for filing, and a courtesy copy to chambers. The motion papers should indicate in what manner the exhibits have been filed.

E. *Pro se parties* are automatically exempt from mandatory electronic filing. However, parties represented by counsel must file documents electronically, even in Pro Se cases.

F. *Requests* by attorneys for an exemption to the mandatory policy will be considered for good cause hardship reason only, and will be reviewed on an individual basis by the assigned United States Magistrate Judge. However, no request will be granted until the attorney has sought ECF training. ECF training may be scheduled by calling 718-613-2312.

2. **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.

B. *Telephone Calls.* Except as provided in Paragraph 2(D)below, telephone calls to chambers are permitted only in emergency situations requiring immediate attention. In such situations only, call chambers at the number listed above.

C. *Faxes.* Faxes to chambers are not permitted unless prior authorization is obtained.

D. *Docketing, Scheduling, and Calendar Matters.* For docketing, scheduling and calendar matters, call the contact listed above during the hours specified.

E. *Requests for Adjournments or Extension of Time.* All requests for adjournments or extensions of time must state: (1) the original date; (2) the number of previous requests for adjournment or extension; (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 48 hours prior to the scheduled appearance.

3. 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 and in other than habeas corpus/prisoner petitions and Social Security and Bankruptcy appeals, a pre-motion conference with the court is required before making any dispositive motion, or motion for a change of venue. Motions for reconsideration and motions described at Fed. R. App. P. 4(a)(4)(A) should be made without a pre-motion conference.

To arrange a pre-motion conference, the moving party shall serve and file a letter not to exceed three (3) pages in length setting forth the basis for 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 service of the notification letter. Service of the letter by the moving party within the time requirements of Fed. R. Civ. P. 12 shall constitute timely service of a motion made pursuant to Fed. R. Civ. P. 12 (b).

B. *Memoranda of Law.* Unless prior permission has been granted, memoranda of law in support of or in opposition to motions are limited to 25 pages, double-spaced, and reply memoranda are limited to 10 pages, double-spaced. Use Times New Roman 12-point font and one-inch margins. All memoranda 10 pages or longer shall contain a table of contents and table of authorities.

Requests to file memoranda exceeding the page limits set forth herein must be made in writing five days prior to the due date, except with respect to reply briefs, in which case the written request must be made at least one day prior to the due date.

C. *Filing of Motion Papers.* Parties are to serve their motion papers on all parties, along with a cover letter specifying the papers being served, in accordance with deadlines specified in the briefing schedule. At the time of service, the movant shall file a copy of the cover letter enclosing the movant's opening motion papers. The letter must be filed as a letter, not as a motion.

Except for motions for reconsideration and motions described at Fed. R. App. P. 4(a)(4)(A), no motion papers shall be filed with the court until the motion has been fully briefed, at which time the moving party shall file a complete set of all motion papers. If

waiting to file a fully briefed motion would result in the loss of an appellate or other right, a party may, upon notice to the court and all parties, file a motion before briefing is completed.

D. *Briefing Schedule.* Subject to court approval, the parties are to set up their own briefing schedule. No changes in the approved schedule may be made without court approval. Approval may be given at the pre-motion conference or by subsequent letter. No party is to serve any motion papers prior to obtaining court approval for the schedule.

E. *Courtesy Copies.* The original moving party shall be responsible for furnishing 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 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.

4. Pretrial Procedures

A. *Joint Pretrial Orders in Civil Cases.* Unless otherwise ordered by the Court, within 60 days from 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, 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 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 brief statement of the categories and amounts of damages claimed or other relief sought.

vi. 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.

vii. 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.)

viii. Any stipulations or agreed statements of fact or law which have been agreed to by all parties.

ix. A list of names and addresses of all witnesses, including possible witnesses who will be called only for impeachment or rebuttal purposes and so designated, together with a brief narrative statement of the expected testimony of each witness. Only listed witnesses will be permitted to testify except when prompt notice has been given and good cause shown.

x. 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.

xi.

(1) A statement of stipulated facts, if any;

(2) 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. 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; and

(3) 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. On the Thursday before trial in jury cases, 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 in Microsoft Word or PDF format. Proposed charges may be submitted on a CD, or counsel may contact chambers to obtain an email address to which the files may be sent.

ii. 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;

iii. In all cases, motions addressing any evidentiary or other issues which should be resolved in limine; and

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