

INDIVIDUAL PRACTICES IN CIVIL CASES
SARAH NETBURN, UNITED STATES MAGISTRATE JUDGE

Chambers

United States District Court
Southern District of New York
500 Pearl Street, Room 650
New York, NY 10007

Netburn_NYSDChambers@nysd.uscourts.gov

Courtroom

Joseph Mendieta, Courtroom Deputy
Courtroom 17D
500 Pearl Street
(212) 805-4540

Unless otherwise ordered, these Individual Practices apply to all civil matters.

I. Communications with Chambers.

- a. Letters.** Except as otherwise provided below, communications with Chambers shall be by letter, which shall be e-mailed as a .pdf attachment to Netburn_NYSDChambers@nysd.uscourts.gov, with a copy simultaneously e-mailed or delivered to all other counsel. E-mails shall state in the subject line: (1) the caption of the case, including the lead party names and docket number; and (2) a brief description of the contents of the letter. Parties shall not include substantive communications in the body of the e-mail; such communications shall be included only in the body of the letter. The letter must not exceed five pages. Confidential information should be clearly indicated as such in the letter. Copies of correspondence between counsel shall not be sent to the Court.

In *pro se* cases, letters sent to Chambers by counsel shall also be sent to the *pro se* litigant's e-mail address, if permission is granted by the *pro se* litigant. If permission is withheld, or e-mail is otherwise unavailable, counsel shall mail a copy to the *pro se* litigant and indicate this in its letter to the Court.

Pro se litigants lacking access to e-mail shall mail all letters addressed to the Court to the *Pro Se* Office, United States Courthouse, 500 Pearl Street, New York, New York 10007.

- b. Hand Deliveries.** Hand-delivered mail should be left with the Court Security Officers at the Worth Street entrance of the Courthouse and may not be brought directly to Chambers. Hand deliveries are continuously retrieved from the Worth Street entrance by Courthouse mail staff and then forwarded to Chambers. If the hand-delivered letter is urgent and requires the Court's immediate attention, ask the Court Security Officers to notify Chambers that an urgent package has arrived that needs to be retrieved by Chambers staff immediately.

- c. **Docketing, Scheduling and Calendar Matters.** For docketing, scheduling and calendar matters, call the Courtroom Deputy at (212) 805-4540 between 9:00 A.M. and 4:30 P.M.
- d. **Telephone Calls.** Other than for docketing, scheduling and calendar matters, telephone calls to Chambers are permitted only for *urgent* matters requiring immediate attention. In such rare situations, call Chambers at (212) 805-0286.
- e. **Faxes.** Faxes are *not* permitted except with prior approval of Chambers, which will be granted only for good cause. If granted, the fax must not exceed five pages and must be submitted to Chambers at (212) 805-7998. All faxes must identify the person in Chambers who authorized the fax and copies must simultaneously be faxed or delivered to all parties. Faxes sent without prior permission will not be read. Do not follow with a hardcopy.
- f. **Service.** *Pro se* parties must serve on counsel for all parties any document filed with the Court and also file proof of service of such document with the Court.

In *pro se* cases, counsel must serve the *pro se* party with a paper copy of any document that is filed electronically and must separately file a proof of service with the Court.

Counsel in *pro se* cases designated to the ECF system may waive paper service upon themselves and rely instead on service through the ECF system by electronically filing a Notice of Waiver of Paper Service and delivering a paper copy to the *pro se* party (the form is available at the *Pro Se* Office or at <http://nysd.uscourts.gov/file/forms/waiver-of-rule-5-service-for-pro-se-cases>).

Where such waiver is filed, the *pro se* party will no longer be required to (1) serve paper documents on the counsel who filed the waiver or (2) file proof of service of such documents. Counsel in *pro se* cases designated to the ECF system are strongly encouraged to file a Waiver of Paper Service.

- g. **Requests for Adjournments or Extensions of Time.** All requests for adjournments or extensions of time must be sent by e-mail as a .pdf attachment consistent with Paragraph I(a) above and include the word “SCHEDULING” in the e-mail subject line. Requests must further state: (1) the original date(s); (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 a conference must be rescheduled, counsel shall propose at least two alternative dates that fall in consecutive weeks. If the requested adjournment or extension

affects any other scheduled dates, a Proposed Revised Scheduling Order must also be attached.

A *pro se* party may, but is not required to, submit a Proposed Revised Scheduling Order.

Absent an emergency, any request for extension or adjournment shall be made *at least 48 hours* before the deadline or scheduled appearance. Requests for extensions will ordinarily be denied if made after the expiration of the original deadline.

- h. ECF.** In accordance with the Electronic Case Filing Rules and Instructions, counsel are required to register promptly as ECF filers and to enter an appearance in the case. The pertinent instructions are available on the Court website, at http://www.nysd.uscourts.gov/ecf_filing.php. Counsel are responsible for updating their contact information on ECF, should it change, and they are responsible for checking the docket sheet regularly, regardless of whether they receive an ECF notification of case activity. For questions about ECF rules and procedures, please contact the ECF help desk at (212) 805-0800.

II. Conferences.

- a. Initial Case Management Conference.** The Court generally will schedule a Federal Rule of Civil Procedure 16(c) conference within three months of the filing of the complaint. Plaintiff's counsel must confirm to the Courtroom Deputy no later than one week before the conference that all counsel will attend the conference on the designated date and time. Parties are directed to email a Proposed Civil Case Management Plan and Scheduling Order to the Court one week before the conference as a .pdf attachment consistent with Paragraph I(a) above. The parties shall use the Proposed Civil Case Management Plan and Scheduling Order available at <http://nysd.uscourts.gov/judge/Netburn>.

An **incarcerated party** may not be able to attend this or other conferences, but may be able to participate by telephone or video conference. If an incarcerated party does not have counsel and is unable to participate by telephone or video conference, a representative (such as a family member) may attend the conference. In such instances, the incarcerated party may write to the Court in advance of the conference regarding any issue the party wishes to have addressed at the conference. If a representative is designated, he or she should contact the Courtroom Deputy at (212) 805-4540 to determine the location of the conference. The Court will send a transcript of the conference to the incarcerated party. If the incarcerated party does not have counsel and a representative cannot be sent to the

conference, the party should write to the Court regarding any issue the party wishes to have addressed at the conference.

- b. Discovery Disputes.** Parties shall follow Local Rule 37.2 with the following modifications. Any party wishing to raise a discovery dispute with the Court must first confer in good faith with the opposing party, in person or by telephone, in an effort to resolve the dispute. If this meet-and-confer process does not resolve the dispute, the party may submit a letter to the Court, no longer than five pages, explaining the nature of the dispute and requesting an informal conference. Such a letter *must* include a representation that the meet-and-confer process occurred, including when and whether it was in person or over the telephone, and that it was unsuccessful. Any responsive letter should be submitted within three business days. Confidential information should be clearly indicated as such in letters.

III. Motions.

- a. Memoranda of Law.** The typeface, margins and spacing of motion papers must conform to Local Civil Rule 11.1. Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages and reply memoranda are limited to 10 pages. Memoranda of 10 pages or more shall contain a table of contents and a table of authorities, neither of which shall count against the page limit. Sur-reply memoranda will not be accepted without prior permission of the Court.
- b. Courtesy Copies.** One courtesy copy of all motion papers, marked as such, shall be submitted to Chambers *by the movant after the motion has been fully briefed*. Courtesy copies should not be submitted to Chambers at the time of filing. All courtesy copies should be placed in well-organized three-ring binders.
- c. Oral Argument on Motions.** Parties may request oral argument by letter at the time the motion has been fully briefed and courtesy copies are submitted to Chambers. The Court will determine whether argument will be heard and, if so, will advise counsel of the argument date.
- d. Failure of the Court to Decide a Motion or Schedule Argument.** If the Court has not decided a motion or scheduled oral argument on the motion within 60 days of the time that the motion has become fully briefed, counsel for the movant shall send a letter to alert the Court.
- e. Proposed Stipulations and Orders.** Except as otherwise provided in these Rules and Practices, parties should e-mail proposed stipulations and orders that they wish the Court to sign to the Orders and Judgments Clerk at

judgments@nysd.uscourts.gov in accordance with the ECF Rules and Instructions. Courtesy copies need not be sent to Chambers.

IV. **Pretrial Procedures.**

- a. **Redactions and Filing Under Seal.** Any party seeking to file in redacted form any pleading, motion, memorandum, exhibit or other document, or any portion thereof, must make a specific request to the Court by letter explaining the reasons for seeking to file that submission under seal and addressing the request in light of Lugosch v. Pyramid Co. of Onondaga, 435 F.3d 110 (2d Cir. 2006). If a request for redactions is based on another party's designation of information as confidential, the parties shall confer and jointly submit the request for redactions.

The letter requesting redactions must include as attachments: (1) one full set of the relevant document(s) in highlighted form (i.e., with the words, phrases, or paragraphs to be redacted highlighted); and (2) one partial, loose leaf set of only those pages on which the party seeks to redact material. On application of a party, and provided that the unredacted papers are timely served on the party's adversary, the Court will deem papers filed on the date the party delivers them to Chambers for review of proposed redactions.

If the Court approves redactions, Chambers will file the unredacted pages under seal, and the requesting party shall then file the redacted version of the document(s) on ECF.

- b. **Joint Pretrial Orders.** Unless otherwise ordered by the Court, parties shall file a Proposed Joint Pretrial Order within 30 days after the completion of discovery. This order shall contain only the information required by Federal Rule of Civil Procedure 26(a)(3).

In *pro se* cases, no Joint Pretrial Order is needed. Instead, within 30 days after the completion of discovery each party shall file its own Pretrial Statement. The *pro se* party's Pretrial Statement need take no particular form, but must be concise and contain: (1) a statement of the facts the party hopes to prove at trial; (2) a list of all documents or other physical objects that the party plans to put into evidence at trial; and (3) a list of the names and addresses of all witnesses the party intends to have testify at trial. The Statement must be sworn by the party to be true and accurate based on the facts known by the party. The party must file an original Statement with the *Pro Se* Office (see I(a)) and serve a copy on all other parties or their counsel if represented. The original Statement must indicate the date a copy was mailed to the other party or that party's attorney.

- c. Filings Before Trial.** Unless otherwise ordered by the Court, each party shall file, 15 days before the date of commencement of trial if such date has been fixed, or 30 days after the filing of the final pretrial order if no trial date has been fixed:
- i.** In jury cases, requests to charge and proposed voir dire questions;
 - 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.

For questions about these practices, please contact the Courtroom Deputy at (212) 805-4540.