

Amended: October 10, 2013

INDIVIDUAL PRACTICES OF JUDGE P. KEVIN CASTEL
United States Courthouse
500 Pearl Street
New York, New York 10007
web site: www.nysd.uscourts.gov

Unless otherwise ordered, matters before Judge Castel shall be conducted in accordance with the following practices.

1. Communications with Chambers

A. Letters. Communications with the Court shall be by letter, with copies simultaneously delivered to all counsel. Letters shall be submitted on ECF. As a general matter, letters filed via ECF are reviewed by the Court on the business day after they have been filed. If your submission requires immediate attention or contains matters that you believe should be under seal, please fax the letter to Chambers at (212) 805-7949.

B. Telephone Calls. For docketing, scheduling and calendar matters, please call the Courtroom Deputy, Florence Nacanthaer, at (212) 805-0131 between 8:30 A.M. and 5:00 P.M. Telephone calls to Chambers, (212) 805-0262, are permitted only in emergency situations requiring immediate attention.

C. 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) 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, the request (in a civil case) must attach a proposed Revised Case Management Plan and Scheduling Order (reflecting dates which are business days).

2. Motions

A. Pre-Motion Letter in Civil Cases

1. Pre-Motion Letter Required. For motions other than discovery motions in a civil case and the motions described in sub-paragraph A(2), the submission of a pre-motion letter to the Court is required. The letter shall not exceed five pages in length setting forth in detail the legal and factual basis for the anticipated motion and a proposed schedule for the motion; other parties may respond in a letter not to exceed five pages within three business days. The motion shall not be filed until the Court enters an order with respect to the pre-motion letter. Among other purposes, the exchange of letters and any conference ordered by the Court seek to explore whether the motion may be (1) obviated by an amendment to the pleadings or consent to the relief; or (2) made more efficiently at a different juncture in the case or the relief sought in a different form. The transmittal of a pre-motion letter for a proposed motion under Rule 12(b), Fed. R. Civ. P., stays the time to answer or move until further order of the Court.

2. No Pre-Motion Letter Required. Sub-paragraph A(1) above does not apply to motions described in Federal Rule of Civil Procedure 6(b), Federal Rule of Appellate Procedure 4(a)(4)(A), or section 1447 of title 28. It also does not apply to motions brought by order to show cause, motions by incarcerated pro se litigants, motions for a default judgment, motions for appointment of lead counsel under the PSLRA, motions for admission pro hac vice, and motions for reconsideration or reargument.

3. Discovery Motions. For discovery motions, follow Local Rule 37.2 unless otherwise ordered. The letter to the Court shall contain a certification under Rule 37(a)(1), Fed. R. Civ. P., and shall include the full text of any a discovery request and response or objection thereto, together with any case law support and any affidavits required to adjudicate the issue. The party from whom discovery is sought shall respond within three business days and shall include any case law support and any affidavits required to adjudicate the issue.

B. Courtesy Copies. Courtesy copies of all pleadings (e.g. complaint and answer) and all motion papers shall be submitted in hard copy to chambers as soon as practical after filing. Courtesy copies should be marked as such on the first page.

C. 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 shall contain a table of contents.

D. 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.

E. Summary Judgment. The Local Rule 56.1(a)(2) Statement by the party opposing summary judgment shall set forth verbatim the text of each paragraph of the Local Rule 56.1(a)(1) Statement immediately preceding its response thereto.

3. Case Management Plans

A. Non-Complex Cases. For all civil cases, except those designated as a “Complex Case” under the Standing Order of November 1, 2011 of Chief Judge Preska (if the case is so designated, it will appear on the docket sheet), the parties will confer and prepare a proposed Case Management Plan and Scheduling Order (found under Judge Castel’s name on the Court website) and bring it to the Initial Pretrial Conference.

B. “Complex Cases.” If an action has been designated as a “Complex Case” under the Standing Order of Chief Judge Preska, an entry will appear on the docket, filed as In re: Pilot Project Regarding Case Management Technique for Complex Civil Cases in the Southern District of New York, 11 Misc. 388 (November 1, 2011) (the “Standing Order”). If it has been so designated, counsel for the parties are expected to review the Report of the Judicial Improvements Committee attached to the Standing Order and consider the matters therein. Prior to the Initial

Pretrial Conference, the parties should confer on a case management plan and proposed scheduling order and should, as a starting point, utilize the “Civil Case Management Plan For Complex Cases” available on the Court’s website under Judge Castel’s name. For good cause shown, the parties may request that the Court exempt the case from the Pilot Project.

4. Final Pretrial Submissions (Jury Cases). Unless otherwise ordered by the Court, within 30 days following completion of fact and expert discovery in a civil case, the parties shall submit to the Court:

A. (1) Proposed voir dire; (2) proposed jury instructions; and (3) proposed verdict form. Submissions must be in hard copy and on CD-Rom in Microsoft Word or WordPerfect version 9 or higher format. Unless otherwise agreed by the parties, the party with the burden of proof should prepare the initial draft of (1), (2), and (3) in sufficient time for the other side to respond. Parties should indicate the extent to which they are in agreement with the other side’s proposal.

B. Fully submitted in limine motions, if any. The parties shall confer on a schedule which results in the fully submitted motions within 30 days of the completion of fact and expert discovery.

C. A proposed Joint Pre-Trial Order that includes the information required by Rule 26(a)(3), Fed. R. Civ. P., and the following:

- 1.** The names, addresses, telephone and fax numbers of trial counsel.
- 2.** A statement of the claims and defenses that remain to be tried. Any claim or defense not so identified is deemed withdrawn.
- 3.** A statement by each party as to whether the case is to be tried with or without a jury, and the number of trial days needed.
- 4.** A statement by lead trial counsel that they have met face-to-face for the purpose of reaching agreement upon stipulated facts and the content of their stipulations.
- 5.** A page and line designation of deposition testimony to be offered by each party on the party’s case in chief, with any cross-designations and objections by any other party.
- 6.** A list by each party of exhibits to be offered in the party’s 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.
- 7.** A statement of the damages claimed and any relief sought, including the manner and method used to calculate the claimed damages and a breakdown of its elements.

5. Final Pretrial Submissions (Non-Jury). In non-jury trials, the direct testimony of each witness under the control of a party (i.e. excluding adverse witnesses and witnesses whose appearance must be compelled by subpoena) shall be presented in the form of an affidavit or declaration setting forth the narrative in numbered paragraphs. At trial, each witness whose direct testimony previously has been submitted in affidavit or declaration form shall take the stand and under oath shall reaffirm that the affidavit or declaration is true and correct. The party offering that witness then shall offer the affidavit or declaration as an exhibit, subject to appropriate objections by the opposing party, on which the court will then rule. For good cause shown, the witness then may be allowed to supplement his or her statement by additional direct testimony. Thereafter, cross-examination and any redirect shall proceed in the ordinary course. Before the close of all discovery, counsel shall meet and confer and propose to the Court a schedule on the exchange and submission of affidavits or declarations, as well as the submission of courtesy copies to the Court. The parties shall confer on a schedule and submit the same to the Court.