

INDIVIDUAL RULES OF PRACTICE IN CIVIL CASES

Gregory H. Woods, United States District Judge

Chambers

United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 2260
New York, NY 10007
(212) 805-0296
WoodsNYSDCChambers@nysd.uscourts.gov

Courtroom Deputy

Anthony Daniels
(212) 805-4233

Unless otherwise ordered, these Individual Practices apply to all civil matters before Judge Woods, except for civil pro se cases (see Individual Practices in Civil *Pro Se* Cases, at <http://nysd.uscourts.gov/judge/Woods>). In cases designated to be part of one of the Court's pilot programs or plans (e.g., the Section 1983 Plan, the Case Management Plan for Complex Civil Cases, or Initial Discovery Protocols for Employment Cases Alleging Adverse Action), those procedures shall govern to the extent that they are inconsistent with these Individual Practices.

1. Communications with Chambers

A. Letters. Except as otherwise provided below, communications with the Court should be by letter. Unless there is a request to file a letter under seal or a letter contains sensitive or confidential information (see Rule 4(A), below), letters should be filed electronically on ECF. Parties should not submit courtesy copies of letters filed on ECF. Copies of correspondence between counsel shall not be filed on ECF or otherwise sent to the Court (except as exhibits to an otherwise properly filed document). Absent a request to file a letter under seal, the parties should assume that any substantive letter will be docketed by the Court.

Unless otherwise ordered by the Court, letters must not exceed 3 pages, excluding any exhibits. In all correspondence involving a request, the requesting party must indicate whether the adversary consents to the request.

B. Telephone Calls. For questions that cannot be answered by reference to these rules or for urgent matters requiring immediate attention, contact Chambers at (212) 805-0296.

C. Faxes. Faxes to Chambers are not permitted except with prior approval.

D. Hand Deliveries. Hand-delivered materials should be left with the Court Security Officers at the Worth Street entrance of the Daniel Patrick Moynihan United States District Courthouse at 500 Pearl Street, New York, NY 10007 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 materials are urgent and require 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.

- E. Requests for Adjournments or Extensions of Time.** All requests for adjournments or extensions of time must be made by letter and must state: (1) the original due date; (2) the number of previous requests for adjournment or extension of time; (3) the reason for the current request; (4) whether the adversary consents and, if not, the reason given by the adversary for refusing to consent; and (5) proposed alternative dates. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Civil Case Management Plan and Scheduling Order must be submitted as an attachment to the request. Absent an emergency, the request must be made at least two business days prior to the original due date.
- F. Proposed Orders and Stipulations.** Parties should submit all proposed orders and stipulations to the Orders and Judgments Clerk at judgments@nysd.uscourts.gov in accordance with Rule 18.3 of the SDNY ECF Rules and Instructions. Courtesy copies should not be sent to Chambers.
- G. Urgent Communications.** Materials filed via ECF are generally reviewed by the Court the business day after they have been filed. If a submission requires immediate attention, please notify Chambers by telephone after the submission has been filed via ECF.
- H. Related Cases.** After an action has been accepted as related to a prior filing, all future court papers and correspondence must contain the docket number of the new filing as well as the docket number of the case to which it is related.

2. Conferences

- A. Attendance by Principal Trial Counsel.** The attorney who will serve as principal trial counsel must appear at all conferences with the Court.
- B. Initial Case Management Conference.** The Court will generally schedule a Federal Rule of Civil Procedure 16(c) conference within three months of the filing of the complaint or notice of removal. If a conference has not been scheduled within three months of the filing of the complaint or notice of removal, counsel must advise the Court by letter on ECF.

The Clerk's Office will email a notification to counsel when notice of the conference is docketed. Plaintiff's counsel (or, in a matter removed from state court, defense counsel) is responsible for promptly distributing copies of the notice to all parties. The notice will

direct the parties, *inter alia*, to submit via ECF at least one week prior to the conference a joint letter. The notice will also direct the parties to email to WoodsNYSDChambers@nysd.uscourts.gov a joint proposed Case Management Plan and Scheduling Order, available at <http://nysd.uscourts.gov/judge/Woods>.

- i. All parties should be prepared to discuss at the initial pretrial conference any pending or anticipated motions as well as the basis for subject matter jurisdiction.
- ii. In cases invoking the Court's diversity jurisdiction:
 - a. if any party is a corporation, the parties should be prepared to discuss both the place of incorporation and the principal place of business, as defined in *Hertz Corp. v. Friend*, 559 U.S. 77 (2010).
 - b. if any party is a partnership, limited partnership, limited liability company, or trust, the parties should be prepared to discuss the citizenship of each of the entity's members, shareholders, partners, and/or trustees.

C. Pre-Motion Conferences. Pre-motion submissions are required for motions to dismiss, motions for summary judgment, motions for judgment on the pleadings, motions for sanctions, and motions concerning discovery. Pre-motion submissions do not stay any future deadlines, except that a pre-motion submission regarding a pre-answer motion to dismiss will stay that party's obligation to answer or move against the complaint through the date of the pre-motion conference.

- i. To request a pre-motion conference concerning a motion to dismiss, a motion for summary judgment, a motion for judgment on the pleadings, or a motion for sanctions, counsel for the movant shall submit a letter setting forth the grounds for the proposed motion. If the motion is not on consent, any opposing party shall submit a letter setting forth its position within one week after the request is received. Letters submitted pursuant to this section must comply with the procedures set forth above in Rule 1(A), except that exhibits to letters are not permitted under this section. The Court will promptly determine whether to hold a pre-motion conference in the matter.
- ii. To request a pre-motion conference concerning discovery, counsel shall submit a single, jointly composed letter describing their discovery dispute(s). Letters submitted pursuant to this section must comply with the procedures set forth above in Rule 1(A), except that letters under this section must be no longer than 5 pages total, excluding exhibits. Strict adherence to Fed. R. Civ. P. 37(a)(1)'s "meet and confer" rule is required, and the letter must describe the efforts taken to resolve the dispute including the counsel involved and the time, place, and duration of the efforts. The Court will issue an order or promptly schedule a conference, which will serve as the Local Rule 37.2 pre-motion conference.

3. Motions

- A. Memoranda of Law.** 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 must contain a table of contents and a table of authorities.
- B. Courtesy Copies.** At the time the reply is served, the movant must mail or hand-deliver to the Court two courtesy copies of all motion papers, marked as such and which include the automatically-generated ECF header at the top of each page. Courtesy copies should be double-sided, three-hole punched, tabbed, and placed in binders. The non-moving party shall provide the movant with a set of its motion papers in time for the movant to deliver all motion papers to the Court. Unless doing so would be unduly burdensome, the movant should also submit via CD a copy of electronic, text-searchable copies of any hearing or deposition transcripts, as well as any other item on which the parties rely that cannot be submitted as a single file on ECF (e.g., videos or very long documents).
- C. Oral Argument on Motions.** Parties may request oral argument by indicating “Oral Argument Requested” on the cover of their moving, opposing, or reply memoranda. The Court will determine whether argument will be heard and may order argument *sua sponte*.
- D. Motions to Dismiss.** If a motion to dismiss is filed, the plaintiff has the right to amend its pleading within 21 days pursuant to Fed. R. Civ. P. 15(a)(1)(B).

If the plaintiff elects not to amend its pleading, the motion will proceed in the normal course and, absent special circumstances, subsequent leave to amend the complaint to address the deficiencies identified in the motion to dismiss will not be granted.

If the plaintiff elects to amend its pleading, the moving party shall, within 21 days of such amendment: (1) file an answer; (2) file a new motion to dismiss; or (3) submit a letter to the Court via ECF stating that it relies on the previously filed motion to dismiss. If the movant files an answer or a new motion, the Court will dismiss the original motion to dismiss as moot.

E. Motions for Summary Judgment.

- i. Generally Not Available in Non-Jury Cases.** Absent good cause, the Court generally will not consider summary judgment motions in non-jury cases. A party wishing to move for summary judgment in a non-jury case should submit a

pre-motion letter in compliance with Rule 2(C) above and include the grounds asserted for the Court to find good cause.

- ii. **Local Rule 56.1 Statements.** A movant for summary judgment must follow Local Civil Rule 56.1, with the following modifications.

The party opposing summary judgment must reproduce each statement in the moving party's 56.1 Statement and set out the opposing party's response directly beneath each statement. If additional factual statements are made by the opposing party, it must begin numbering where the moving party left off. The moving party must address the additional statements in its own responsive 56.1 Statement in compliance with this rule. Where multiple parties are submitting 56.1 Statements, the parties must coordinate to ensure that no statement numerically overlaps (i.e., each party should not begin its statement at 1).

To facilitate compliance with this rule, the parties must provide all other parties with electronic, editable copies (i.e., Word documents) of their 56.1 Statements upon filing.

- F. **Motions to Exclude the Testimony of Experts.** Motions to exclude testimony of experts must be made by the deadline for dispositive motions and should not be treated as motions *in limine*.

- G. **Default Judgment.** A plaintiff seeking a default judgment must proceed by way of an order to show cause pursuant to the procedure set forth in Attachment A to these rules.

4. Other Pretrial Guidance

A. Redactions and Filing Under Seal.

- i. **Redactions Not Requiring Court Approval.** Parties are reminded not to include, unless necessary, the five categories of sensitive information listed in Rule 21.3 of the SDNY ECF Rules and Instructions (i.e., social security numbers, names of minors, dates of birth, financial account numbers, and home addresses), and to exercise caution with the six categories of sensitive information listed in Rule 21.4 of the SDNY ECF Rules and Instructions (i.e., personal identifying numbers, medical records, employment history, individual financial information, proprietary or trade secret information, and information regarding an individual's cooperation with the government). A party may, without the Court's approval, redact any of this sensitive information. A party filing a redacted document under this rule must, in addition to any courtesy copies that would otherwise be required under these rules, email to the Court (an unredacted copy of the document that highlights the information redacted. A party filing a redacted document under this rule should follow Rules 21.5 and 21.6 of the SDNY ECF Rules and

Instructions regarding the filing of sealed documents.

- ii. Redactions Requiring Court Approval.** Except for redactions permitted by Rule 4(A)(i), all redactions require Court approval. A party wishing to file a document in redacted form should file the document with the proposed redactions on ECF. Simultaneously, the party must (1) file, via ECF if possible and otherwise by email to Chambers (WoodsNYSChambers@nysd.uscourts.gov), an application seeking leave to file the document with redactions and addressing the presumption in favor of public access to judicial documents; and (2) email an unredacted copy of the document that highlights the information redacted and deliver by hand or mail a courtesy copy of the highlighted document. Because only those pages containing the redacted material will be filed under seal, the party must additionally submit to Chambers by hand or mail a copy of the pages where information has been redacted from the publicly filed materials. If the application for redaction is approved, the Court will file and maintain the unredacted pages under seal.

B. Application for Temporary Restraining Order. A party must confer with his or her adversary before making an application for a temporary restraining order unless the requirements of Fed. R. Civ. P. 65(b) are met. As soon as a party decides to seek a temporary restraining order, he or she must call Chambers at (212) 805-0296 and state clearly (1) whether the adversary has been notified and whether the adversary consents to temporary injunctive relief; or (2) that the requirements of Fed. R. Civ. P. 65(b) are satisfied and no notice is necessary. If a party's adversary has been notified but does not consent to temporary injunctive relief, the party seeking a restraining order must bring the application to the Court at a time mutually agreeable to the party and its adversary, so that the Court may have the benefit of advocacy from both sides in deciding whether to grant temporary injunctive relief.

C. Settlements. The parties should email Chambers at WoodsNYSChambers@nysd.uscourts.gov promptly following an agreement to settle a matter. The parties must thereafter submit any proposed order or stipulation in accordance with Rule 1(F) above. The Court will not retain jurisdiction to enforce confidential settlement agreements. If the parties wish that the Court retain jurisdiction to enforce the agreement, the parties must place the terms of their settlement agreement on the public record. The parties may either provide a copy of the settlement agreement for the Court to endorse or include the terms of their settlement agreement in their stipulation of settlement and dismissal.

5. Trial Procedures

A. Joint Pretrial Order. Except as provided below, the parties must submit a joint pretrial order to the Court via ECF within 30 days from the completion of discovery. Where a

party has submitted a pre-motion letter seeking to move for summary judgment or such a motion is pending, the parties must submit to the Court via ECF a joint pretrial order within 21 days from the Court's decision on the motion.

The joint pretrial order must include the following:

- i.** The full caption of the action;
- ii.** The names, law firms, addresses, 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 the party asserts remain to be tried, including citations to any statutes on which the party relies. Such summaries shall also identify all claims and defenses previously asserted which are not to be tried. The summaries should not recite any evidentiary matter;
- v.** A statement as to the number of trial days needed and regarding whether the case is to be tried with or without a jury;
- vi.** A statement as to whether or not all parties have consented to trial by a magistrate judge, without identifying which parties do or do not consent;
- vii.** Any stipulations or agreed statements of fact or law to which all parties consent;
- viii.** A list of all trial witnesses, indicating whether such witnesses will testify in person or by deposition, and a brief summary of the substance of each witness's testimony;
- ix.** A designation by each party of deposition testimony to be offered in its case in chief and any counter-designations and objections by any other party;
- x.** A list by each party of exhibits to be offered in its case in chief, with one star indicating exhibits to which no party objects on grounds of authenticity, and two stars indicating exhibits to which no party objects on any ground;
- xi.** A statement of the damages claimed and any other relief sought, including the manner and method used to calculate any claimed damages and a breakdown of the elements of such claimed damages; and
- xii.** A statement of whether the parties consent to less than a unanimous verdict.

B. Required Pretrial Filings in All Cases. At the time the joint pretrial order is filed, each party shall file and serve the following:

- i. Motions *in limine*.** Any party wishing to file a motion addressing evidentiary issues or other matters which should be resolved *in limine* shall file such a motion via ECF. Opposition papers shall be filed within seven days thereafter, and reply papers shall be filed within four days of any opposition.
- ii. Documentary Exhibits.** Each party shall submit to the Court by mail or hand delivery one copy of each documentary exhibit sought to be admitted, pre-marked and assembled sequentially in loose leaf binders or in separate manila folders labeled with the exhibit numbers.
- iii. Pretrial Memorandum of Law.** If a party believes that a pretrial memorandum of law would be useful to the Court, it shall file the memorandum via ECF. Opposition papers to any legal argument in a pretrial memorandum shall be filed within seven days thereafter, and reply papers shall be filed within four days of any opposition.

C. Additional Submissions in Jury Trials.

- i. Requests to Charge, Proposed Verdict Forms, and Proposed *Voir Dire* Questions.** In all jury trials, joint requests to charge, joint proposed verdict forms, and joint proposed *voir dire* questions shall be submitted at the time the proposed joint pretrial order is filed. Proposed requests to charge must include citations to supporting legal authority. For any request to charge or proposed *voir dire* question on which the parties cannot agree, each party should clearly set forth its proposed charge or question, and briefly state why the Court should use its proposed charge or question, with citations to supporting authority. At the time of filing, parties should also submit copies of these documents to the Court by e-mail (WoodsNYSDCChambers@nysd.uscourts.gov) as Microsoft Word documents.

D. Additional Submissions in Non-Jury Cases.

- i. Proposed Findings of Fact and Conclusions of Law.** In non-jury cases, the parties must submit via ECF proposed findings of fact and conclusions of law at the time the proposed joint pretrial order is filed. The proposed findings of fact should be detailed and should include citations to the proffered evidence, as there may be no opportunity for post-trial submissions.

E. Courtesy Copies of Trial Materials. With the exception of documentary trial exhibits, addressed above in Rule 5(B)(ii), two courtesy copies of all documents identified in this Section must be mailed or hand-delivered to Chambers at the time they are served or filed. Voluminous material should be organized in tabbed binders.

ATTACHMENT A

DEFAULT JUDGMENT PROCEDURE

1. Prepare an order to show cause for default judgment and make the order returnable before Judge Woods. Leave blank the date and time for the conference; Judge Woods will set the date and time when signing the order.
2. Provide the following supporting papers with the order to show cause:
 - a. An attorney's affidavit setting forth:
 - i. the basis for entering a default judgment, including a description of the method and date of service of the summons and complaint;
 - ii. the procedural history beyond service of the summons and complaint, if any;
 - iii. whether, if the default is applicable to fewer than all of the defendants, the Court may appropriately enter a default judgment on the issue of damages prior to resolution of the entire action;
 - iv. the proposed damages and the basis for each element of damages, including interest, attorney's fees, and costs; and
 - v. the legal authority for why an inquest into damages is unnecessary.
 - b. A proposed default judgment.
 - c. Copies of all of the pleadings.
 - d. A copy of the affidavit of service of the summons and complaint.
 - e. If failure to answer is the basis for the default, a certificate from the Clerk of Court stating that no answer has been filed.
3. Take the order to show cause and supporting papers to the Orders and Judgments Clerk (Room 370, 500 Pearl Street) for initial review and approval.
4. After the Orders and Judgments Clerk approves the order to show cause, bring all of the papers to Chambers (Room 2260, 500 Pearl Street). Also bring a courtesy copy of the supporting papers to leave with Chambers.
5. After Judge Woods signs the order to show cause, serve a conforming copy of the order and supporting papers on the defendant. Chambers will retain the original signed order for

docketing purposes, but will provide you with a copy. You may also use a printed copy of the signed order from ECF after the order has been docketed by the Court.

6. Prior to the return date, file via ECF (1) an affidavit of service that reflects the defendant was served with a conforming copy of the order and supporting papers, and (2) the supporting papers.
7. Prior to the return date, take the proposed judgment, separately backed, to the Orders and Judgments Clerk (Room 370, 500 Pearl Street) for the Clerk's approval. The proposed judgment, including all damage and interest calculations, must be approved by the Clerk prior to the conference and then brought to the conference for the Judge's signature.