Revised: January 3, 2011

INDIVIDUAL RULES AND PROCEDURES
JUDGE SHIRA A. SCHEINDLIN

Chambers
United States District Court
Southern District of New York
500 Pearl Street, Room 1620
New York, New York 10007
Tel: (212) 805-0246
Fax: (212) 805-7920
Courtroom: 15C

Deputy/Law Clerk
Jim Reily
(212) 805-0120

Administrative Assistant
Marni Blank
(212) 805-0473

INDEX

1I. GENERAL MATTERS

A. Procedural Rules

The Court's procedures are governed by the Federal Rules of Civil Procedure, the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York (the Local Rules), and the Rules set forth below.

B. Communications

Parties should not call Chambers with procedural questions. Telephone calls to Chambers should be made only for urgent matters requiring the Court's immediate attention. Calls to Chambers should not be made to confirm the receipt of faxes, to inquire whether any action has been taken with regard to a previously submitted fax, or to confirm conference dates/times. Parties should consult the New York Law Journal for conference dates and times.

Telephone calls from attorneys will be accepted in Chambers by law clerks between the hours of 10:00 a.m. and 6:00 p.m. When leaving a voicemail message, parties are advised to keep their messages short (generally less than one minute) and to the point. In all other matters, communications to the Court should be by letter, which must identify the name and docket number of the case, be marked with the initials of the judge (SAS), contain the writer's business address, telephone number, and fax number, and be signed by the attorney responsible for the matter. Letters must state the manner in which they were served on all other counsel. Fax transmissions exceeding three pages will not be accepted without prior approval by Chambers. *Scheduling of all calendar matters, except for requests for adjournments which must be made in writing, should be directed to Marni Blank at (212) 805-0473.*

Copies of all communications to the Court must be sent to adversaries and must reflect the manner of delivery to adversaries (e.g., "By Hand," "By Express Mail"), and should include the adversaries' contact information. Any communication that is delivered to an adversary by means other than the method used to deliver it to the Court must contain a statement of why such other method was used.

C. Filing of Papers

No original document will be accepted in Chambers for filing unless the document requires the Judge's signature before docketing. All stipulations and orders, including consent orders, orders to show cause, preliminary injunctions, and temporary restraining orders, shall be brought to the Orders Clerk (500 Pearl Street, Clerk's Office). Judgments shall be presented to the Judgments Clerk (500 Pearl Street, Clerk's Office). A courtesy copy of all papers (excluding pleadings, discovery requests and responses) filed with the Clerk should be submitted to Chambers (Room 1620). Only documents with original signatures will be accepted for filing.

D. Extensions and Adjournments

Extensions and adjournments of Court-imposed dates and deadlines will be granted only for compelling reasons. The Court's permission is required to extend or adjourn Court-imposed dates and deadlines. Requests for adjournments or extensions must be *in writing (not by telephone)* with copies sent to all counsel. Such requests must set forth the relief sought, the number and disposition of prior requests, and whether consent of all affected parties has been obtained. Requests must be received in Chambers by noon, at least

two days before the scheduled conference, or they will be disregarded. *All adjournment requests must be accompanied by a proposed order reflecting the request adjournment/extension*. Such requests may be faxed to Chambers, without prior permission from the Court, if limited to one single-spaced page. When adjournments are granted, it is upon the condition that the party requesting the adjournment notify all other parties of the new date and/or time.

E. Other Matters

Citations to New York cases must include citations to New York Supplement, and citations to Supreme Court cases must include citations to the United States Reports. WESTLAW citations should be given, if available, for cases not reported in an official reporter. Citations to cases not available in WESTLAW or LEXIS/NEXIS should be accompanied by copies of the cases cited.

For the timing of pre-sentence submissions, please consult my Standing Order, which has been added to the the SDNY Website www.nysd.uscourts.gov, under my Rules Addenda. In short, a defendant's pre-sentence submission is due seven (7) calendar days before the date of the sentence. The AUSA may submit a response to the defendant's submission no more than four (4) calendar days later, i.e., three (3) calendar days before the date of the sentence.

II. ELECTRONIC CASE FILING (ECF) REQUIREMENTS

A. Lead Attorneys to be Noticed

Every attorney who represents any party in an ECF-designated case must have an ECF account with the Court and must have provided an e-mail address to which ECF filings may be sent. Any party who has questions concerning the Court's ECF system and its requirements is directed to contact the ECF Help Desk at (212) 805-0800.

B. Courtesy Copies

Courtesy copies of all motion papers filed electronically, including notices of motion, memoranda of law, and affidavits and declarations, with exhibits, shall be submitted to Chambers as soon as practicable after filing. Courtesy copies shall be submitted to Chambers for both ECF and non-ECF designated cases.

C. Letters to Chambers

Letters to Chambers in ECF-designated cases should not be electronically filed as they will be rejected. Such letters should be mailed or faxed to Chambers as they would be in non-ECF designated cases.

III. MOTION RULES AT A GLANCE

Motion Returnable:	Any Court day (the fully submit day)
Oral Argument:	Only upon request of Court
Filing Rules:	In accordance with the ECF system
Courtesy Copies to Chambers:	Yes

IV. MOTION RULES & PROCEDURES

A. Pre-Motion Conference

A party must write to Chambers, with a copy to opposing counsel, to request a pre-motion conference before bringing any motion. (Certain specific motions are not governed by this rule and are listed below.) This letter shall be submitted at least seven business days prior to the proposed conference date. It must explain the grounds for the motion and shall be no more than three single-spaced pages in length, including any attached exhibits. Within three business days after receipt of the letter, an adversary wishing to oppose the motion must submit a written response with a courtesy copy to Chambers. This response shall also be limited to three single-spaced pages, including any attached exhibits.

Motions will be resolved at the pre-motion conference to the extent possible. If papers are found to be necessary, the issues to be considered will be defined and a briefing schedule set.

This letter exchange does not apply to *either side* in pro se cases. Pre-motion conferences are not required in any case where any party is proceeding pro se.

A pending motion does not cancel any previously scheduled status conference unless the parties are notified otherwise by Chambers.

Habeas corpus petitions and motions in Social Security cases may be filed without a pre-motion conference.

B. Motions Not Requiring a Pre-Motion Conference

A pre-motion conference is *not* required for the following motions:

* applications for temporary restraining orders or preliminary injunctions;
* motions involving persons in custody;
* motions for reargument or reconsideration (parties should not submit opposition to a motion for reconsideration unless directed to do so by the Court);
* motions for reduction of sentence;
* in forma pauperis motions;
* applications for attorney's fees;
* motions to be relieved as counsel; and
* motions for a new trial or amendment of judgments.

While a pre-motion conference is also *not* required for the following motions, the parties must *exchange* letters prior to bringing the motion, *but should not submit them to the Court*. The parties should attempt to eliminate the need for these motions based on this exchange of letters. However, where any such motion is eventually made, the moving party must certify that pre-motion letters were exchanged:

* motions to dismiss;
* motions for a more definite statement;
* motions for sanctions under Rule 11;
* motions to remand;
* motions to confirm or compel arbitration; and
* motion for leave to amend a complaint. If a motion to amend a complaint is unopposed or is made within the period prescribed by Fed. R. Civ. P. 15(a), then the

moving party need not comply with these rules, but should submit a letter and a proposed Order to the Court granting leave to file an amended complaint. If a motion to amend a complaint is made beyond the period prescribed by Rule 15(a) and the motion is opposed, then the parties must comply with these rules. Leave to amend a complaint will be freely granted.

C. Pro Hac Vice Admission

Any party seeking a pro hac vice admission is advised *not* to file a motion seeking such admission.
A party seeking a pro hac vice admission must first consult with its adversaries to determine if there is any opposition. If there is no opposition, the party should request admission by means of a short letter, sent to Chambers, enclosing a proposed Order granting pro hac vice admission and including the admitted attorney's mailing address and phone number. No declaration or certificate of good standing is required and the letter should not be filed with the Clerk's Office. Parties are reminded that a $25 fee must be paid to the Cashier's Office with each pro hac vice admission.

D. Filing and Service

Copies of all motions, opposition papers, cross-motions, reply papers, and supporting papers must be served on the party's adversaries, *and courtesy copies must be sent to Chambers*. Original motion papers must be filed with the Clerk's Office and may be filed when served.

Unless the Court has already set a schedule, the parties are responsible for proposing a briefing schedule by letter to the Court and submitting a proposed Order containing that schedule. The parties are responsible for rescheduling the dates on which they will serve each other with papers so long as it does not affect the "fully submit" date previously established by the Court. The Court does not need to know of or approve alterations to the dates on which the parties intend to serve each other. The Court should be notified only if: (1) the parties cannot agree on dates to serve one another; or (2) the parties wish to change the final submission date set by the Court for the motion.

Pro se litigants must file all motions and opposition/reply papers with the Pro Se Office, 500 Pearl Street, Room 230, New York, New York 10007.

E. Return Dates

Motions are returnable on any court day. Scheduling will be determined by the Federal Rules of Civil Procedure and the Local Rules, unless otherwise directed by the Court at the pre-motion conference.

F. Oral Argument

The Court will request and schedule oral argument at its discretion but will also consider a request by either party for oral argument. Counsel should assume that the Court is familiar with the motion papers. Unless otherwise ordered by the Court, argument will not be heard in pro se matters. Pro se prisoner plaintiffs are not permitted to appear at conferences by telephone.

G. Memoranda of Law

All motions and cross-motions must be accompanied by a memorandum of law. All memoranda, including footnotes, should be in the same font and shall be no less than twelve (12) point in Times New Roman.

Margins shall be set at one (1) inch: top, bottom, left and right. If footnotes, which may be single-spaced, are in a different font or are in less than twelve (12) point, the entire memorandum will be rejected. The memorandum of law shall not exceed twenty-five (25) double-spaced pages, and any memorandum in excess of ten (10) double-spaced pages shall include a table of contents and a table of authorities. The table of contents, table of authorities, and signature block do not count toward the page limit. Reply memoranda may not exceed ten (10) double-spaced pages. Sur-replies will not be accepted unless permitted by the Court in advance. These page limits do not apply to memoranda submitted in reference to a motion for reargument or reconsideration. Such memoranda shall not exceed ten (10) double-spaced pages.

H. Affidavits & Exhibits

Parties are limited to a total of five affidavits/declarations each in support of or in opposition to a motion. Affidavits/declarations may not exceed ten (10) double-spaced pages. Parties are limited to a total of fifteen (15) exhibits, including exhibits attached to an affidavit/declaration in support of, or in opposition to, any motion. Each exhibit is limited to fifteen (15) pages. The exhibits should be excerpted to include only relevant material. All exhibits should be clearly labeled, dated, tabbed, and indexed.

I. Summary Judgment Motions

On summary judgment motions, movant's Local Rule 56.1 statement must present each asserted fact in an individually numbered paragraph that details and cites to the documentary support for that assertion (e.g., deposition, affidavit, letter, etc.). The opponent's response must mirror the movant's statement by admitting and/or denying all of movant's assertions in correspondingly numbered paragraphs, specifically indicating the relevant documentary support. No exhibits may be annexed to Local Rule 56.1 statements. Unless a party has obtained prior permission from this Court, Local Rule 56.1 statements are limited to no more than twenty-five (25) double-spaced pages.

J. Orders to Show Cause

As with any order, all applications for orders to show cause and temporary restraining orders must be brought to the Orders Clerk for approval as to form and then to Chambers. Unless special cause is shown, an order to show cause will not be issued unless the party requesting such an order has provided reasonable notice to all adversaries and all adversaries have had an opportunity to appear and oppose the application.

K. Failure of the Court to Decide a Motion

If a motion is not decided within sixty (60) days of the time it is fully submitted, counsel for the movant shall send a letter to the Court calling this fact to the Court's attention.

V. PRETRIAL & TRIAL RULES & PROCEDURES

A. Pretrial Conferences (Initial Case Management Conference)

1. Criminal Cases

Assistant United States Attorneys are responsible for informing Chambers, by calling Deputy Law Clerk Jim Reily, when a new criminal case has been assigned to Judge Scheindlin. Upon such notification, an initial pretrial conference will be scheduled.

2. Civil Cases

Approximately two months after the complaint in a civil case is filed, a pretrial conference will be scheduled, usually by written notice. Pretrial status conferences may be suggested in writing by the parties, or called by the Court, at any time. Counsel must bring to the first pretrial conference a proposed Scheduling Order (a written discovery plan) that lists, among other things, the depositions to be taken. Counsel must also be prepared to discuss any contemplated motions and settlement. A form for the Scheduling Order can be obtained in the courtroom or from the SDNY Website at www.nysd.uscourts.gov under my Scheduling Order.

3. Appearances

An attorney with knowledge of the case and authority to engage in settlement discussions must appear at all conferences with the Court.

B. Discovery

1. Discovery Rules

The Court has prepared Suggested Rules of Discovery Practice which the parties are urged to take into consideration when conducting depositions and requesting documents and prior to submitting discovery disputes to the Court. A copy of the Suggested Rules can be obtained in the courtroom or from the SDNY Website under my Rules Addenda.

2. Discovery Motions

No motions regarding discovery disputes are permitted. Rather, if such a dispute cannot be resolved by the parties, a party should submit a letter to the Court not exceeding three single-spaced pages. Any letter submitted by opposing counsel is also limited to three single-spaced pages and shall be submitted no more than three business days after the original letter. The Court will hear argument from counsel promptly after receipt of these submissions, if deemed necessary.

C. RICO Statements

Within twenty (20) days of filing a claim under the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1961, the party asserting the RICO claim must file with the Court, and serve upon the opposing party, a RICO Statement. In preparing the RICO statement, counsel should refer to and follow the Instructions for Filing a Rico Statement, which can be obtained in the courtroom or from the SDNY Website under my Rules Addenda.

D. Pretrial Orders and Submissions

1. Joint Pretrial Orders

Parties are required to prepare and submit a Joint Pretrial Order (JPTO) by the date set at the initial pretrial conference. In preparing the JPTO, parties should refer to and follow the Court's JPTO form, which can be obtained in the courtroom or from the SDNY Website under my Rules Addenda. Witnesses should be listed in alphabetical order. The JPTO is to be a joint submission, prepared by all parties. The parties should promptly draft and exchange proposed JPTOs and should then meet by telephone or in person to finalize the JPTO and submit the JPTO to the Court (the original and one courtesy copy to Chambers). If the parties

cannot agree on a particular point, they may submit separate proposals, solely with respect to that point. The remainder of the JPTO should be a joint submission. The parties should include their fax numbers and e-mail addresses on the JPTO.

Where the plaintiff is proceeding pro se, the defendant is responsible for preparing the first draft of the JPTO and sending it to the plaintiff for comment and revisions.

2. Motions in Limine

Motions in limine and opposition thereto must be fully submitted at least three weeks before the scheduled trial date.

3. Jury Trials

In jury trials, all parties should prepare *jointly*: (1) voir dire questions to be asked of prospective jurors on which they agree; (2) requests to charge the jury on which they agree; and (3) a proposed verdict sheet on which they agree.

If any party objects to another party's requested voir dire questions, requests to charge the jury, or proposed verdict sheet, that party should: (1) set forth the grounds for that objection; and (2) propose an alternative. Objections to proposed voir dire questions or requests to charge the jury must include citations to authority.

The joint list of voir dire questions, requests to charge the jury, and proposed verdict sheet should be presented in one document, and the parties' objections and alternative proposals should be presented in another document.

All three documents – voir dire questions, requests to charge the jury, and proposed verdict sheet – must be submitted to the Court along with the JPTO.

4. Bench Trials and Hearings

Unless otherwise instructed, counsel are required to submit proposed findings of fact and conclusions of law in conjunction with the JPTO. The parties should also submit trial memoranda of law that identify the issues, summarize the facts and applicable law, and address any evidentiary issues, not to exceed twenty-five (25) double-spaced pages. These documents should be submitted along with the JPTO.

5. Duty of Disclosure

All counsel are reminded that Rules 26(a)(2) and 26(a)(3) of the Federal Rules of Civil Procedure are in effect in this District and will be strictly enforced by this Court.

Specifically, Federal Rule of Civil Procedure 26(a)(2) requires that ninety (90) days prior to the trial date or the date the case is to be ready for trial, a party must identify any expert it expects to call at trial and must produce a "written report prepared and signed" by the expert witness. "The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions," as well as the qualifications, compensation, and prior testimony of the witness. Any expert offered as a trial witness solely to rebut another party's expert must be identified, with the required accompanying disclosure, within thirty (30) days after the adversary's expert disclosure.

Federal Rule of Civil Procedure 26(a)(3) requires that thirty (30) days prior to trial, each party must provide the following information:

a. the name, address and telephone number of each witness a party intends to call at trial "separately identifying those whom the party may call if the need arises;"
b. deposition testimony expected to be used at trial;
c. "an appropriate identification of each document or other exhibit, including summaries of other evidence."

Within fourteen (14) days after this identification, an adversary must serve and file any objections as to the admissibility of the documents, depositions or witnesses identified pursuant to Rule 26(a)(3). "Objections not so disclosed, other than objections under Rules 402 and 403 of the Federal Rules of Evidence, shall be deemed waived unless excused by the Court for good cause shown."

A FAILURE TO COMPLY WITH THESE RULES MAY RESULT IN PRECLUSION. *See* Fed. R. Civ. P. 37(c)(1).

E. Trial

1. Timing

Counsel must be prepared to proceed to trial on forty-eight (48) hours telephone notice once the JPTO has been filed. Any party with a scheduling problem or conflict must bring it to the Court's attention by letter at the time the JPTO is filed. If such scheduling problem or conflict arises after the JPTO is filed, the Court must be notified by letter immediately.

2. Procedure During Trial

Counsel proceeding to trial should obtain a copy of Judge Scheindlin's rules on the Conduct of Counsel at Trial, which can be obtained in the courtroom or from the SDNY Website under my Rules Addenda. Counsel should also exchange any demonstrative evidence before trial.

F. 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 (e.g., 00 Civ. 1234 [rel. 99 Civ. 4321]).

G. Default Judgments

Applications for default judgments will not be accepted unless they include the following:

(1) A description of the nature of the claim;
(2) An affidavit representing that this Court has subject matter jurisdiction over the action;
(3) An affidavit representing that this Court has personal jurisdiction over the defendant;
(4) An affidavit representing that the defendant is not an infant or an incompetent;
(5) An original certificate of default (*see below for instructions*) stating that the defendant was properly served and failed to answer/appear, signed and stamped by the Clerk of the Court. (If the defendant did appear in the action, the plaintiff must submit an affidavit representing

that the defendant has notice of the application for default);

(6) Reasonable attorney's fees incurred in the preparation of the default judgment application, usually not to exceed $2,000, if attorney's fees are sought; and

(7) All required substantiating documentation. (Generally, a copy of the Complaint satisfies (1), (2), and (3).)

If the plaintiff seeks an award of damages in the motion for default judgment, the plaintiff must also include:

(8) A request for an amount equal to or less than the principal amount demanded in the complaint;

(9) Definitive information and documentation such that the amount provided for in the proposed judgment can be calculated. (If this requirement cannot be satisfied, a default judgment may be granted as to liability, and damages will be determined by an inquest);

(10) An affidavit representing that no part of the judgment sought has been paid, other than as indicated in the motion;

(11) A request for interest on the principal amount not to exceed 9%, if interest is sought;

(12) The calculations made in arriving at the proposed judgment amount.

H. Certificate of Default

To file for a certificate of default, parties must submit to the Clerk of the Court a "request for entry of default" and a proposed "clerk's certificate." Parties must submit this electronically through the ECF system but must also send a courtesy copy of the certificate only, by hand or mail (along with a self addressed stamped envelope) to the Orders and Judgments Clerk for signature and seal. This signed certificate is to be attached to the default judgment when the default judgment is submitted to this Court. Courtesy copies of certificates of default need not be sent to Chambers.

A sample default judgment and clerk's certificate of default is available under *Forms* on the Southern District of New York's website: http://www.nysd.uscourts.gov/forms.htm#Judgments