

**INDIVIDUAL MOTION PRACTICES OF
JUDGE ALLYNE R. ROSS
United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201
Fax: (718) 613-2386
Contact Re: Criminal Cases: Dennis LaSalle – Tel. (718) 613-2385
Contact Re: Civil Cases: Pamela Warren – Tel. (718) 613-2380**

Unless otherwise ordered, matters before the judge shall be conducted in accordance with the following practices:

I. ELECTRONIC CASE FILING (ECF)

A. Counsel must file all documents electronically. When orders are 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. Attorneys having questions regarding the technical aspects of electronic filing, including registration, filing, and training, should refer to the website: http://www.nyed.uscourts.gov/CM_ECF/cm_ecf.html. Additional questions should be directed to Ms. Evelyn Levine at (718) 613-2312.

II. 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. When calling Chambers, please state the full case name and docket number. Only attorneys and their staff may call Chambers; the parties themselves may not. Pro se litigants may not call Chambers and may instead call the pro se office at (718) 613-2665.

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. Documents faxed must also be electronically filed.

D. Requests for Adjournments or Extension 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) whether the adversary consents, and, if not, 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.

III. MOTIONS

A. Pre-Motion Conferences in Civil Cases. For discovery motions, follow Local Civil Rules 37.3 and 6.4. For any motions other than discovery motions, a pre-motion conference with the Court is required, 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. Letter applications must be made by using the letter event via ECF NOT by the motion event. All parties so served must serve and file a letter response, not to exceed three (3) pages, within seven business days from service of the pre-motion 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. Unless otherwise ordered by the Court, the parties are to set up their own briefing schedule and submit it to the Court for approval. This rule applies to all civil cases, including those with one or more pro se parties. No changes to the schedule may be made without court approval. **No party is to serve any motion papers prior to obtaining court approval for the schedule.** The moving party shall submit a letter with a proposed briefing schedule to the court

and, in the event the parties cannot agree on a briefing schedule, the letter shall also provide the reason(s) why they were unable to reach agreement. In cases where a pre-motion conference is not required, the moving party's letter with proposed briefing schedule shall also provide a brief summary of the motion.

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.

1. **No motion papers shall be filed until the motion is fully briefed.** 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 – and not the papers themselves – shall be filed electronically.
2. On the day the motion is fully briefed, each party shall electronically file its motion papers. Where the opposing party is pro se, the moving party shall be responsible for electronically filing all motion papers. Where the moving party is pro se, each party shall file its respective motion papers when it serves them. In all other cases, the moving party 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. Parties may request oral argument by letter at the time their moving, opposing or reply papers are filed. The court will determine whether argument will be heard and, if so, will advise counsel of the argument date.

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.

G. Paragraphs A and D above do not apply to any of the motions described in Federal Rule of Appellate Procedure 4(a)(4)(A). A pre-motion conference is not required before making such motions, which should be filed when served.

IV. PRETRIAL PROCEDURES IN CIVIL CASES

A. Joint Pretrial Orders. The Pretrial Order shall be prepared under the supervision of the magistrate judge to whom the case has been referred in accordance with the schedule set by the magistrate judge. The parties are directed to cooperate with each other in the preparation of a joint

Pretrial Order. 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 with a full, unabbreviated caption. Each of the following topics shall be addressed in a separately labeled schedule:

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

2. 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 or absence of subject matter jurisdiction. Such statements shall set forth applicable statutes and legal doctrines as well as relevant facts as to citizenship and jurisdictional amount.

3. Claims and Defenses. A statement by each party of the elements of the claims and defenses that party has asserted which remain to be tried, without recital to evidentiary matter but including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried. The parties waive all claims and defenses not set forth in the Pretrial Order.

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

5. 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.

6. 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.

7. Stipulations. Any stipulations or statements of fact or law to which all parties have agreed.

8. 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. The parties shall list and briefly describe the basis for any objections that they have to any witnesses designated by any party.

9. Deposition Testimony. A designation by each party of those portions of deposition testimony intended to be offered into evidence, with any cross-designations and objections by any other party.

10. 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. The schedule shall 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. Each exhibit shall be identified and described. Plaintiff’s exhibits shall be identified by numbers, defendant’s exhibits shall be identified by letters.

The parties shall 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. Meritless objections based on these grounds may result in the imposition of sanctions. Only listed exhibits will be received in evidence, except for good cause shown.

All exhibits must be pre-marked for the trial and exchanged with the other parties at least ten days before trial. Voluminous exhibits should be placed in binders with tabs.

B. Final Pretrial Conference

1. Filing of Documents. Prior to attending the pretrial conference on a date to be scheduled by this court, counsel shall file with Chambers copies of all documents proposed to be used in evidence, and shall be prepared to discuss and have the court rule on objections in the Pretrial Order.

2. 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. Filings Prior to Trial

1. Jury Trials: Unless otherwise ordered by the Court, the following shall be filed 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:

a. Legal Memoranda. Counsel for each party shall provide the court with legal memoranda addressing all contested legal issues in the Pretrial Order and anticipated evidentiary problems.

b. Joint Request to Charge. The parties shall submit a Joint Request to Charge. This filing shall include the elements of the claims, the damages sought, the defenses, and any special requests to charge. In preparing the Joint Request, the parties shall confer in good faith and attempt to resolve any disagreements. Areas of honest disagreement should be highlighted, clearly identified and supported by an accompanying memorandum of law. A proposed alternate instruction should also be provided. Parties should electronically file the joint proposed jury charge and submit the document on a diskette or CD in Word Perfect format.

c. Voir Dire Requests. Counsel for each party shall provide the court with any voir dire requests that pertain specifically to the case at issue no later than the Thursday before trial. Routine voir dire requests are not required.

2. Non-Jury Trials. Each party shall file with the court:

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

b. Proposed findings of fact and conclusions of law, not to exceed fifteen pages without the express approval of the court.

c. A legal memorandum addressing all contested legal issues.