

**INDIVIDUAL MOTION PRACTICES AND RULES
OF JUDGE CAROL BAGLEY AMON
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
225 CADMAN PLAZA EAST
BROOKLYN, NEW YORK 11201
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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)

A. Counsel must file all documents electronically. Orders will be posted electronically; parties not registered on ECF (with the exception of pro se parties) will not receive them.

B. Written requests by attorneys for an exemption from electronic filing will be considered for good cause by the assigned Magistrate Judge.

C. Pro se parties are automatically exempt from mandatory electronic filing. However, parties represented by counsel in cases involving a pro se litigant must still use electronic filing, and they must mail a hard copy of all documents to the pro se litigant.

D. Hard copies of all papers filed electronically, including motions, letters, and stipulations must be provided to Chambers. All such papers must be clearly marked "COURTESY COPY - ORIGINAL FILED BY ECF."

E. Parties filing voluminous or non-text exhibits may choose to file only hard copies of those exhibits when filing them electronically is impractical. If exhibits are not electronically filed, one copy of each exhibit must be clearly marked "ORIGINAL" and another "COURTESY COPY." Related papers that are electronically filed must clearly indicate that exhibits have been filed by hard copy.

F. Sealed documents or documents containing sealed/sensitive information must be submitted in hard copy only and labeled "SEALED" or "SENSITIVE."

G. Questions regarding the technical aspects of electronic filing, including questions about training, should be directed to Ms. Evelyn Levine at (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. 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 permitted only if copies are simultaneously faxed or delivered to all counsel. No document longer than ten pages may be faxed without prior authorization. All faxes should be followed with a hard copy to be electronically filed.

D. 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 adjournment or extension, (3) whether these previous requests were granted or denied, and (4) the adversary's position (consents or opposes), and, if opposed, 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, it shall be made at least 48 hours prior to the scheduled appearance, absent an emergency.

3. MOTIONS

A. Pre-Motion Conferences in Civil Cases. For discovery motions, follow Local Civil Rules 37.3 and 6.4. A pre-motion conference with the Court is required before making any motions, except when one or more of the parties is pro se or the case is a habeas corpus petition, a prisoner petition, social security appeal, or a bankruptcy appeal.

To arrange 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 so served must serve and file a letter response, not to exceed three (3) pages within seven days from service of the notification letter. Service of the letter by the moving party within the time requirements of Rule 12 of the Fed.R.Civ.P. shall constitute timely service of a motion made pursuant to Fed.R.Civ.P. 12(b).

B. Briefing Schedule. The parties are to set up their own briefing schedule and submit it to the Court for approval. No changes to the schedule may be made without Court approval. Approval may be given at the pre-motion conference or by subsequent letter.

C. Memoranda of Law. The Court expects counsel to exercise their professional judgment as to the length of briefs and may impose limits if that expectation is not met.

D. Filing of Motion. NO MOTION PAPERS SHALL BE FILED UNTIL THE MOTION IS FULLY BRIEFED.

1. 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 shall be filed electronically, as a letter, NOT as a motion.

2. On the day the motion is fully briefed, each party shall electronically file its motion papers. In addition, the moving party (unless pro se) shall furnish chambers with a full set of courtesy copies of the motion papers, together with a 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 and shall also be electronically filed.

E. Oral Argument on Motions. Where the parties are represented by counsel, oral argument will be held on all motions. The notice of motion shall state that oral argument will be held “on a date and time to be designated by the court.” The Court will notify the parties to set the specific date and time for oral argument.

F. Summary Judgment Motions Against Pro Se Litigants. In any case where a summary judgment motion is filed against a pro se litigant, the moving party is directed to comply with the notice required by Local Civil Rule 56.2, entitled Notice to Pro Se Litigants Opposing Summary Judgment.

4. JOINT PRETRIAL ORDERS

The Pretrial Order to be submitted shall include the below listed items, and be governed by the directions and principles stated herein. The Pretrial Order controls the subsequent course of the action unless the order is modified by consent of the parties and the Court, or by order of the Court to prevent manifest injustice. The Pretrial Order shall be submitted on a date set by the United States Magistrate Judge to whom the case has been referred, but in no event will that date be later than 60 days from the date set for the completion of discovery in a civil case.

A. Contents of Pretrial Order. The Pretrial Order shall be submitted with a full, unabbreviated caption. Each of the following topics shall be addressed in a separately labeled schedule. Counsel should work together to prepare any schedules, e.g., stipulations or consent to trial before the magistrate judge, which require agreement of the parties. Where applicable, e.g., exhibits or witnesses, each party will submit an individual schedule labeled as such.

i. Parties and Counsel. The names, firm names, addresses, and telephone numbers of trial counsel.

ii. ***Jurisdiction.*** 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 of subject matter jurisdiction. Such statements shall set forth applicable statutes and legal doctrines as well as relevant facts such as citizenship and jurisdictional amount.

iii. ***Claims and Defenses.*** A statement by each party of each of the elements of the claims and defenses that party has asserted which remain to be tried, including citations to all statutes relied on. The parties waive all claims and defenses not set forth in the Pretrial Order.

iv. ***Damages.*** A brief statement of the categories and amounts of damages claimed or other relief sought.

v. ***Jury or Bench Trial.*** A statement as to whether the case is to be tried with or without a jury and the number of trial days needed.

vi. ***Consent to Trial by a Magistrate Judge.*** A statement as to whether or not all parties have consented to trial of the case by a magistrate judge. The statement shall not identify which parties have or have not consented.

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

viii. ***Witnesses.*** 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. For expert witnesses list, in addition, the area of expertise.

ix. ***Exhibits.*** A schedule listing exhibits to be offered in evidence and, if not admitted by stipulation, the party or parties that will be offering them. Plaintiff's exhibits shall be identified by numbers, defendant's exhibits shall be identified by letters. Each exhibit shall be identified and described. The schedule will also include possible impeachment documents and/or exhibits, as well as exhibits that will be offered only on rebuttal. Copies of statements proposed to be read to the jury as "learned treatises" under FRE 803(18) shall be listed as exhibits. Copies of those portions of depositions intended to be offered into evidence shall also be listed as exhibits.

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. Except for good cause shown, only listed exhibits will be received in evidence.

B. Directions for Filing a Pretrial Order

i. Plaintiff's counsel shall, three weeks prior to the date fixed for filing the Pretrial Order, prepare and serve on all opposing counsel a Proposed Pretrial Order with attached schedules.

ii. All opposing counsel shall, within one week of receipt of plaintiff's proposed order, prepare any additional schedules and deliver them in final form to plaintiff's counsel for inclusion in the final Pretrial Order. Opposing counsel's failure timely to provide plaintiff with schedules may be deemed a waiver of the right to do so.

iii. Plaintiff's counsel, on the date fixed, will file with this Court two copies of the final proposed Pretrial Order. A copy of this final order will also be served on opposing counsel on the same date.

iv. When separate schedules are submitted on any given topic, they shall be clearly labeled as such.

v. The timing of the exchanges noted above may be altered by the United States Magistrate Judge to whom the case has been referred, as long as the dates given permit the exchange of information prior to the filing date for the Pretrial Order. Under no circumstances should the parties file separate Pretrial Orders. The parties are directed to cooperate with each other in the preparation of a joint Pretrial Order.

5. FINAL PRETRIAL CONFERENCE

A. Document Exchange. Prior to attending the pretrial conference on a date to be scheduled by this Court, counsel shall exchange copies of all documents proposed to be used in evidence, and shall be prepared to discuss and have the Court rule on objections to exhibits.

B. Pretrial Conference. Counsel shall attend the pretrial conference and be prepared and authorized to stipulate for purposes of narrowing the issues and proof and to discuss and conclude settlement.

C. Premark Exhibits. Immediately following the pretrial conference, on the same day, counsel shall meet with the courtroom deputy to premark their exhibits, using the numbering assigned to them in the exhibit schedules of the Pretrial Order.

6. ONE WEEK PRIOR TO TRIAL

A. Jury Trials

i. **Legal Memoranda.** Counsel for each party shall provide the Court with legal memoranda addressing all contested legal issues and anticipated evidentiary problems.

ii. **Voir Dire Requests.** Counsel for each party shall provide the Court with any voir dire requests which pertain specifically to the case at issue. Routine voir dire requests are not required.

iii. **Request to Charge.** Each party shall submit written requests to charge the jury.

B. Non-Jury Trials

Each party shall file with the Court:

i. **Copies of the proposed exhibits in a suitable binder.**

ii. **Proposed findings of fact and conclusions of law, not to exceed fifteen pages without the express approval of the Court.**

iii. **A legal memorandum addressing all contested legal issues.**

REVISED SEPTEMBER 2011