

**Individual Rules & Practices of
U.S. Magistrate Judge Taryn A. Merkl**

United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York

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The United States District Court for the Eastern District of New York is a teaching court. The Court encourages opportunities for law students and junior attorneys to appear and to argue in Court, accompanied and supervised by a more experienced attorney. Requests for leave for law students to argue in Court will be freely granted, and the Court will permit multiple attorneys to argue for one party if this creates an opportunity for junior attorneys to participate.

1. Communications with Chambers. Parties should primarily communicate with the Court via ECF. Each attorney of record must file a Notice of Appearance and will receive notification of all Court orders electronically.

2. Motion Practice. No courtesy copies should be submitted *except* for dispositive motions submitted in cases where the parties have consented to magistrate judge jurisdiction (*see* Section 2.B below).

A. Non-Dispositive Motions. Except as provided below, parties are directed to comply with the individual rules of the assigned District Judge, the EDNY Local Rules, and the Federal Rules of Civil Procedure, for all motion practice. *Motions for extension of time must indicate whether they are on consent.*

B. Dispositive Motions in Consent Cases Under 28 U.S.C. § 636(c).¹ Other than in cases involving a *pro se* litigant, in all cases in which the parties have consented to magistrate judge jurisdiction under 28 U.S.C. § 636(c), a pre-motion conference letter is required before filing a motion pursuant to Rules 12 or 56 of the Federal Rules of Civil Procedure; any motion for a change of venue; or a motion to amend the pleadings.

1. To request a pre-motion conference, the moving party must submit a letter (not docketed as a motion) of no more than three pages, setting forth the

¹ Should all parties consent to magistrate judge jurisdiction, the consent form is available at the link below. The form must be signed by all parties and filed on ECF. <https://img.nyed.uscourts.gov/files/forms/ClerksNoticeofRule73.pdf>.

bases for the anticipated motion. Any response, of no more than three pages, must be filed and served within three days.

2. After the pre-motion conference, the Court will approve a briefing schedule. The parties may not file their motion papers via ECF until the motion is fully briefed.
3. One courtesy copy of dispositive motions, together with any marked exhibits, should be submitted to Chambers.

3. Discovery Disputes.

A. Discovery Motions Under Fed. R. Civ. P. 26 Through 37. Parties must make a good faith effort to resolve disputes before making any discovery motion. *See* Fed. R. Civ. P. 37(a)(1); E.D.N.Y. Local Civil Rule 37.3(a) (requiring the parties to confer in person or by telephone in a good faith effort to resolve disputes).

No motion under Rules 26 through 37, inclusive, of the Federal Rules of Civil Procedure will be heard unless counsel for the moving party has first requested an informal conference with the Court.

To request a conference, the parties may write to the Court and describe their dispute in a *joint letter* of no more than five pages. *See* Local Civil Rule 37.3(c). The parties must confer as required by Fed. R. Civ. P. 37(a)(1) prior to filing the letter, and must describe their efforts to confer in the joint letter. After receiving the parties' letter, the Court may schedule a conference. If the dispute cannot be resolved during the conference, the Court may order briefing.

B. Deposition Disputes. Parties encountering disputes during depositions must make every effort to resolve the dispute before contacting Chambers.

In the event the parties are unable to reach a resolution, the parties are directed to contact Chambers immediately by telephone with all counsel on the line. The Court will either resolve the matter or instruct the parties to move on to other issues in the deposition until such time as the Court can address the dispute.

The parties should continue the deposition while waiting for the Court to address the areas in dispute. Under no circumstances should the parties discontinue the deposition without first attempting to contact the Court and/or waiting a reasonable amount of time if the Court is unavailable when the parties first attempt to contact Chambers.

4. Settlement Statements. Once a settlement conference is scheduled before Judge Merkl, parties are required to submit a settlement statement one week in advance of the conference, submitted to the Chambers email address above. These statements are *ex parte*, confidential, and subject to the protections of Fed. R. Evid. 408. The statements must include the last offer and demand, and a frank assessment of the strengths and weaknesses of each party's case. The Court may schedule *ex parte* telephone calls with counsel after review of the statements.