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**Guide to United States District and Magistrate
Judges in the Southern and Eastern Districts of
New York**

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TABLE OF CONTENTS

Comment On The Individual Practices Of The Judges Of The Southern And Eastern Districts	1
Southern District Judges' Individual Practices	6
Eastern District Judges' Individual Practices.....	28
Southern District Magistrate Judges' Individual Practices.....	45
Eastern District Magistrate Judges' Individual Practices.....	54

**COMMENT ON THE
INDIVIDUAL PRACTICES OF
THE JUDGES OF THE SOUTHERN
AND EASTERN DISTRICTS**

COMMENT ON THE INDIVIDUAL PRACTICES OF THE JUDGES OF THE SOUTHERN AND EASTERN DISTRICTS

Rule 83(b) of the Federal Rules of Civil Procedure provides that with respect to “Judge’s Directives” or “Individual Practices”:

A judge may regulate practice in any manner consistent with federal law, rules adopted under 28 U.S.C. §§ 2072 and 2075, and the district’s local rules. No sanction or other disadvantage may be imposed for noncompliance with any requirement not in federal law, federal rules, or the local district rules unless the alleged violator has been furnished in the particular case with actual notice of the requirement.¹

There are currently forty-five active and senior judges and fifteen full-time magistrate judges in the Southern District and twenty-six active and senior district judges and sixteen full-time magistrate judges in the Eastern District, and all of them have their own individual rules of practice.

Consistent with the prerogatives and latitudes of federal judges, there is significant variation in the Individual Practices of the judges in the Southern and Eastern Districts. For the most part, the Individual Practices can be grouped into four categories: (a) communications with Chambers; (b) pleadings and motions; (c) pretrial procedures; and (d) civil trial practices. Charts outlining and annotating the Individual Practices of the Southern and Eastern Districts’ judges and magistrate judges as of November 2012 are attached to this Comment.

Five years since these charts were first compiled, there has been a shift toward district court judges preferring electronic communication both for correspondence to Chambers and for the format of certain submissions sent to the court prior to trial. In addition, five years ago, this comment noted that a large majority of the judges of the Southern District had nearly

¹ See FED. R. CIV. P. 83(b).

identical practices with respect to the length of memoranda of law and the content of proposed pretrial orders. While these areas remain relatively uniform, there is now increased diversity in the way individual judges handle various motions. In addition, it is worth noting that Eastern District judges' Individual Practices are substantially more uniform than those of judges in the Southern District, despite the fact that both districts adhere to the same set of Local Rules.

Because civil rules in federal court should promote “the just, speedy and inexpensive determination of every action,”² compliance with Individual Practices on procedural or substantive issues should make adherence to the requirements of the Federal Rules of Civil Procedure easier.³ Thus, the Bar could benefit from Individual Practice being consistent with the Federal Rules and the Southern and Eastern District's joint Local Rules.⁴

² See FED. R. CIV. P. 1.

³ See Camacho v. City of Yonkers, 236 F.3d at 112, 113 (2d Cir. 2000) (“[W]e respectfully request that the district courts examine court rules and individual judges' rules and consider revising those that serve as a snare for the unwary litigant.”); Fruit of the Loom, Inc. v. American Marketing Enterprise, Inc., 192 F.3d 73, 74 (2d Cir. 1999) (“We write to remind the bar that individual practice rules of a district judge must be read in conjunction with the Federal Rules of Civil Procedure and the Federal Rules and their jurisdictional filing dates supersede any seemingly contrary district court practice rule.”). Commentary associated with an amendment to Rule 83(b) in 1995 noted:

[T]he amendment to this rule disapproves imposing any sanction or other disadvantage on a person for noncompliance with such an internal directive.... There should be no adverse consequence to a party or attorney for violating special requirements relating to practice before a particular court unless the party or attorney has actual notice of those requirements. Furnishing litigants with a copy outlining the judge's practices – or attaching instructions to a notice setting a case for conference or trial – would suffice to give actual notice, as would an order in a case specifically adopting by reference a judge's standing order and indicating how copies can be obtained.

FED. R. CIV. P. 83 advisory committee's note. While litigation associated with a party being sanctioned for noncompliance with a judge's Individual Practices has not been extensive, the Second Circuit has made it clear that sanctions cannot be imposed for noncompliance with an Individual Practice unless the alleged violator previously was furnished with actual notice of the requirement. See Amnesty America v. Town of West Hartford, 288 F.3d 467, 471 (2d Cir. 2002) (“To the extent that district courts in this Circuit have held otherwise, see Murungi v. United States Dep't of Veterans Affairs, 136 F. Supp. 2d 154, 157 n.2 (W.D.N.Y. 2001), we now clarify that under FED. R. CIV. P. 83(b), actual notice or the existence of a local rule providing notice is a precondition to the imposition of a sanction for failing to comply with a citation requirement.”). Moreover, the Second Circuit has made clear that an Individual Practice cannot impose requirements not found in federal law or the Federal Rules. See Id. (“While district courts have considerable latitude in fashioning rules that will assist them in determining whether summary judgment is appropriate, they may not impose sanctions on litigants ‘for noncompliance with any requirement not in federal law, federal rules, or the local district rules unless the alleged violator has been furnished in the

Although there is no “public comment” requirement found in Rule 83(b), more uniformity among the Individual Practices of Southern and Eastern District judges and magistrate judges would be welcomed by the Bar. With respect to summary judgment motions, a Local Rule addresses the format of the Rule 56.1 statement.⁵ Some judges have Individual Practices that also address the format of the Rule 56.1 statement. As the Committee noted in 2007, one Individual Practice that could be considered as an addition to the existing Local Rule or a uniform Individual Rule is:

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.

Such a requirement would make it easier for parties, as well as the Court, to determine whether triable issues of fact are in dispute.

In addition, since the original version of this chart was compiled, several Southern District judges have added Individual Practices relating to actions that must be taken prior to filing a motion to dismiss a complaint. Many judges now require litigants to exchange communication with the goal of resolving the issue that would form the basis of the motion to dismiss without filing and deciding a formal motion. However, there are procedural and substantive variations in the requirements, and many judges still do not require any pre-motion procedure. Parties and Courts may benefit from a Local Rule or uniform Individual Practice

particular case with actual notice of the requirement.’”) (emphasis in original) (citing FED. R. CIV. P. 83(b)).

⁴ See Fruit of the Loom, 192 F.3d at 75 (“District court judges are bound by the Federal Rules of Civil Procedure and may not apply their individual practice rules in a manner that is inconsistent with the Federal Rules.”); see also Camacho, 236 F.3d at 117 (2d Cir. 2000) (dismissing defendant’s appeal, the Second Circuit stated, “We do so with the hope, however, that this result can be avoided in the future if litigants rely on the Federal Rules of Appellate Procedure and the Federal Rules of Civil Procedure when they calculate the time for taking an appeal and the district courts modify local and individual rules, so they do not lead the unwitting to believe that they have preserved a right to appeal when in fact they have not.”).

⁵ See S.D.N.Y. R. 56.1

addressing steps required prior to filing a motion to dismiss because such procedures might reduce the number of pending motions on courts' dockets while helping parties avoid lengthy motion practice.

In sum, the Individual Practices of Southern and Eastern District judges are still fairly uniform, but there is greater diversity in their preferences now than there was in 2007. The Committee hopes that the attached charts provide helpful guidance and that they may be useful in promoting further uniformity. In addition, the Committee hopes that its suggestions regarding Rule 56.1 Statements and Motions to Dismiss are helpful to both the bench and the bar.

SOUTHERN DISTRICT JUDGES' INDIVIDUAL PRACTICES

SOUTHERN DISTRICT JUDGES' INDIVIDUAL PRACTICES

Contents

1. Communications with Chambers.....	1
A. Letters	1
B. Telephone Calls to Chambers.....	1
C. Faxes.....	2
D. Requests for Adjournments or Extensions of Time	2
2. Pleadings and Motions	4
A. Courtesy Copies.....	4
B. Related Cases.....	4
C. Conferences, generally	4
D. Special Rules for Motions to Dismiss	5
E. Pre-motion Conferences	6
F. Length of Memoranda of Law.....	8
G. Oral Argument on Motions	9
H. Affidavits and Exhibits in Support of or in Opposition to Motion.....	9
I. RICO Statement.....	10
J. Failure of the Court to Schedule Argument or Decide a Motion	10
K. Applications for a Temporary Restraining Order.....	10
L. Redactions and Filing Under Seal	10
M. Default Judgments	11
3. Pretrial Procedures	11
A. Joint Pretrial Order	11
B. Filings Prior to Trial in Civil Cases.....	14
C. Discovery Disputes.....	16
D. Orders to Show Cause	16
E. Final Pretrial Conference.....	17
F. Disclosure of Experts	17
4. Civil Trial Practices.....	17
A. Electronic Cases	17
B. Jury Trials	17
C. Bench Trials.....	18
D. Witnesses	18
E. Court Reporter	18
F. Electronic Devices	19
G. Ready Trial Calendar.....	19
H. Exhibits.....	19
5. Settlements and Appeals	20
A. Confidentiality of Settlement Agreements	20
B. Bankruptcy Appeals	20

SOUTHERN DISTRICT JUDGES' INDIVIDUAL PRACTICES¹

1. Communications with Chambers

A. Letters

- i. Letters to chambers simultaneously delivered to all counsel. **(40)** (*Abrams, Baer, Batts, Berman, Briccetti, Buchwald, Castel, Cedarbaum, Cote, Crotty, Daniels, Duffy, Engelmayer, Furman, Gardephe, Griesa, Haight, Hellerstein, Jones, Karas, Keenan, Koeltl, Kram, Marrero, McKenna, McMahon, Oetken, Patterson, Pauley, Preska, Ramos, Sand, Scheindlin, Seibel, Stanton, Stein, Sullivan, Swain, Sweet, Wood*)
 - a. Letters should be sent via e-mail as a PDF attachment. **(8)** (*Abrams, Carter, Cote, Crotty, Engelmayer, Furman, Nathan, Sullivan*)
 - b. Follow with hard copy if exhibits/attachments exceed 10 pages. **(1)** (*Cote*)
- ii. Letters not to be filed via ECF. **(16)** (*Baer, Batts, Carter, Castel, Cote, Crotty, Engelmayer, Gardephe, Karas, Marrero, Oetken, Preska, Ramos, Sand, Scheindlin, Seibel*)
- iii. Letters between counsel not to be sent to Court. **(39)** (*Abrams, Baer, Batts, Berman, Briccetti, Buchwald, Carter, Cote, Crotty, Daniels, Duffy, Engelmayer, Furman, Gardephe, Griesa, Haight, Hellerstein, Jones, Kaplan, Karas, Keenan, Koeltl, Marrero, McKenna, McMahon, Nathan, Patterson, Pauley, Preska, Rakoff, Ramos, Sand, Seibel, Stanton, Stein, Sullivan, Swain, Sweet, Wood*)
- iv. Letters to court strictly forbidden. **(1)** (*Rakoff*)
 - a. ...except for scheduling matters and routine discovery disputes. **(1)** (*Forrest*)

B. Telephone Calls to Chambers

- i. Permitted. **(10)** (*Baer, Griesa, Hellerstein, Kram, McKenna, Patterson, Preska, Rakoff, Stanton, Sweet*)
- ii. Permitted only in emergency situation requiring immediate attention. **(35)** (*Abrams, Batts, Berman, Briccetti, Buchwald, Carter, Castel, Cedarbaum, Cote, Crotty, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Haight, Jones, Kaplan, Karas, Keenan, Koeltl, Marrero, McMahon, Nathan, Oetken, Pauley, Ramos, Sand, Scheindlin, Seibel, Stein, Sullivan, Swain, Wood*)

¹ This summary of the Southern District Judges' Individual Practices is current as of November 2012. The compilation set forth in this report is solely for analytical purposes and should not be relied upon as an authoritative source of the content of any Judge's Individual Practices. This summary addresses selected individual practices to highlight and compare among the Judges. It does not reference every Individual Practice of each of the Judges. It also does not compare the differences among the Judges on every subject contained in each Judge's Individual Practices. For example, this summary does not reflect every Individual Practice or differences among the Judge's Individual Practice on jury selection, conduct of bench trials or how certain types of specific motions are handled.

- iii. Not permitted. **(1)** (*Carter*)
- iv. Must have counsel for both sides on the line. **(2)** (*Berman, Rakoff*)

C. Faxes

- i. To chambers, not permitted. **(9)** (*Berman, Cedarbaum, Cote, Duffy, Griesa, Keenan, McKenna, Sand, Stanton*)
- ii. To chambers, permitted only if copies sent to all counsel. **(20)** (*Baer, Briccetti, Buchwald, Castel, Crotty, Daniels, Gardephe, Jones, Koeltl, Marrero, McMahon, Oetken, Patterson, Preska, Ramos, Seibel, Stein, Swain, Sweet, Wood*)
 - a. ... and are encouraged. **(3)** (*Briccetti, McMahon, Ramos*)
 - b. ... and should not also be mailed or delivered to chambers. **(12)** (*Briccetti, Buchwald, Castel, Crotty, Gardephe, McMahon, Oetken, Patterson, Preska, Ramos, Seibel, Swain*)
- iii. To chambers, permitted only if authorized by Court. **(12)** (*Abrams, Batts, Carter, Engelmayer, Forrest, Furman, Haight, Kaplan, Kram, Nathan, Pauley, Sullivan*)
- iv. To chambers, permitted only for urgent matters. **(3)** (*Hellerstein, Karas, Sullivan*)

Fax limit, without prior authorization

- i. Three pages. **(2)** (*Preska, Scheindlin*)
- ii. Five pages. **(10)** (*Briccetti, Castel, Daniels, Hellerstein, Marrero, Patterson, Ramos, Seibel, Stein, Swain*)
- iii. Ten pages. **(6)** (*Baer, Buchwald, Crotty, Gardephe, Oetken, Sweet*)
- iv. Twenty pages. **(2)** (*Koeltl, Wood*)
- v. Fifty pages. **(1)** (*McMahon*)

D. Requests for Adjournments or Extensions of Time

- i. Must be made at least 48 hours prior to scheduled appearance. **(42)** (*Abrams, Baer, Berman, Briccetti, Buchwald, Carter, Castel, Cedarbaum, Cote, Crotty, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Griesa, Haight, Hellerstein, Jones, Kaplan, Keenan, Koeltl, Kram, Marrero, McKenna, McMahon, Nathan, Oetken, Patterson, Pauley, Preska, Ramos, Sand, Scheindlin, Seibel, Stanton, Stein, Sullivan, Swain, Sweet, Wood*)
 - a. ... 5 days prior. **(1)** (*Karas*)
 - b. ... and are not favored. **(2)** (*Carter, McMahon*)

- c. ... prior to making request, counsel must call deputy Clerk to request alternate date, then call all other parties to determine new date. Request for adjournment must state new date that is being requested. **(2)** (*Forrest, Gardephe*)

Must state:

- ii. The original date. **(39)** (*Abrams, Batts, Berman, Briccetti, Buchwald, Carter, Castel, Cote, Crotty, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Griesa, Haight, Hellerstein, Jones, Karas, Keenan, Koeltl, Kram, McKenna, McMahon, Nathan, Oetken, Patterson, Pauley, Preska, Ramos, Sand, Seibel, Stanton, Stein, Sullivan, Swain, Sweet, Wood*)
- iii. The number of previous requests for adjournment or extension. **(42)** (*Abrams, Batts, Berman, Briccetti, Buchwald, Carter, Castel, Cote, Crotty, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Griesa, Haight, Hellerstein, Jones, Kaplan, Karas, Keenan, Koeltl, Kram, Marrero, McKenna, McMahon, Nathan, Oetken, Patterson, Pauley, Preska, Ramos, Sand, Scheindlin, Seibel, Stanton, Stein, Sullivan, Swain, Sweet, Wood*)
- iv. Whether prior requests were granted or denied. **(42)** (*Abrams, Batts, Berman, Briccetti, Buchwald, Carter, Castel, Cote, Crotty, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Griesa, Haight, Hellerstein, Jones, Kaplan, Karas, Keenan, Koeltl, Kram, Marrero, McKenna, McMahon, Nathan, Oetken, Patterson, Pauley, Preska, Ramos, Sand, Scheindlin, Seibel, Stanton, Stein, Sullivan, Swain, Sweet, Wood*)
- v. Whether the adversary consents, and if not, reason for refusal. **(43)** (*Abrams, Baer, Batts, Berman, Briccetti, Buchwald, Carter, Castel, Cedarbaum, Cote, Crotty, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Griesa, Haight, Hellerstein, Jones, Kaplan, Karas, Keenan, Koeltl, Marrero, McKenna, McMahon, Nathan, Oetken, Patterson, Pauley, Preska, Ramos, Sand, Scheindlin, Seibel, Stanton, Stein, Sullivan, Swain, Sweet, Wood*)
 - a. If adversary consents, counsel must jointly offer three alternative conference dates. **(2)** (*Crotty, Nathan*)
- vi. The reason for the request. **(4)** (*Briccetti, Gardephe, Ramos, Seibel*)
- vii. Proposed revised scheduling order reflecting requested adjournment/extension. **(36)** (*Berman, Briccetti, Buchwald, Castel, Cote, Crotty, Daniels, Duffy, Engelmayer, Forrest, Gardephe, Griesa, Haight, Jones, Karas, Keenan, Koeltl, Kram, Marrero, McKenna, McMahon, Nathan, Oetken, Patterson, Pauley, Preska, Ramos, Sand, Scheindlin, Seibel, Stanton, Stein, Sullivan, Swain, Sweet, Wood*)

2. Pleadings and Motions

A. Courtesy Copies

- i. Courtesy copies of pleadings must be sent to chambers at the same time they are filed. **(35)** (*Baer, Batts, Berman, Briccetti, Buchwald, Carter, Castel, Cedarbaum, Crotty, Daniels, Duffy, Griesa, Haight, Hellerstein, Jones, Karas, Keenan, Koeltl, Marrero, McKenna, McMahon, Patterson, Pauley, Preska, Rakoff, Ramos, Sand, Scheindlin, Seibel, Stanton, Stein, Sullivan, Swain, Sweet, Wood*)
 - a. ... two courtesy copies. **(11)** (*Abrams, Batts, Cote, Crotty, Engelmayer, Forrest, Jones, Kaplan, Marrero, Nathan, Oetken*)
 - b. All courtesy copies should be 3-hole punched, tabbed, and placed in binders **(1)** (*Nathan*)
- ii. Courtesy copies of motions must be sent to chambers at the same time they are filed. **(31)** (*Batts, Berman, Briccetti, Buchwald, Carter, Castel, Cedarbaum, Crotty, Daniels, Duffy, Griesa, Haight, Hellerstein, Karas, Keenan, Marrero, McKenna, McMahon, Patterson, Pauley, Preska, Rakoff, Ramos, Sand, Scheindlin, Seibel, Stanton, Sullivan, Swain, Sweet, Wood*)
 - a. At the time reply is due (not when the motion is originally filed) **(9)** (*Abrams, Baer, Cote, Forrest, Furman, Gardephe, Jones, Koeltl, Stein*)
- iii. One courtesy copy of the joint pretrial order and all documents filed or served with the pre-trial order should be submitted to chambers on the date of filing or service. **(3)** (*Carter, Gardephe, Oetken*)
 - a. ... Two courtesy copies of the joint pretrial order. **(5)** (*Abrams, Engelmayer, Forrest, Furman, Sullivan*)
- iv. All courtesy copies require a table of contents. **(1)** (*Hellerstein*)

B. Related Cases

- i. 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.*, 11 Civ. 1234 [rel. 10 Civ. 4321]) **(6)** (*Abrams, Carter, Forrest, Furman, Nathan, Sullivan*)

C. Conferences, generally

- i. The attorney who will serve as principal trial counsel must appear at all conferences with the Court. **(12)** (*Abrams, Carter, Cote, Engelmayer, Forrest, Furman, Hellerstein, Kaplan, Karas, Nathan, Pauley, Sullivan*)

- ii. The Court will schedule a Fed. R. Civ. P. 16(c) initial conference two months after the filing of a complaint. At least three business days before the conference date, the parties must submit to Chambers: (1) a proposed Civil Case Management Plan and Scheduling Order; and (2) the appropriate number of courtesy copies of the pleadings (See Section 2.A above). **(6)** (*Carter, Engelmayer, Forrest, Furman, Gardephe, Scheindlin*)
 - a. ...within three months. **(6)** (*Abrams, Cote, Nathan, Oetken, Pauley, Sullivan*)
 - b. ...within four months. **(1)** (*Karas*)
 - c. ... 45 days/6 weeks. **(2)** (*Marrero, Rakoff*)
 - d. In any case involving allegations of personal injury (physical, psychological, emotional or otherwise) the plaintiff is to provide defendant with all necessary medical authorizations prior to the initial pretrial conference. **(2)** (*Carter, Gardephe*)
 - e. If subject matter jurisdiction is based on diversity of citizenship, the party asserting such jurisdiction shall, prior to the Initial Pretrial Conference, submit a letter no longer than two pages explaining the basis for such jurisdiction. If any party is a corporation, the letter shall state both the place of incorporation and the principal place of business. If any party is a partnership, limited partnership, limited liability company, or trust, the letter shall state the citizenship of each of the entity's members, shareholders, partners, and/or trustees. **(5)** (*Cote, Engelmayer, Forrest, Nathan, Oetken*)

D. Special Rules for Motions to Dismiss

- i. If a motion to dismiss is filed, the plaintiff may amend its pleading within twenty-one days. If it elects not to amend its pleading, no further opportunity to amend will be granted. If the plaintiff amends its pleading, the defendant must, within twenty-one days of such amendment: (1) file an answer; (2) file a new motion to dismiss; or (3) submit a letter to the Court, copying the plaintiff, stating that it relies on the previously filed motion to dismiss. **(2)** (*Engelmayer, Furman*)
- ii. If a motion to dismiss is filed, the non-moving party must notify the Court and its adversary within ten days whether it intends to file an amended pleading and when it will do so or that it will rely on the pleading being attacked. If it elects not to amend its pleading, no further opportunity to amend will be granted. **(3)** (*Baer, Briccetti, Nathan*)
- iii. Prior to filing a motion to dismiss, the defendant must send plaintiff a letter not exceeding three single-spaced pages with reasons or authorities for dismissal. Plaintiff must respond within seven calendar days indicating the amendments, if any, to be made to the complaint to address the identified deficiencies, or the reasons and controlling authority that support the pleadings as filed. The parties should not submit

copies of these letters to the Court, but a moving defendant must attest in its motion that it complied with this Rule. **(3)** (*Furman, Marrero, Schendlin*)

- iv. During a pre-motion conference to discuss a motion to dismiss, the non-moving party must advise the Court and its adversary whether it intends to file an amended pleading based on the pre-motion conference letter, and if so, when it will do so. If the party amends, the opposing party may then: (a) file an answer or (b) submit a letter stating that it still intends to file a motion to dismiss. **(1)** (*Carter*)
- v. Motions to Dismiss will be decided with prejudice where opposing party had opportunity to amend after receiving the moving party's pre-motion letter to request a pre-motion conference. **(1)** (*Berman*)

E. Pre-motion Conferences

Required?

- i. For discovery motions, follow Local Civil Rule 37.2. **(31)** (*Abrams, Batts, Briccetti, Buchwald, Carter, Castel, Cedarbaum, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Griesa, Haight, Jones, Karas, Keenan, Koeltl, McKenna, Nathan, Oetken, Pauley, Preska, Ramos, Sand, Seibel, Stanton, Sullivan, Swain, Wood*)
 - a. ... with specified modifications **(1)** (*Cote*)
- ii. Pre-motion conferences not required for non-discovery motions. **(15)** (*Abrams, Baer, Cote, Daniels, Duffy, Forrest, Furman, Griesa, Haight, McKenna, McMahon, Nathan, Sand, Stein, Swain*)
 - a. ... and are not required for discovery motions either. **(6)** (*Hellerstein, Owen, Jones, Kaplan, Stein, Sweet*)
- iii. Telephonic conferences are encouraged to resolve matters *in lieu of actual motions*. **(1)** (*Rakoff*)
- iv. Conferences only required for...
 - a. summary judgment. **(5)** (*Briccetti, Engelmayer, Gardephe, Koeltl, Oetken*)
 - b. motions to amend. **(2)** (*Gardephe, Koeltl*)
 - c. motions for sanctions. **(1)** (*Gardephe*)
 - d. motions to transfer venue. **(1)** (*Gardephe*)
 - e. FRCP 12 motions. **(2)** (*Gardephe, Koeltl*)
 - f. FRCP 42 motions. **(1)** (*Gardephe*)

- v. Pre-motion conferences required before any motion. **(18)** (*Batts, Berman, Buchwald, Carter, Castel, Crotty, Karas, Keenan, Krum, Marrero, Pauley, Preska, Ramos, Scheindlin, Seibel, Stanton, Sullivan, Wood*)

except motions...

- a. required by FRCP or FRAP to be made by a certain time, or any motions described in FRAP 4(a) (4)(A). **(14)** (*Batts, Berman, Buchwald, Carter, Castel, Duffy, Karas, Keenan, Marrero, Pauley, Preska, Stanton, Sullivan, Wood*)
- b. to dismiss in lieu of an Answer. **(7)** (*Batts, Keenan, Marrero, Preska, Scheindlin, Stanton, Wood*)
- c. preliminary injunctive relief. **(8)** (*Batts, Carter, Preska, Ramos, Scheindlin, Seibel, Stanton, Wood*)
- d. for remand. **(8)** (*Batts, Carter, Marrero, Pauley, Preska, Scheindlin, Sullivan, Wood*)
- e. for pro hac vice admissions. **(16)** (*Batts, Berman, Carter, Castel, Crotty, Karas, Kram, Marrero, Pauley, Preska, Ramos, Scheindlin, Seibel, Stanton, Sullivan, Wood*)
- f. for default judgment. **(5)** (*Batts, Carter, Castel, Crotty, Marrero*)
- g. for relief from judgment/new trial. **(3)** (*Batts, Carter, Scheindlin*)
- h. for re-argument or reconsideration. **(15)** (*Buchwald, Carter, Castel, Crotty, Karas, Keenan, Marrero, Pauley, Preska, Ramos, Scheindlin, Seibel, Stanton, Sullivan, Wood*)
- i. by incarcerated pro se litigants. **(11)** (*Buchwald, Carter, Castel, Karas, Marrero, Pauley, Preska, Ramos, Seibel, Sullivan, Wood*)
 - 1) ... by any pro se litigant. **(2)** (*Crotty, Scheindlin*)
- j. for orders to show cause. **(10)** (*Buchwald, Carter, Castel, Crotty, Karas, Kram, Marrero, Pauley, Preska, Sullivan*)
- k. in cases involving a person in custody. **(4)** (*Kram, Scheindlin, Stanton, Wood*)
- l. for reduction of sentences. **(5)** (*Carter, Preska, Scheindlin, Stanton, Wood*)
- m. for cross-motions. **(1)** (*Keenan*)
- n. to affirm or vacate an arbitration award. **(4)** (*Batts, Marrero, Preska, Stanton*)
- o. to compel arbitration. **(3)** (*Preska, Scheindlin, Wood*)

- p. objections to Magistrate Judge’s ruling **(5)** (*Carter, Marrero, Preska, Stanton, Wood*)
- q. for attorney’s fees or sanctions. **(6)** (*Carter, Marrero, Pauley, Preska, Scheindlin, Wood*)
- r. for temporary restraining orders. **(6)** (*Preska, Ramos, Scheindlin, Seibel, Stanton, Wood*)
- s. pursuant to Section 21(D)(a)(3)(A)(i) of the Securities Exchange Act of 1934 to consolidate and for appointment of lead counsel. **(2)** (*Castel, Preska*)
- t. for *in forma pauperis* motions. **(2)** (*Carter, Scheindlin*)
- u. for a more definite statement. **(1)** (*Scheindlin*)
- v. for Rule 11 sanctions. **(1)** (*Scheindlin*)
- w. for leave to amend a complaint. **(1)** (*Scheindlin*)
- vi. Length of letter to arrange conference?
 - a. 1 page. **(1)** (*Baer*)
 - b. No more than two pages. **(3)** (*Batts, Cote, Marrero*)
 - c. No more than three pages. **(19)** (*Abrams, Berman, Briccetti, Buchwald, Carter, Castel, Crotty, Engelmayer, Karas, Keenan, Oetken, Pauley, Preska, Ramos, Scheindlin, Seibel, Stanton, Sullivan, Wood*)
 - d. No more than five pages. **(2)** (*Castel, Gardephe*)

F. Length of Memoranda of Law

- i. Support of and in opposition to: 25 pages. **(38)** (*Abrams, Baer, Batts, Berman, Briccetti, Buchwald, Carter, Castel, Cote, Crotty, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Griesa, Haight, Jones, Karas, Keenan, Koeltl, Marrero, McKenna, McMahon, Oetken, Patterson, Pauley, Rakoff, Ramos, Sand, Scheindlin, Seibel, Stein, Sullivan, Swain, Sweet, Wood*)
 - a. ... 35 pages. **(2)** (*Kaplan, Kram*)
 - b. ...20 pages. **(1)** (*Preska*)
- ii. Reply: 10 pages. **(40)** (*Abrams, Baer, Batts, Berman, Briccetti, Buchwald, Carter, Castel, Cote, Crotty, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Griesa, Haight, Jones, Kaplan, Karas, Keenan, Koeltl, Marrero, McKenna, McMahon, Oetken, Patterson, Pauley, Preska, Rakoff, Ramos, Sand, Scheindlin, Seibel, Stein, Sullivan, Swain, Sweet, Wood*)

- a. ... 15 pages. **(1)** (*Kram*)
 - iii. Memoranda of 10 pages or more must contain a table of contents. **(37)** (*Baer, Batts, Berman, Briccetti, Buchwald, Carter, Castel, Cote, Crotty, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Griesa, Haight, Kaplan, Karas, Keenan, Koeltl, Kram, Marrero, McKenna, Oetken, Patterson, Pauley, Preska, Ramos, Sand, Scheindlin, Seibel, Stein, Sullivan, Swain, Sweet, Wood*)
 - a. ... all memoranda must contain a table of contents. **(2)** (*McMahon, Robinson*)
 - iv. No page limits. **(1)** (*Hellerstein*)
- G. Oral Argument on Motions
- i. Is held on all motions. **(5)** (*Cedarbaum, Hellerstein, Owens, Sand, Sweet*)
- except...**
- a. for motions on reargument. **(4)** (*Cedarbaum, Owens, Sand, Sweet*)
 - b. for pro se matters. **(4)** (*Cedarbaum, Owens, Sand, Sweet*)
 - c. for appeals from Magistrate Judges' rulings. **(1)** (*Owen*)
 - ii. Must be requested by letter, and the court will determine whether argument will be heard, and if so, advise counsel of the time. **(33)** (*Abrams, Baer, Batts, Briccetti, Buchwald, Castel, Cote, Crotty, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Griesa, Haight, Karas, Keenan, Koeltl, McKenna, McMahon, Nathan, Oetken, Patterson, Pauley, Preska, Ramos, Scheindlin, Seibel, Stanton, Stein, Swain, Wood*)
 - iii. Is held where the parties are represented by counsel and oral argument would assist the Court. **(2)** (*Carter, Sullivan*)
 - iv. The Court will advise parties regarding oral argument. **(3)** (*Jones, Kaplan, Pauley*)
 - v. Is heard only in unusual circumstances, or rarely. **(5)** (*Berman, Carter, Kram, Marrero, McMahon*)
- H. Affidavits and Exhibits in Support of or in Opposition to Motion
- i. Parties are limited to five affidavits in support of or in opposition to a motion. Each affidavit may not exceed ten double-spaced pages. **(2)** (*Scheindlin, Sullivan*)
 - ii. Parties are limited to a total of fifteen exhibits, including exhibits attached to an affidavit, in support of any motion. Each exhibit is limited to fifteen pages. **(2)** (*Scheindlin, Sullivan*)
 - iii. Affidavits and Exhibits must be tabbed and bound. **(1)** (*Hellerstein*)

I. RICO Statement

- i. Claims asserting violations of 18 U.S.C. § 1962 must be accompanied by a “RICO Statement.” **(4)** (*Batts, McMahon, Scheindlin, Wood*)

J. Failure of the Court to Schedule Argument or Decide a Motion

- i. If a motion is not decided within 60 days of after it is fully briefed, counsel for the movant shall send a letter to alert the Court. **(7)** (*Cote, Engelmayer, Furman, Gardephe, Nathan, Scheindlin, Wood*)
 - a. ... 120 days. **(1)** (*Crotty*)
- ii. If it has not been decided within 90 days, the parties *may* send a letter to the Court to inquire about the status of the motion. **(1)** (*Pauley*)
 - a. ...60 days **(1)** (*Stanton*)

K. Applications for a Temporary Restraining Order

- i. A party must confer with its adversary before making an application for a TRO unless the requirements of Fed. R. Civ. P. 65(b) are met. A party seeking a TRO must call Chambers and state clearly whether (1) it has notified their adversary, and whether the adversary consents to temporary injunctive relief; or (2) 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 both sides. **(2)** (*Engelmayer, Nathan*)

L. Redactions and Filing Under Seal

- i. To file a redacted form of any pleading, motion, memorandum, exhibit, or other document, or any portion thereof, the party must make a specific request to the Court by letter explaining the reasons for seeking to file that submission under seal. The party must attach to its letter one full set of the relevant document(s) in highlighted form (*i.e.*, with the words, phrases, or paragraphs to be redacted highlighted). **(5)** (*Abrams, Carter, Cote, Engelmayer, Oetken*)
 - a. ...and one partial, loose leaf set of solely those pages on which the party seeks to redact material. **(5)** (*Abrams, Carter, Cote, Engelmayer, Oetken*)
- ii. Any redactions or filings under seal should be made pursuant to a protective order “So Ordered” by the Court. **(1)** (*Forrest*)
- iii. Requests for sealing must be by letter and supported by applicable case law and an attorney declaration setting forth particularized allegations justifying such relief. See *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006). The requesting party should indicate whether all parties have consented to the request. Any

party opposing the request should do so by letter brief submitted within 2 business days after the request was made. **(2)** (*Gardephe, Nathan*)

- iv. No filing under seal without prior authorization from Court. **(2)** (*Berman, Pauley*)
- v. A party seeking to file something under seal must make a motion. **(1)** (*Hellerstein*)
- vi. Filing under seal is an exceptional procedure and party seeking such relief should be ready to demonstrate serious injury from disclosure. **(1)** (*Baer*)

M. Default Judgments

- i. Follows a set of specific procedures, included in their individual rules. **(21)** (*Abrams, Baer, Briccetti, Carter, Cote, Crotty, Engelmayer, Forrest, Furman, Gardephe, Karas, Kram, Marrero, McMahon, Oetken, Pauley, Ramos, Scheindlin, Seibel, Stein, Sullivan*)

3. Pretrial Procedures

A. Joint Pretrial Order

- i. Not required unless directed by court. **(3)** (*Griesa, Owen, Robinson*)
- ii. Must be preceded by letters between counsel to determine findings of fact agreed upon by both sides. **(1)** (*Stanton*)

Must be filed...

- i. 20 days following completion of discovery in a civil case. **(1)** (*Forrest*)
- ii. 30 days following discovery. **(24)** (*Briccetti, Buchwald, Carter, Castel, Cote, Daniels, Duffy, Engelmayer, Furman, Gardephe, Jones, Karas, McKenna, Oetken, Patterson, Pauley, Preska, Ramos, Sand, Seibel, Stein, Sullivan, Sweet, Wood*)
- iii. 40 days following discovery. **(1)** (*Nathan*)
- iv. 30 days before trial. **(1)** (*Marrero*)
- v. At least one week prior to trial. **(1)** (*Rakoff*)
- vi. Three days prior to pre-trial conference. **(1)** (*Hellerstein*)

Must Contain...

- i. Only the information required by FRCP 26(a)(3). **(1)** (*Buchwald*)
- ii. The full caption of action. **(31)** (*Abrams, Baer, Berman, Briccetti, Carter, Cote, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Hellerstein, Jones, Karas,*

Koeltl, Marrero, McKenna, Nathan, Oetken, Patterson, Pauley, Preska, Ramos, Sand, Scheindlin, Seibel, Stein, Sullivan, Sweet, Wood)

- iii. The names, addresses (including firm names), and telephone and fax numbers of trial counsel. **(34)** *(Abrams, Baer, Berman, Briccetti, Carter, Carter, Castel, Cote, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Hellerstein, Jones, Karas, Koeltl, Marrero, McKenna, Nathan, Oetken, Patterson, Pauley, Preska, Ramos, Sand, Scheindlin, Seibel, Stanton, Stein, Sullivan, Sweet, Wood)*
- iv. Brief, non-adversarial statement of the basic nature of the case. **(5)** *(Batts, Carter, Crotty, Kaplan, McMahon)*
- v. A brief statement by plaintiff as to the basis of subject matter jurisdiction and by each other party as to its presence or absence. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount. **(31)** *(Abrams, Batts, Berman, Briccetti, Carter, Carter, Cote, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Hellerstein, Jones, Karas, Koeltl, McKenna, Nathan, Oetken, Patterson, Pauley, Preska, Ramos, Sand, Scheindlin, Seibel, Stein, Sullivan, Sweet, Wood)*
- vi. A brief summary by each party of the claims and defenses the party has asserted which remain to be tried, identifying claims and defenses previously asserted which are not to be tried. **(34)** *(Abrams, Baer, Berman, Briccetti, Carter, Carter, Castel, Cote, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Hellerstein, Jones, Karas, Koeltl, Marrero, McKenna, Nathan, Oetken, Patterson, Pauley, Preska, Rakoff, Ramos, Sand, Scheindlin, Seibel, Stein, Sullivan, Sweet, Wood)*
- vii. A statement by each party as to whether the case is to be tried with or without a jury. **(35)** *(Abrams, Batts, Berman, Briccetti, Castel, Cote, Crotty, Daniels, Duffy, Engelmayer, Forrest, Furman, Carter, Gardephe, Hellerstein, Jones, Kaplan, Karas, Koeltl, Marrero, McKenna, McMahon, Nathan, Oetken, Patterson, Pauley, Preska, Ramos, Sand, Scheindlin, Seibel, Stanton, Stein, Sullivan, Sweet, Wood)*
- viii. An estimate of the number of trial days needed. **(39)** *(Abrams, Batts, Berman, Briccetti, Carter, Carter, Castel, Cedarbaum, Cote, Crotty, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Hellerstein, Jones, Kaplan, Karas, Koeltl, Marrero, McKenna, McMahon, Nathan, Oetken, Patterson, Pauley, Preska, Rakoff, Ramos, Sand, Scheindlin, Seibel, Stanton, Stein, Sullivan, Sweet, Wood)*
- ix. A statement as to whether parties have consented to trial by a magistrate judge, without identifying which parties have or have not so consented. **(29)** *(Abrams, Berman, Briccetti, Carter, Cote, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Hellerstein, Jones, Karas, Koeltl, Marrero, McKenna, Nathan, Oetken, Patterson, Pauley, Preska, Ramos, Sand, Seibel, Stein, Sullivan, Sweet, Wood)*
- x. Any stipulations or agreed statements of fact or law which have been agreed to by all parties. **(40)** *(Abrams, Baer, Batts, Berman, Briccetti, Carter, Carter, Castel, Cedarbaum, Cote, Crotty, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe,*

Hellerstein, Jones, Kaplan, Karas, Koeltl, Marrero, McKenna, McMahon, Nathan, Oetken, Patterson, Pauley, Preska, Rakoff, Ramos, Sand, Scheindlin, Seibel, Stanton, Stein, Sullivan, Sweet, Wood))

- xi. A statement by each party as to witnesses whose testimony is to be offered in its case-in-chief, indicating whether such witnesses will testify in person or by deposition. **(31)** *(Abrams, Baer, Berman, Carter, Cote, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Hellerstein, Jones, Karas, Koeltl, Marrero, McKenna, McMahon, Nathan, Oetken, Patterson, Pauley, Preska, Ramos, Sand, Scheindlin, Seibel, Stein, Sullivan, Sweet, Wood)*
 - a. List of witnesses. **(6)** *(Batts, Briccetti, Cedarbaum, Crotty, Kaplan, Rakoff)*
 - b. Each witness's role/subject of testimony and whether any party objects of the witness. **(9)** *(Abrams, Batts, Briccetti, Carter, Cote, Engelmayer, Furman, Ramos, Seibel)*
- xii. A designation by each party of deposition testimony to be offered with cross-designations and objections by any other party. **(30)** *(Abrams, Baer, Briccetti, Carter, Carter, Castel, Cote, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Hellerstein, Jones, Karas, Koeltl, Marrero, McKenna, Nathan, Oetken, Patterson, Pauley, Preska, Ramos, Sand, Seibel, Stein, Sullivan, Sweet, Wood)*
- xiii. A list of exhibits to be offered. **(39)** *(Abrams, Baer, Berman, Briccetti, Carter, Carter, Castel, Cedarbaum, Cote, Crotty, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Hellerstein, Jones, Kaplan, Karas, Koeltl, Marrero, McKenna, McMahon, Nathan, Oetken, Patterson, Pauley, Preska, Rakoff, Ramos, Sand, Scheindlin, Seibel, Stanton, Stein, Sullivan, Sweet, Wood)*
 - a. ... with one star (or similar indication) for no authenticity objection, two stars for no objections at all. **(22)** *(Bricetti, Castel, Cote, Daniels, Duffy, Engelmayer, Forrest, Furman, Hellerstein, Jones, Karas, Koeltl, McKenna, Oetken, Patterson, Preska, Ramos, Sand, Seibel, Sullivan, Sweet, Wood)*
 - b. ... with one star if there are objections, no stars if there are no objections. **(2)** *(Marrero, Stein)*
- xiv. Copies of each documentary exhibit **(2)** *(Furman, Nathan)*
 - a. ... 2 copies **(1)** *(Forrest)*
 - b. ... Submit a full set of only those exhibits to which there are objections **(1)** *(Batts)*
- xv. Plaintiff's and Defendant's assertions of disputed facts. **(7)** *(Batts, Cedarbaum, Crotty, Kaplan, McMahon, Rakoff, Stanton)*

- xvi. Plaintiff's and Defendant's assertions of disputed law, with citations to a case or statute. **(8)** (*Batts, Carter, Cedarbaum, Crotty, McKenna, McMahon, Rakoff, Scheindlin*)
- xvii. Brief listing of issues of fact to be decided by the Court. **(3)** (*Carter, McMahon, Rakoff*)
- xviii. Experts to be called at trial. **(5)** (*Batts, Pauley, Rakoff, Scheindlin, Stanton*)
- xix. Statement of disagreement as to the application of the FRCP or FRE. **(1)** (*Carter*)
- xx. List of all motions and other matters that require attention from the Court. **(1)** (*Carter*)
- xxi. Statement of damage claims/relief sought. **(13)** (*Abrams, Batts, Berman, Briccetti, Carter, Castel, Crotty, Furman, Kaplan, McMahon, Nathan, Oetken, Rakoff*)
 - a. ...with itemized calculation of damages. **(7)** (*Abrams, Carter, Castel, Furman, Gardephe, Nathan, Ramos*)
- xxii. Statement whether the parties consent to a less than unanimous verdict. **(9)** (*Abrams, Briccetti, Carter, Furman, Karas, Nathan, Ramos, Sand, Sullivan*)

B. Filings Prior to Trial in Civil Cases

Must be filed...

- i. At least one week before trial **(1)** (*Connor*)
- ii. 10 days before trial **(3)** (*Baer, Kram, Robinson*)
- iii. 15 days before trial if date fixed, or 30 days after filing of any pretrial order if no trial date **(15)** (*Briccetti, Buchwald, Daniels, Duffy, Griesa, Jones, McKenna, Patterson, Pauley, Preska, Ramos, Sand, Seibel, Stein, Sweet*)
- iv. At same time the parties file the joint pretrial order **(11)** (*Berman, Castel, Cote, Furman, Gardephe, Karas, Marrero, McMahon, Stanton, Sullivan, Wood*)
- v. 21 days before trial **(1)** (*Carter*)
- vi. Varying dates depending on item **(1)**

Must Contain...

- i. In jury cases, requests to charge and proposed voir dire questions. **(39)** (*Baer, Batts, Berman, Briccetti, Buchwald, Carter, Castel, Cote, Crotty, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Griesa, Hellerstein, Jones, Karas, Koeltl, Kram, Marrero, McKenna, McMahon, Nathan, Oetken, Patterson, Pauley, Preska, Rakoff, Ramos, Sand, Scheindlin, Seibel, Stanton, Stein, Sullivan, Sweet, Wood*)

- a. ... also submit electronically **(11)** (*Buchwald, Hellerstein, Jones, Koeltl, Marrero, McMahon, Patterson, Preska, Stein, Sullivan, Sweet*)
- ii. In jury cases, proposed instructions and verdict sheets. **(12)** (*Briccetti, Carter, Castel, Furman, Gardephe, Karas, Marrero, Oetken, Pauley, Scheindlin, Seibel, Sullivan*)
 - a. ... also submit electronically. **(6)** (*Briccetti, Carter, Castel, Marrero, Ramos, Seibel*)
 - b. Each instruction must contain citation to authority. **(4)** (*Briccetti, Carter, Ramos, Seibel*)
 - c. Joint jury instructions and verdict sheets. **(5)** (*Berman, Castel, Marrero, Pauley, Scheindlin*)
- iii. In non-jury cases, a statement of the elements of each claim or defense involving such party, together with a summary of facts required to establish each element. **(18)** (*Baer, Berman, Bricetti, Buchwald, Daniels, Duffy, Griesa, Jones, McKenna, McMahon, Patterson, Pauley, Preska, Sand, Seibel, Stein, Sweet, Wood*)
- iv. In non-jury cases, proposed findings of fact and conclusions of law. **(22)** (*Abrams, Batts, Briccetti, Carter, Castel, Cedarbaum, Cote, Crotty, Engelmayer, Forrest, Furman, Gardephe, Hellerstein, Karas, Koeltl, Marrero, Nathan, Oetken, Sand, Scheindlin, Seibel, Sullivan*)
- v. In all cases, motions addressing issues which should be resolved *in limine*. **(33)** (*Abrams, Baer, Berman, Bricetti, Buchwald, Carter, Castel, Cote, Daniels, Duffy, Engelmayer, Forrest, Furman, Gardephe, Griesa, Jones, Karas, Koeltl, Marrero, McKenna, Nathan, Oetken, Patterson, Pauley, Preska, Rakoff, Ramos, Sand, Seibel, Stein, Sullivan, Sweet, Wood*)
- vi. In any case where a party believes it would be useful, a pretrial memorandum. **(30)** (*Abrams, Baer, Berman, Bricetti, Buchwald, Carter, Cote, Daniels, Duffy, Engelmayer, Forrest, Furman, Griesa, Jones, Karas, Koeltl, Kram, McKenna, Nathan, Oetken, Patterson, Pauley, Preska, Ramos, Sand, Seibel, Stein, Sullivan, Sweet, Wood*)
 - a. ... pre-trial memorandum required. **(3)** (*Gardephe, Hellerstein, Marrero*)
 - 1) ... required only in non-jury case **(3)** (*Batts, Oetken, Scheindlin*)
- vii. In non-jury cases, affidavits constituting the direct testimony of each trial witness, except for testimony of an adverse party, a person whose attendance must be compelled by subpoena, or a person for whom a party has requested and the court has agreed to hear direct testimony during the trial, and three business days after submission of affidavits, a list of all affiants whom counsel intends to cross-examine at trial. **(4)** (*Batts, Berman, Gardephe, Nathan*)

- viii. In non-jury cases, copies of any designated deposition testimony to be offered as evidence, along with one page synopsis with page references. **(2)** (*Gardephe, Nathan*)
- ix. In non-jury cases, one set of the party's documentary exhibits. **(1)** (*Gardephe*)
 - a. ... 2 sets. **(2)** (*Batts, Patterson*)

Each party shall serve, but not file...

- i. In non-jury cases, affidavits constituting the direct testimony of each trial witness, except for testimony of an adverse party, a person whose attendance must be compelled by subpoena, or a person for whom a party has requested and the court has agreed to hear direct testimony during the trial. **(10)** (*Abrams, Briccetti, Carter, Cote, Engelmayer, Forrest, Furman, Ramos, Seibel, Sullivan*)
 - a. ...and three business days after submission of affidavits, a list of all affiants whom counsel intends to cross-examine at trial. **(10)** (*Abrams, Briccetti, Carter, Cote, Engelmayer, Forrest, Furman, Ramos, Seibel, Sullivan*)
- ii. In non-jury cases, deposition excerpts which will be offered as substantive evidence and one-page synopsis (with page references) of those excerpts for each deposition. **(2)** (*Cote, Sullivan*)
- iii. In non-jury cases, all documentary evidence. **(9)** (*Abrams, Briccetti, Carter, Cote, Engelmayer, Oetken, Ramos, Seibel, Sullivan*)

C. Discovery Disputes

If unable to reach agreement, submit letter:

- i. No longer than three pages. **(5)** (*Crotty, Engelmayer, Forrest, Nathan, Oetken*)
- ii. No longer than five pages. **(1)** (*Gardephe*)
- iii. Make motion directly to Magistrate Judge. **(1)** (*McMahon*)

The letter should...

- iv. Be jointly composed, and describe the issues in dispute, position of each party, and cite authority. **(4)** (*Gardephe, Marrero, Pauley, Sullivan*)
- v. Contain reasons why relief should be granted, with supporting authority. **(2)** (*Crotty, Marrero*)

D. Orders to Show Cause

- i. Must be accompanied by an affidavit and supporting memorandum of law. **(3)** (*Cedarbaum, Haight, Keenan*)

- ii. All proposed orders to show cause must first be brought to the Orders Clerk for approval, and then to Chambers. **(5)** (*Crotty, Kaplan, Keenan, Scheindlin, Sweet*)
- iii. Unless special cause is shown, the Court will not issue an order to show cause unless the requesting party's adversaries have been notified and afforded an opportunity to appear before the Court to oppose the request. **(2)** (*Haight, Scheindlin*)

E. Final Pretrial Conference

- i. The Court will schedule a final pretrial conference approximately two weeks before trial. In civil cases, the Court will use the occasion as an opportunity to explore the prospects of settlement. Counsel must be prepared to engage in meaningful settlement discussions. **(3)** (*Engelmayer, Gardephe, Marrero*)
- ii. The Court will schedule a final pretrial conference as close as possible to the date that the trial is scheduled to begin. **(1)** (*Hellerstein*)
- iii. Counsel must meet for at least one hour to discuss settlement in good faith at least 14 days before filing their joint pre-trial order. **(1)** (*Carter*)
- iv. In cases to be tried by jury, within two weeks of the close of fact discovery, the parties must submit a joint letter to the Court stating whether the parties consent to a settlement conference to be held before this Court or the assigned Magistrate Judge. The letter should not identify, explicitly or implicitly, any party that has declined to so consent. **(1)** (*Engelmayer*)

F. Disclosure of Experts

- i. All trial witnesses including experts must be disclosed by no later than 15 days before the close of discovery. **(1)** (*Cedarbaum*)

4. Civil Trial Practices

A. Electronic Cases

- i. All civil and criminal cases (except *pro se*) are Electronic Case Filings. **(2)** (*Crotty, Hellerstein*)
- ii. For all cases designated ECF, parties are responsible for being current in any and all matters filed electronically by this Court. **(3)** (*Batts, Crotty, Hellerstein*)
- iii. Opinions in ECF cases are sent to the parties via e-mail. **(1)** (*Cote*)
- iv. Bundling Rule: In all ECF cases, the entire motion, reply papers and responding party's opposition papers should be filed simultaneously. **(2)** (*Gardephe, Keenan*)

B. Jury Trials

- i. Jury Selection:

- a. “Struck Panel” method. **(10)** (*Abrams, Batts, Cote, Furman, Gardephe, Kaplan, Marrero, McMahon, Swain, Wood*)
 - b. “Jury box” method. **(1)** (*Rakoff*)
 - ii. Jurors are permitted to take notes. **(2)** (*Castel, Marrero*)
- C. Bench Trials
- i. All direct testimony shall be submitted by affidavits, which are to be filed with the Court one week prior to trial. **(4)** (*Batts, Kaplan, Marrero, McMahon*)
 - ii. All direct testimony, except for testimony of an adverse party, a party whose attendance must be compelled by subpoena, or a person for whom a party has requested and the court has agreed to hear direct testimony during trial, shall be submitted by affidavits, which are to be served, but not filed, at the time the joint pretrial order is filed. **(1)** (*Sullivan*)
 - iii. Counsel for each party shall submit a list of all affiants, if any, intended to be cross-examined at trial. **(2)** (*Marrero, Sullivan*)
 - a. ...at least five business days prior to trial. **(1)** (*Marrero*)
 - b. ...three business days after submission of affidavits. **(1)** (*Sullivan*)
- D. Witnesses
- i. Counsel shall have all necessary witnesses on hand to commence and continue trial without interruption or delay. **(2)** (*Batts, Gardephe*)
 - ii. Counsel shall furnish to opposing party a complete list of the names and addresses of witnesses. Expert witnesses should be designated as such and their areas of expertise indicated. **(1)** (*Connor*)
 - iii. Each side may utilize only one expert witness in any area of expertise. **(1)** (*Connor*)
 - iv. A person expected to testify as a witness should not be present in the Courtroom during the examination of evidence, but this rule is not applicable to professional persons who are engaged to provide testimony based on their specialized knowledge. **(1)** (*Crotty*)
 - v. Counsel shall submit a list of affiants whom he or she intends to cross-examine at trial. Only those witnesses who will be cross-examined need appear at trial. **(1)** (*Sullivan*)
- E. Court Reporter
- i. At the start of trial, give the Court Reporter a list of spellings of unusual names of people, places, or things. **(3)** (*Castel, Crotty, Gardephe*)

- ii. When referring to an exhibit, mention it by number or letter so the record is clear. **(3)** (*Castel, Gardephe, Wood*)

F. Electronic Devices

- i. Cell Phones/PDAs
 - a. Counsel wishing to bring a cellular phone/PDA into the courtroom throughout a trial should make an application in writing at least two days before the trial. **(1)** (*Marrero*)
 - b. Counsel may bring devices into the courtroom, but they must be turned off (in accordance with Standing Order M10-468. **(9)** (*Abrams, Carter, Cote, Crotty, Engelmayer, Forrest, Furman, Nathan, Seibel*)
- ii. Computers, printers, and other electronic devices.
 - a. Require authorization by prior court order via letter to chambers 10 days in advance of trial/hearing. **(7)** (*Abrams, Carter, Cote, Engelmayer, Furman, Nathan, Seibel*)
 - 1) ...5 days in advance **(2)** (*Forrest, Stein*)
 - b. To request, submit technology request form and letter explaining the need for the requested technology. **(1)** (*Hellerstein*)

G. Ready Trial Calendar

- i. Any time after a case has been placed on the 48 hour Ready Trial Calendar, counsel shall notify the Court and their adversaries of any potential scheduling conflicts that would prevent trial at a particular time. **(2)** (*Batts, Keenan*)
- ii. Counsel must be prepared to proceed to trial on 24 hours' telephone notice once the pre-trial order has been filed. **(2)** (*Kaplan, McMahon*)
 - a. ... 48 hours' notice. **(3)** (*Keenan, Scheindlin, Wood*)

H. Exhibits

- i. Prior to trial, counsel for each party shall in advance of trial mark each exhibit proposed to be offered in evidence or otherwise tendered by any witness during trial. **(13)** (*Carter, Castel, Crotty, Gardephe, Hellerstein, Kaplan, Marrero, McMahon, Rakoff, Scheindlin, Stanton, Swain, Wood*)
- ii. Upon marking the exhibits, counsel shall also prepare a list of such exhibits, with a descriptive notation sufficient to identify each separately numbered exhibit, and shall furnish copies of the list to opposing counsel and to the Court. **(8)** (*Carter, Castel, Crotty, Kaplan, Marrero, Scheindlin, Swain, Wood*)

- iii. Pre-marked exhibits should be assembled sequentially in a notebook and tabbed or indexed or otherwise arranged. **(4)** *(Batts, Castel, Gardephe, McMahon)*
- iv. Affidavits served when the joint pretrial order is filed shall be marked as exhibits. **(1)** *(Sullivan)*
- v. Counsel must give two copies of each exhibit to the Court. **(2)** *(Crotty, Gardephe)*
- vi. Plaintiffs should mark exhibits using numbers and defendants should use letters. **(5)** *(Batts, Crotty, Gardephe, Hellerstin, Pauley)*

5. Settlements and Appeals

A. Confidentiality of Settlement Agreements

- i. 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 either by providing a copy of the settlement agreement for the Court to endorse or including the terms of their settlement agreement in their stipulation of settlement and dismissal. **(8)** *(Abrams, Carter, Engelmayer, Forrest, Furman, Hellerstein, Nathan, Oetken, Stein)*

B. Bankruptcy Appeals

- i. Briefs must be submitted in accordance with Fed. R. Bankr. P. 8009–10. Counsel may extend the default deadlines by stipulation submitted to the Court no later than two business days before the brief is due. **(17)** *(Abrams, Briccetti, Carter, Cote, Crotty, Engelmayer, Forrest, Furman, Gardephe, Karas, Marrero, Nathan, Oetken, Ramos, Seibel, Sullivan, Wood)*

EASTERN DISTRICT JUDGES' INDIVIDUAL PRACTICES

Contents

1. Communications with Chambers	1
A. Letters	1
B. Telephone Calls	1
C. Faxes	2
D. Requests for Adjournments or Extensions of Time	2
2. Pleadings and Motions.....	3
A. Courtesy Copies	3
B. Pre-motion Conferences.....	4
C. Memoranda of Law	5
D. Oral Argument on Motions	6
3. Pretrial Procedures	7
A. Filings Prior to Trial in Civil Cases	7
B. Pretrial Order	9
C. Discovery Disputes	11
D. Default Judgments	11
E. Final Pretrial Conference	11
F. Disclosure of Experts	12
4. Civil Trial Practices	12
A. Electronic Case Filing (ECF).....	12
B. Jury Trials	13
C. Bench Trials	14
D. Witnesses	14
E. Post Trial Procedures	14
F. Exhibits	14

EASTERN DISTRICT JUDGES' INDIVIDUAL PRACTICES¹

1. Communications with Chambers

A. Letters

- i. Letters to chambers simultaneously delivered to all counsel. **(22)** (*Amon, Bianco, Block, Cogan, Dearie, Garaufis, Gershon, Glasser, Gleeson, Hurley, Irizarry, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano, Wexler*)
- ii. Letters between counsel not to be sent to Court. **(21)** (*Amon, Bianco, Block, Brodie, Cogan, Dearie, Garaufis, Gershon, Glasser, Gleeson, Hurley, Irizarry, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano*)
 - a. ...except where formally annexed to pleadings or motion papers. **(2)** (*Kuntz, Vitaliano*)
- iii. Letters between counsel shall be sent to Court **(1)** (*Ross*)
- iv. All communication with chambers should be filed on ECF. **(9)** (*Bianco, Brodie, Johnson, Kuntz, Matsumoto, Mauskopf, Seybert, Vitaliano, Wexler*)
- v. Ex parte communications and in-person requests will not be considered. **(4)** (*Johnson, Seybert, Spatt, Townes*)

B. Telephone Calls

- i. To chambers, permitted. **(10)** (*Bianco, Block, Brodie, Cogan, Dearie, Feuerstein, Gleeson, Korman, Ross, Wexler*)
 - a. ...but not about procedural questions **(3)** (*Cogan, Feuerstein, Spatt*)
 - b. ...but not for general information unrelated to docketing, scheduling or a calendar matter. **(1)** (*Vitaliano*)

¹ This summary of the Eastern District Judges' Individual Practices is current as of November 2012. The compilation set forth in this report is solely for analytical purposes and should not be relied upon as an authoritative source of the content of any Judge's Individual Practices. This summary addresses selected individual practices to highlight and compare among the District Judges. It does not reference every Individual Practice of each of the District Judges. It also does not compare the differences among the District Judges on every subject contained in each District Judge's Individual Practices. For example, this summary does not reflect every Individual Practice or differences among the District Judge's Individual Practices on jury selection, conduct of bench trials or how certain types of specific motions are handled.

- ii. To chambers, permitted only in emergency situation requiring immediate attention. **(9)** (*Amon, Garaufis, Gershon, Hurley, Irizarry, Johnson, Matsumoto, Mauskopf, , Townes*)
- iii. To chambers, permitted only when necessary to obtain information not otherwise available. **(1)** (*Glasser*)
- iv. To chambers, not permitted for any legitimate purpose. **(1)** (*Platt*)
 - a. ...except docketing and scheduling **(5)** (*Bianco, Block, Dearie Kuntz, Vitaliano*)

C. Faxes

- i. To chambers, permitted only if copies sent to all counsel. **(4)** (*Amon, Bianco, Matsumoto, Ross*)
- ii. To chambers, permitted only in emergency situations requiring immediate attention. **(6)** (*Cogan, Dearie, Garaufis, Mauskopf, Spatt, Vitaliano*)
 - a. ...and only if copies are simultaneously sent to all counsel. **(4)** (*Cogan, Gauraufis, Mauskopf, Vitaliano*)
- iii. To chambers, permitted only if authorized by Court. **(13)** (*Block, Brodie, Dearie, Gershon, Gleeson, Hurley, Irizarry, Johnson, Kuntz, Platt, Seybert, Spatt, Wexler*)
 - a. ...and permission is granted only in extraordinary circumstances or emergencies. **(3)** (*Dearie, Hurley, Spatt*)
- iv. To chambers, not permitted for any legitimate purpose. **(1)** (*Townes*)

Fax limit, without prior authorization

- i. Ten pages. **(8)** (*Amon, Bianco, Cogan, Garaufis, Irizarry, Mauskopf, Ross, Vitaliano*)
- ii. Twenty five pages. **(1)** (*Platt*)
- iii. Five pages. **(2)** (*Block, Matsumoto*)

D. Requests for Adjournments or Extensions of Time

- i. Must be made at least 48 hours prior to scheduled appearance. **(21)** (*Amon, Bianco, Block, Cogan, Dearie, Feuerstein, Garaufis, Gershon, Glasser, Gleeson, Hurley, Irizarry, Johnson, Kuntz, Matsumoto, Platt, Ross, Seybert, Townes, Vitaliano, Wexler*)

- a. Requests for extensions of time made without consent of all parties should be made at least one week before the due date. **(1)** *(Dearie)*

Must state:

- ii. The original date. **(23)** *(Amon, Bianco, Block, Brodie, Cogan, Dearie, Garaufis, Gershon, Glasser, Gleeson, Hurley, Irizarry, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano, Wexler)*
- iii. The number of previous requests for adjournment or extension. **(23)** *(Amon, Bianco, Block, Brodie, Cogan, Dearie, Garaufis, Gershon, Glasser, Gleeson, Hurley, Irizarry, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano, Wexler)*
- iv. Whether prior requests were granted or denied. **(23)** *(Amon, Bianco, Block, Brodie, Cogan, Dearie, Garaufis, Gershon, Glasser, Gleeson, Hurley, Irizarry, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano, Wexler)*
- v. Whether the adversary consents, and, if not, reason for refusal. **(22)** *(Amon, Bianco, Block, Brodie, Cogan, Dearie, Garaufis, Gershon, Glasser, Gleeson, Hurley, Irizarry, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano, Wexler)*
- vi. If the requested adjournment or extension affects any other scheduled dates, a proposed order reflecting requested adjournment/extension. **(20)** *(Amon, Bianco, Block, Brodie, Cogan, Dearie, Garaufis, Gershon, Gleeson, Hurley, Irizarry, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Townes, Vitaliano, Wexler)*
- vii. Reason for the request. **(2)** *(Irizarry, Matsumoto)*
- viii. How much additional time is needed **(1)** *(Matsumoto)*

2. Pleadings and Motions

A. Courtesy Copies

- i. Courtesy copies of pleadings and motions must be sent to chambers at the same time they are filed. **(21)** *(Amon, Bianco, Block, Cogan, Dearie, Garaufis, Gershon, Glasser, Hurley, Irizarry, Johnson, Korman, Kuntz, Matsumoto, Mauskopf, Platt, Seybert, Spatt, Townes, Vitaliano, Wexler)*
- ii. ...only if over 25 pages in length. **(2)** *(Brodie, Gleeson)*
- iii. Courtesy copies of all motion papers shall be provided by the moving party when the motion is fully briefed. **(1)** *(Glasser)*

B. Pre-motion Conferences

- i. For discovery motions, follow Local Civil Rule 37.3 and 6.4. **(17)** (*Amon, Bianco, Block, Brodie, Cogan, Dearie, Garaufis, Gershon, Glasser, Gleeson, Irizarry, Johnson, Kuntz, Matsumoto, Ross, Townes, Vitaliano*)
 - a. all discovery motions shall be made to the assigned Magistrate Judge. **(2)** (*Mauskopf, Wexler*)
 - i. ...discovery and non-dispositive motions **(2)** (*Glasser, Matsumoto*)
- ii. Pre-motion conferences not required for non-discovery motions. **(1)** (*Glasser*)
- iii. Pre-motion conferences not required **(1)** (*Feuerstein*)
- iv. Pre-motion conferences required *only for...*
 - a. summary judgment. **(7)** (*Bianco, Brodie, Johnson, Kuntz, Seybert, Spatt, Wexler*)
 - b. motion to dismiss. **(4)** (*Bianco, Brodie, Kuntz, Wexler*)
 - c. motion for change of venue **(3)** (*Bianco, Brodie, Kuntz*)
 - d. motion to amend where leave of court is required **(3)** (*Bianco, Brodie, Kuntz*)
 - e. to compel arbitration **(1)** (*Kuntz*)
- v. Pre-motion conferences required before any motion. **(14)** (*Amon, Block, Cogan, Dearie, Garaufis, Gershon, Gleeson, Hurley, Irizarry, Matsumoto, Mauskopf, Ross, Townes, Vitaliano*)

except motions...

- a. for habeas corpus petitions. **(16)** (*Amon, Block, Brodie, Cogan, Dearie, Feuerstein, Garaufis, Gershon, Gleeson, Hurley, Irizarry, Matsumoto, Mauskopf, Ross, Seybert, Townes, Vitaliano*)
- b. for prisoner petitions. **(15)** (*Amon, Block, Brodie, Dearie, Feuerstein, Garaufis, Gershon, Gleeson, Hurley, Irizarry, Mauskopf, Ross, Townes, Vitaliano*)
- c. for Social Security appeals. **(16)** (*Amon, Block, Brodie, Cogan, Dearie, Feuerstein, Garaufis, Gershon, Gleeson, Irizarry, Matsumoto, Ross, Seybert, Spatt, Townes, Vitaliano*)

- d. for bankruptcy appeals. **(16)** (*Amon, Block, Brodie, Cogan, Dearie, Garaufis, Gershon, Gleeson, Irizarry, Matsumoto, Mauskopf, Ross, Seybert, Spatt, Townes, Vitaliano*)
- e. for objections to Magistrate Judge's ruling. **(6)** (*Garaufis, Hurley, Irizarry, Mauskopf, Seybert, Spatt, Vitaliano*)
- f. for pro hac vice admissions. **(3)** (*Hurley, Seybert, Spatt*)
- g. for default judgment. **(2)** (*Feuerstein, Matsumoto*)
- h. to dismiss in lieu of an Answer. **(1)** (*Irizarry*)
- i. where any parties is a pro se litigant. **(9)** (*Amon, Dearie, Garaufis, Gleeson, Hurley, Mauskopf, Ross, Spatt, Vitaliano*)
- j. for reconsideration. **(1)** (*Hurley*)
- k. for orders to show cause. **(1)** (*Hurley*)
- l. to proceed in forma pauperis. **(1)** (*Hurley*)
- m. for remand to state court. **(1)** (*Irizarry*)
- n. for post-trial motions. **(3)** (*Garaufis, Mauskopf, Vitaliano*)
- o. pursuant to Fed. R. App. P. 4 **(1)** (*Hurley*)
- p. pursuant to FRCP 50, 52, 59, or 60. **(2)** (*Bianco, Hurley*)

Length of letter to arrange conference?

- i. No more than two pages. **(1)** (*Spatt*)
- ii. No more than three pages. **(18)** (*Amon, Bianco, Block, Brodie, Cogan, Dearie, Gershon, Gleeson, Hurley, Irizarry, Johnson, Kuntz, Matsumoto, Mauskopf, Ross, Townes, Vitaliano, Wexler*)

C. Memoranda of Law

- i. Support of and in opposition to: 25 pages. **(18)** (*Bianco, Block, Cogan, Dearie, Feuerstein, Garaufis, Gershon, Gleeson, Hurley, Irizarry, Kuntz, Mauskopf, Platt, Seybert, Spatt, Townes, Vitaliano, Wexler*)
 - a. 20 pages. **(1)** (*Johnson*)
 - b. 30 pages. **(1)** (*Matsumoto*)

- ii. Reply: 10 pages. **(19)** (*Bianco, Block, Cogan, Dearie, Garaufis, Gershon, Gleeson, Hurley, Irizarry, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Seybert, Spatt, Townes, Vitaliano, Wexler*)
- iii. Memoranda of 10 pages or more must contain a table of contents. **(18)** (*Bianco, Block, Cogan, Dearie, Garaufis, Gershon, Gleeson, Hurley, Irizarry, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Seybert, Spatt, Townes Vitaliano*)
 - a. ...all memoranda shall include a table of contents **(1)** (*Wexler*)
 - b. ...all memoranda shall include a table of authorities **(2)** (*Johnson, Townes, Wexler*)
- iv. The Court expects counsel to exercise their professional judgment as to the length of the briefs and may impose limits if that expectation is not met. **(4)** (*Amon, Brodie, Glasser, Ross*)

D. Oral Argument on Motions

- i. Is held on all motions, where the parties are represented by counsel. **(6)** (*Amon, Bianco, Brodie, Dearie, Glasser, Gleeson*)

except...

- a. for pro hac vice motions. **(1)** (*Platt*)
- b. for default judgments. **(1)** (*Platt*)
- c. for motions in the context of social security appeals. **(1)** (*Platt*)
- d. for motions under 28 U.S.C. Sections 2254 and 2255. **(1)** (*Platt*)
- ii. Must be requested by letter, and the court will determine whether argument will be heard and, if so, advise counsel of the time. **(14)** (*Block, Cogan, Garaufis, Gershon, Irizarry, Johnson, Matsumoto, Mauskopf, Ross, Seybert, Spatt, Townes, Vitaliano, Wexler*)
 - a. Notice of motion shall state “Oral Argument Requested” **(2)** (*Hurley, Kuntz*)
- iii. Is held at the Court’s discretion/if required by the Court **(4)** (*Feuerstein, Glasser, Korman, Vitaliano*)
- iv. Is heard only in unusual circumstances, or rarely. **(1)** (*Seybert*)

3. Pretrial Procedures

A. Filings Prior to Trial in Civil Cases

Must be filed:

- i. At least one week before trial. **(2)** (*Amon, Bianco*)
- ii. At least two weeks before trial. **(1)** (*Hurley*)
- iii. At least three weeks before trial. **(1)** (*Glasser*)
- iv. 5 days before the date that the trial is scheduled to begin, or 30 days after the filing of the final pretrial order if no trial date. **(1)** (*Dearie*)
- v. 15 days before trial. **(4)** (*Garaufis, Irizarry, Matsumoto, Mauskopf*)
 - a. ...except 20 days before trial for motions in limine or motions addressing evidentiary issues. **(2)** (*Garaufis, Mauskopf*)
 - b. ...except 30 days before trial for motions in limine or motions addressing evidentiary issues. **(1)** (*Matsumoto*)
- vi. 15 days before trial if date fixed, or 30 days after filing of the final pretrial order if no trial date. **(11)** (*Block, Brodie, Feuerstein, Gershon, Gleeson, Johnson, Kuntz, Platt, Ross, Townes, Vitaliano*)
 - a. 15 days before trial if date fixed, or 15 days after filing of the final pretrial order if no trial date. **(1)** (*Spatt*)
- vii. 30 days before trial **(1)** (*Mauskopf*)
- viii. As soon as conveniently possible before the trial readiness date. **(1)** (*Cogan*)
- ix. Varying dates: 7 days prior to jury selection for statement regarding damages, motions in limine, pretrial memorandum; 5 days prior for proposed voir dire and final witness list; 3 days prior for exhibits, stipulations, and requests to charge and proposed verdict sheets **(1)** (*Seybert*)

Must contain:

- i. In jury cases, legal memoranda addressing all contested legal issues and anticipated evidentiary problems. **(6)** (*Amon, Bianco, Hurley, Dearie, Ross, Seybert*)
- ii. In jury cases, requests to charge and proposed voir dire questions. **(23)** (*Amon, Bianco, Block, Brodie, Cogan, Dearie, Feuerstein, Garaufis,*

Gershon, Glasser, Gleeson, Hurley, Irizarry, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano)

- a. On the Thursday before trial **(4)** *(Block, Brodie, Gershon, Platt)*
- b. Joint proposed voir dire questions **(1)** *(Mauskopf)*
- c. Joint request to charge, with areas of disagreement highlighted and supported by memorandum of law **(1)** *(Ross)*
- iii. In jury cases, proposed instructions and verdict sheets. **(6)** *(Cogan, Garaufis, Hurley, Mauskopf, Seybert, Vitaliano)*
 - a. ...verdict sheet only **(1)** *(Kuntz)*
- iv. In non-jury cases, a statement of the elements of each claim or defense involving such party, together with a summary of the facts required to establish each element. **(18)** *(Block, Brodie, Dearie, Feuerstein, Garaufis, Gershon, Glasser, Gleeson, Hurley, Irizarry, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Seybert, Townes, Vitaliano)*
- v. In non-jury cases, proposed findings of fact and conclusions of law. **(4)** *(Amon, Bianco, Hurley, Ross)*
- vi. In non-jury cases, copies of the proposed exhibits in a suitable binder. **(5)** *(Amon, Bianco, Cogan, Ross, Seybert)*
- vii. In all cases, motions addressing issues which should be resolved in limine. **(17)** *(Block, Brodie, Feuerstein, Garaufis, Gershon, Glasser, Gleeson, Hurley, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Seybert, Spatt, Townes, Vitaliano)*
- viii. In any case where a party believes it would be useful, a pretrial memorandum. **(14)** *(Block, Cogan, Feuerstein, Garaufis, Gershon, Gleeson, Irizarry, Johnson, Kuntz, Mauskopf, Platt, Seybert, Townes, Vitaliano)*
 - a. ...pretrial memorandum required in all cases. **(6)** *(Amon, Bianco, Glasser, Hurley, Matsumoto, Ross)*
- ix. Witness list and exhibit list. **(1)** *(Cogan)*
- x. A statement regarding damages and other relief sought. **(18)** *(Block, Brodie, Dearie, Feuerstein, Garaufis, Gershon, Gleeson, Hurley, Irizarry, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Seybert, Spatt, Townes, Vitaliano)*

B. Pretrial Order

Must be filed:

- i. Not required unless directed by Court. **(1)** (*Cogan*)
- ii. 60 days following completion of discovery in a civil case. **(19)** (*Amon, Bianco, Block, Brodie, Dearie, Feuerstein, Garaufis, Gershon, Gleeson, Hurley, Irizarry, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Seybert, Vitaliano, Wexler*)
 - a. ... but 30 days prior to the trial date in cases where a substantive motion has been submitted to the Court. **(1)** (*Bianco*)
- iii. 30 days following completion of discovery. **(1)** (*Spatt*)
- iv. 3 weeks prior to trial. **(1)** (*Glasser*)
- v. Deadline for filing pre-trial order will be set at the pre-trial scheduling conference; parties must contact the Court to arrange the pre-trial scheduling conference within 30 days from either the date of completion of discovery or the denial of a motion for summary judgment. **(1)** (*Townes*)

Must contain:

- i. The full caption of the action. **(22)** (*Amon, Bianco, Block, Brodie, Dearie, Feuerstein, Garaufis, Gershon, Glasser, Gleeson, Hurley, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano, Wexler*)
- ii. The names, firm names, addresses, and telephone numbers of trial counsel **(22)** (*Amon, Bianco, Block, Brodie, Dearie, Garaufis, Gershon, Glasser, Gleeson, Hurley, Irizarry, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano, Wexler*)
- 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 of absence of subject matter jurisdiction, both including citations to statutes and relevant facts. **(21)** (*Amon, Bianco, Block, Brodie, Dearie, Garaufis, Gershon, Glasser, Gleeson, Hurley, Irizarry, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano*)
- iv. A brief summary by each party of the claims and defenses the party has asserted which remain to be tried, identifying claims and defenses previously asserted which are not to be tried. **(21)** (*Amon, Bianco, Block, Brodie, Dearie, Garaufis, Gershon, Glasser, Gleeson, Hurley, Irizarry,*

Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano)

- v. A statement by each party as to whether the case is to be tried with or without a jury. **(22)** *(Amon, Bianco, Block, Brodie, Dearie, Garaufis, Gershon, Glasser, Gleeson, Hurley, Irizarry, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano, Wexler)*
- vi. An estimate of the number of trial days needed. **(21)** *(Amon, Bianco, Block, Brodie, Dearie, Garaufis, Gershon, Glasser, Gleeson, Irizarry, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano, Wexler)*
- vii. A statement as to whether parties have consented to trial by a magistrate judge, without identifying which parties have or have not so consented. **(19)** *(Amon, Bianco, Block, Dearie, Garaufis, Gershon, Gleeson, Hurley, Irizarry, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano)*
- viii. Any stipulations or agreed statements of fact or law which have been agreed to by all parties. **(23)** *(Amon, Bianco, Block, Brodie, Dearie, Feuerstein, Garaufis, Gershon, Glasser, Gleeson, Hurley, Irizarry, Johnson, Korman, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano)*
- ix. A statement by each party as to witnesses whose testimony is to be offered in its case-in-chief, indicating whether such witnesses will testify in person or by deposition. **(23)** *(Amon, Bianco, Block, Brodie, Dearie, Feuerstein, Garaufis, Gershon, Glasser, Gleeson, Irizarry, Johnson, Korman, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano, Wexler)*
- x. A designation by each party of deposition testimony to be offered with cross-designations and objections by any other party. **(20)** *(Amon, Bianco, Block, Brodie, Dearie, Garaufis, Gershon, Glasser, Gleeson, Hurley, Johnson, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano, Wexler)*
- xi. A list of exhibits to be offered. **(23)** *(Amon, Bianco, Block, Brodie, Dearie, Feuerstein, Garaufis, Gershon, Glasser, Gleeson, Hurley, Irizarry, Johnson, kun, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano, Wexler)*
 - a. ...with one star for exhibits to which there is no objection to authenticity. **(6)** *(Block, Glasser, Hurley, Platt, Spatt, Wexler)*
 - b. ... with two stars where there are no objections. **(2)** *(Block, Glasser)*

- xii. List of witnesses. **(23)** (*Amon, Bianco, Block, Dearie, Feuerstein, Garaufis, Gershon, Glasser, Gleeson, Hurley, Irizarry, Johnson, Korman, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano, Wexler*)
 - a. ...with names and addresses **(2)** (*Kuntz, Mauskopf*)
 - b. ...Including possible witnesses who will be called only for impeachment or rebuttal purposes and so designated, together with a brief statement of the expected testimony of each witness. **(1)** (*Mauskopf*)
- xiii. List of experts to be called at trial. **(22)** (*Amon, Bianco, Block, Dearie, Garaufis, Gershon, Glasser, Gleeson, Hurley, Irizarry, Johnson, Korman, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano, Wexler*)
- xiv. Statement of damage claims/relief sought. **(5)** (*Amon, Feuerstein, Gershon, Matsumoto, Ross*)
- xv. A summary of the case's procedural history, including the content and disposition of any pre-trial motions. **(1)** (*Hurley*)
- xvi. Proposed motions addressing evidentiary issues that should be resolved in limine. **(2)** (*Matsumoto, Platt*)

C. Discovery Disputes

- i. If unable to reach agreement, submit letter, which should be jointly composed, and describe the issues in dispute, position of each party, and cite authority. **(1)** (*Cogan*)
- ii. Discovery is not stayed during the time period when a motion is pending before the Court. **(1)** (*Wexler*)

D. Default Judgments

- i. A party moving for default judgment must forward to the Clerk of Court its request for a certificate/notation of default. No default judgment will be considered until the Clerk of Court has entered a notation of default. **(6)** (*Glasser, Hurley, Johnson, Kuntz, Spatt, Vitaliano*)

E. Final Pretrial Conference

- i. The Court will schedule a final pretrial conference, where counsel must be prepared and authorized to stipulate for purposes of narrowing the issues and proof and to discuss and conclude settlement. **(4)** (*Amon, Irizarry, Ross, Spatt*)

- ii. Detailed briefing schedules will be set at the final pre-trial conference. **(1)** *(Hurley)*
- iii. Counsel shall file with Chambers copies of all documents proposed to be used in evidence prior to Final Pretrial Conference. **(1)** *(Ross)*

F. Disclosure of Experts

- i. All expert reports must be turned over to the opposing parties before jury selection. **(1)** *(Hurley)*

4. **Civil Trial Practices**

A. Electronic Case Filing (ECF)

- i. Counsel must file all documents electronically. **(24)** *(Amon, Bianco, Brodie, Cogan, Dearie, Feuerstein, Garaufis, Gershon, Glasser, Gleeson, Hurley, Irizarry, Johnson, Korman, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano, Wexler)*
 - a. Motion papers are to be filed electronically only when the motion is fully briefed and courtesy copies of the motion are provided to the Court. **(15)** *(Amon, Block, Brodie, Dearie, Feuerstein, Garaufis, Gershon, Hurley, Irizarry, Matsumoto, Mauskopf, Platt, Townes, Vitaliano, Wexler)*
 - b. A courtesy copy of the cover letter only – and not the papers themselves – shall be submitted to the district judge and the magistrate judge once the motion is fully briefed. **(3)** *(Johnson, Ross, Wexler)*
- ii. For all cases designated ECF, parties are responsible for being current in any and all matters filed electronically by this Court. Orders will be posted electronically, and parties not registered on ECF will not receive them. **(14)** *(Amon, Bianco, Cogan, Dearie, Garaufis, Gershon, Hurley, Irizarry, Korman, Matsumoto, Mauskopf, Ross, Townes, Vitaliano)*
- iii. Counsel shall submit courtesy copies in paper form to Chambers of all papers filed electronically. **(23)** *(Amon, Bianco, Cogan, Dearie, Feuerstein, Garaufis, Gershon, Glasser, Hurley, Irizarry, Johnson, Korman, Kuntz, Matsumoto, Mauskopf, Platt, Ross, Seybert, Spatt, Townes, Vitaliano, Weinstein, Wexler)*
- iv. Written requests by attorneys for an exemption from electronic filing will be considered for good cause by the assigned Magistrate Judge. **(15)** *(Amon, Dearie, Feuerstein, Garaufis, Gershon, Glasser, Irizarry, Korman, Kuntz, Mauskopf, Ross, Seybert, Spatt, Vitaliano, Wexler)*

- v. *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. **(13)** (*Amon, Bianco, Cogan, Dearie, Garaufis, Gershon, Hurley, Irizarry, Johnson, Kuntz, Matsumoto, Mauskopf, Ross, Spatt, Seybert, Vitaliano*)
- vi. Parties filing voluminous or non-text exhibits may choose to file only hard copies of those exhibits when filing them electronically is impractical. **(16)** (*Amon, Dearie, Garaufis, Gershon, Glasser, Hurley, Irizarry, Korman, Kuntz, Matsumoto, Mauskopf, Ross, Spatt, Townes, Vitaliano, Wexler*)
 - a. Parties filing voluminous or nontext exhibits that are impracticable to file electronically should contact chambers prior to filing. **(1)** (*Bianco*)
 - b. Parties filing voluminous or nontext exhibits shall only file hard copies **(1)** (*Feuerstein*)
 - c. Parties filing voluminous and non-text exhibits that are impracticable to file electronically, should, if possible, submit a PDF or WordPerfect version on a CD to the Clerk's office (labeled original) and Chambers (labeled courtesy copy). **(2)** (*Garaufis, Gershon*)
- vii. Sealed documents or documents containing sealed/sensitive information must be submitted in hard copy only and labeled "sealed" or "sensitive." **(12)** (*Amon, Dearie, Garaufis, Hurley, Irizarry, Matsumoto, Mauskopf, Platt, Ross, Spatt, Vitaliano, Wexler*)
 - a. ...parties must seek permission to file documents under seal **(2)** (*Glasser, Kuntz*)

B. Jury Trials

Proposed Requests to Charge and Voir Dire questions:

- i. Counsel for each party shall provide the court with any voir dire requests which pertain specifically to the case at issue. **(2)** (*Amon, Bianco*)
- ii. Proposed voir dire questions to be filed:
 - a. ... 5 days prior to jury selection. **(1)** (*Seybert*)
 - b. ... no later than the last pretrial conference. **(1)** (*Platt*)
 - c. ... 10 days before jury selection. **(1)** (*Mauskopf*)

- d. ... not required by may be submitted two days prior to the date scheduled for jury selection. **(1)** (*Wexler*)
- iii. Requests to charge, if any, to be submitted on the first day of trial. **(1)** (*Wexler*)

C. Bench Trials

- i. Pretrial memoranda of law should be filed electronically seven days prior to trial. **(2)** (*Ross, Seybert*)
- ii. Within fifteen days after the conclusion of the trial, parties shall file electronically proposed findings of fact and conclusions of law, with citations to the trial record, together with supporting legal authority. **(1)** (*Seybert*)

D. Witnesses

- i. Witnesses that were not identified in the joint pre-trial order may not be called at trial. **(20)** (*Amon, Bianco, Block, Dearie, Garaufis, Gershon, Glasser, Gleeson, Hurley, Irizarry, Johnson, Korman, Matsumoto, Mauskopf, Platt, Ross, Seybert, Townes, Vitaliano, Wexler*)
- ii. If a witness was unavailable or unidentified at the time that the joint pre-trial order was prepared, the party proposing to offer this unidentified witness shall serve and file a letter as soon as possible, identifying the witness and explaining the reason for nondisclosure. **(1)** (*Hurley*)

E. Post Trial Procedures

- i. In non-jury trials, parties shall file proposed findings of fact and conclusions of law no later than ten days after the conclusion of the trial and no responses shall be permitted. **(6)** (*Garaufis, Hurley, Irizarry, Matsumoto, Mauskopf, Vitaliano*)

F. Exhibits

- i. All exhibits must be pre-marked for trial and exchanged with the other parties. **(16)** (*Bianco, Dearie, Garaufis, Gershon, Gleeson, Hurley, Irizarry, Johnson, Matsumoto, Mauskopf, Platt, Ross, Seybert, Townes, Vitaliano, Wexler*)
 - a. ...at least ten days before the trial. **(12)** (*Bianco, Dearie, Garaufis, Gershon, Gleeson, Irizarry, Johnson, Matsumoto, Platt, Ross, Townes, Vitaliano*)
 - b. ... at least fifteen days before trial. **(1)** (*Mauskopf*)

- c. Plaintiff's exhibits shall be identified by numbers, and defendant's exhibits shall be identified by letters. **(5)** (*Amon, Hurley, Johnson, Ross, Seybert*)
- ii. No later than the first day of trial, all parties are to provide the Court with tabbed binders containing copies of all of the exhibits. **(4)** (*Garaufis, Hurley, Irizarry, Mauskopf*)
- iii. Exhibits may not be published to the jury until deliberation begins, unless the Court first grants permission. **(1)** (*Hurley*)
- iv. Copies of statements proposed to be read to the jury as "learned treatises" under FRE 803(4) **(5)** (*Amon Irizarry, Johnson, Matsumoto, Ross*)
- v. Copies of portions of depositions intended to be offered into evidence shall also be listed as exhibits. **(2)** (*Amon, Seybert*)
- vi. If exhibits are voluminous, they should be placed in binders with tabs. **(8)** (*Bianco, Dearie, Gershon, Gleeson, Johnson, Ross, Townes, Vitaliano*)
- vii. All exhibits must be separately tabbed and indexed. **(2)** (*Irizarry, Seybert*)

- c. Plaintiff's exhibits shall be identified by numbers, and defendant's exhibits shall be identified by letters. **(5)** (*Amon, Hurley, Johnson, Ross, Seybert*)
- ii. No later than the first day of trial, all parties are to provide the Court with tabbed binders containing copies of all of the exhibits. **(4)** (*Garaufis, Hurley, Irizarry, Mauskopf*)
- iii. Exhibits may not be published to the jury until deliberation begins, unless the Court first grants permission. **(1)** (*Hurley*)
- iv. Copies of statements proposed to be read to the jury as "learned treatises" under FRE 803(4) **(5)** (*Amon Irizarry, Johnson, Matsumoto, Ross*)
- v. Copies of portions of depositions intended to be offered into evidence shall also be listed as exhibits. **(2)** (*Amon, Seybert*)
- vi. If exhibits are voluminous, they should be placed in binders with tabs. **(8)** (*Bianco, Dearie, Gershon, Gleeson, Johnson, Ross, Townes, Vitaliano*)
- vii. All exhibits must be separately tabbed and indexed. **(2)** (*Irizarry, Seybert*)

SOUTHERN DISTRICT MAGISTRATE JUDGES' INDIVIDUAL PRACTICES

SOUTHERN DISTRICT MAGISTRATE JUDGES' INDIVIDUAL PRACTICES

Contents

1. Communications with Chambers	1
A .Letters	1
B .Telephone Calls	1
C .Faxes	1
D .Requests for Adjournments or Extensions of Time.....	2
2. Pleadings and Motions.....	3
E .Courtesy Copies	3
F .Pre-motion Conferences.....	3
G .Memoranda of Law	4
H .Oral Argument on Motions.....	4
3. Pretrial Procedures	5
I . Filings Prior to Trial in Civil Cases	5
J . Pretrial Order	6

SOUTHERN DISTRICT MAGISTRATE JUDGES' INDIVIDUAL PRACTICES¹

1. Communications with Chambers

A. Letters

- i. Letters to chambers simultaneously delivered to all counsel. **(14)** (*Cott, Davison, Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Netburn, Peck, Pitman, Smith, Yanthis*)
- ii. Letters not to be submitted electronically. **(7)** (*Cott, Davison, Ellis, Gorenstein, Maas, Smith, Yanthis*)
- iii. Letters between counsel not to be sent to Court. **(14)** (*Cott, Davison, Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Netburn, Peck, Pitman, Smith, Yanthis*)
- iv. Not to exceed five pages. **(1)** (*Netburn*)

B. Telephone Calls

- i. To chambers, permitted. **(10)** (*Cott, Davison, Dolinger, Ellis, Francis, Freeman, Maas, Peck, Smith, Yanthis*)
- ii. To chambers, permitted only in emergency situations requiring immediate attention. **(4)** (*Fox, Gorenstein, Netburn, Pitman*)

C. Faxes

- i. To chambers, not permitted. **(2)** (*Ellis, Smith*)
- ii. To chambers, permitted. **(4)** (*Cott, Davison, Gorenstein, Yanthis*)
 - a. ...only if copies sent to all counsel. **(8)** (*Cott, Dolinger, Fox, Francis, Freeman, Maas, Peck, Pitman*)
- iii. Permitted only with prior approval of chambers. **(2)** (*Netburn, Smith*)

¹ This summary of the Southern District Magistrate Judges' Individual Practices is current as of November 2012. The compilation set forth in this report is solely for analytical purposes and should not be relied upon as an authoritative source of the content of any Judge's Individual Practices. This summary addresses selected individual practices to highlight and compare among the Magistrate Judges. It does not reference every Individual Practice of each of the Magistrate Judges. It also does not compare the differences among the Magistrate Judges on every subject contained in each Magistrate Judge's Individual Practices. For example, this summary does not reflect every Individual Practice or differences among the Magistrate Judge's Individual Practices on jury selection, conduct of bench trials or how certain types of specific motions are handled.

Fax limit, without prior authorization

- i. Five pages. **(2)** (*Freeman, Maas*)
- ii. Ten pages. **(7)** (*Dolinger, Fox, Francis, Gorenstein, Pitman, Smith, Yanthis*)
 - a. ...except where time is of essence. **(1)** (*Francis*)
- iii. Fifteen pages **(1)** (*Peck*)
- iv. Do not follow with hard copy **(7)** (*Dolinger, Fox, Gorenstein, Peck, Pitman, Smith, Yanthis*)

D. Requests for Adjournments or Extensions of Time

- i. Requests for adjournment
 - a. ... must be made at least 48 hours prior to scheduled appearance. **(12)** (*Davison, Dolinger, Ellis, Fox, Francis, Freeman, Maas, Netburn, Peck, Pitman, Smith, Yanthis*)
 - b. ... must be made as soon as party is aware of the need for an adjournment and, in any event, no later than 5 business days prior to the scheduled appearance. **(2)** (*Cott, Gorenstein*)
 - c. Prior to making such a request, the party intending to so request should contact the Deputy Clerk to determine an alternative date for which the Court is available for a rescheduled court appearance. The requesting party should then contact all parties to determine their availability for that date. The requesting party must then make a written request to the Court for an adjournment by letter stating the requested date and time. The letter, which may be sent by fax, must be copied to all parties and include a statement as to the other parties' positions on the change of date. **(3)** (*Cott, Gorenstein, Maas*)
- ii. Request for extension of time
 - a. ... usually will not be granted unless they are made reasonably in advance of the date. **(1)** (*Peck*)

Must state:

- iii. The original date. **(14)** (*Cott, Davison, Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Netburn, Peck, Pitman, Smith, Yanthis*)

- iv. The number of previous requests for adjournment or extension. **(14)** (*Cott, Davison, Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Netburn, Peck, Pitman, Smith, Yanthis*)
- v. The reason for the extension. **(3)** (*Cott, Davison, Gorenstein*)
- vi. Whether prior requests were granted or denied. **(13)** (*Cott, Davison, Dolinger, Ellis, Fox, Francis, Freeman, Maas, Netburn, Peck, Pitman, Smith, Yanthis*)
- vii. Whether the adversary consents, and if not, reason for refusal. **(14)** (*Cott, Davison, Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Netburn, Peck, Pitman, Smith, Yanthis*)
- viii. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Scheduling Order must be attached. **(14)** (*Cott, Davison, Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Netburn, Peck, Pitman, Smith, Yanthis*)

2. Pleadings and Motions

E. Courtesy Copies

- i. Courtesy copies of motion papers must be sent to chambers. **(13)** (*Cott, Davison, Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Peck, Pitman, Smith, Yanthis*)
- ii. Courtesy copies of pleadings must be sent to chambers. **(2)** (*Peck, Smith*)

F. Pre-motion Conferences

Required?

- i. For discovery motions, follow Local Civil Rule 37.2. **(12)** (*Cott, Davison, Dolinger, Ellis, Fox, Freeman, Maas, Netburn, Peck, Pitman, Smith, Yanthis*)
 - a. Parties must confer either by telephone or in person in an effort to resolve disputes before bringing a discovery motion. **(3)** (*Cott, Gorenstein, Netburn*)
- ii. Pre-motion conferences not required for non-discovery motions. **(7)** (*Dolinger, Ellis, Fox, Francis, Freeman, Peck, Pitman*)
 - a. ... and are not required for discovery motions either. **(1)** (*Francis*)
- iii. Court will determine, based on letter from moving counsel, whether a pre-motion conference is required. **(1)** (*Davison*)

- iv. Pre-motion conference required only for summary judgment. **(1)** (*Smith*)
- v. Pre-motion conferences required before any motion. **(4)** (*Cott, Gorenstein, Maas, Yanthis*)

except motion...

- a. listed in FRAP 4(a)(4)(A). **(2)** (*Cott, Gorenstein*)
- b. for pro hac vice admissions. **(2)** (*Cott, Gorenstein*)
- c. for reargument or reconsideration. **(2)** (*Cott, Gorenstein*)
- d. for order to show cause. **(2)** (*Cott, Gorenstein*)

Length of letter to arrange conference?

- i. No more than two pages for motions other than discovery motions. **(1)** (*Gorenstein*)
- ii. No more than three pages. **(5)** (*Davison, Ellis, Maas, Smith, Yanthis*)
- iii. No more than five pages for discovery motions. **(2)** (*Gorenstein, Netburn*)

G. Memoranda of Law

- i. Support of and in opposition to: 25 pages. **(11)** (*Davison, Ellis, Fox, Francis, Freeman, Maas, Netburn, Peck, Pitman, Smith, Yanthis*)
- ii. Reply: 10 pages. **(11)** (*Davison, Ellis, Fox, Francis, Freeman, Maas, Netburn, Peck, Pitman, Smith, Yanthis*)
- iii. Memoranda of 10 pages or more must contain a table of contents. **(13)** (*Cott, Davison, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Netburn, Peck, Pitman, Smith, Yanthis*)

H. Oral Argument on Motions

- i. Must be requested by letter, and the court will determine whether argument will be heard, and if so, advise counsel of the time. **(14)** (*Cott, Davison, Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Netburn, Peck, Pitman, Smith, Yanthis*)
- ii. Is not normally heard. **(1)** (*Gorenstein*)

3. Pretrial Procedures

I. Filings Prior to Trial in Civil Cases

Must be filed...

- i. 15 days before trial **(3)** (*Davison, Maas, Yanthis*)
- ii. 30 days before trial **(1)** (*Smith*)
- iii. 15 days before trial if date fixed, or 30 days after filing of the final pretrial order if no trial date **(7)** (*Dolinger, Ellis, Fox, Francis, Freeman, Netburn, Pitman*)
- iv. At same time the party files the proposed pretrial order **(3)** (*Cott, Gorenstein, Peck*)

Contents:

- i. In jury cases, requests to charge and proposed voir dire questions. **(14)** (*Cott, Davison, Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Netburn, Peck, Pitman, Smith, Yanthis*)
- ii. In jury cases, proposed instructions. **(7)** (*Dolinger, Fox, Freeman, Maas, Peck, Pitman, Yanthis*)
- iii. In jury cases, where applicable, proposed verdict form. **(4)** (*Cott, Gorenstein, Smith, Peck*)
- iv. In non-jury cases, a statement of the elements of each claim or defense involving such party, together with a summary of facts relied upon to establish each element. **(12)** (*Davison, Dolinger, Ellis, Fox, Francis, Freeman, Maas, Netburn, Peck, Pitman, Smith, Yanthis*)
- v. In non-jury cases, proposed findings of fact and conclusions of law. **(3)** (*Cott, Gorenstein, Yanthis*)
- vi. In non-jury cases, a copy of any deposition testimony to be offered into evidence. **(1)** (*Gorenstein*)
 - a. ...in all cases. **(1)** (*Cott*)
- vii. In non-jury cases, a witness list. **(1)** (*Yanthis*)
 - a. ...in all cases **(1)** (*Smith*)
- viii. In all cases, motions addressing issues which should be resolved in limine. **(12)** (*Davison, Dolinger, Ellis, Fox, Francis, Freeman, Maas, Netburn, Peck, Pitman, Smith, Yanthis*)

- ix. In all cases, copies of each party's pre-marked trial exhibits. **(5)** (*Cott, Fox, Gorenstein, Peck, Yanthis*)
- x. In any case where a party believes it would be useful, a pretrial memorandum. **(11)** (*Davison, Dolinger, Ellis, Fox, Freeman, Maas, Netburn, Peck, Pitman, Smith, Yanthis*)
 - a. ... pre-trial memorandum required. **(2)** (*Cott, Gorenstein*)
 - b. ...in non-jury cases, must identify issues, summarize facts and applicable law, and address evidentiary issues. **(2)** (*Cott, Gorenstein*)

J. Pretrial Order

- i. Not required unless directed by court. **(4)** (*Davison, Maas, Smith, Yanthis*)

Must be filed...

- i. 30 days following completion of discovery in a civil case. **(10)** (*Cott, Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Netburn, Pitman, Smith*)
 - a. ... or within 30 days of decision by the Court of a case-dispositive summary judgment motion. **(1)** (*Peck*)

Contents:

- i. Only the information required by FRCP 26(1)(3) **(1)** (*Netburn*)
- ii. The full caption of action. **(10)** (*Cott, Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Peck, Pitman*)
- iii. The names, addresses **(10)** (*Dolinger, Cott, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Peck, Pitman*)
- iv. 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. **(10)** (*Cott, Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Peck, Pitman*)
- v. A brief summary by each party of the claims and defenses the party has asserted which remain to be tried, identifying claims and defenses previously asserted which are not to be tried. **(10)** (*Cott, Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Peck, Pitman*)

- vi. A statement by each party as to whether the case is to be tried with or without a jury. **(10)** (*Cott, Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Peck, Pitman*)
- vii. An estimate of the number of trial days needed. **(10)** (*Cott, Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Peck, Pitman*)
- viii. A statement as to whether parties have consented to trial by a magistrate judge, without identifying which parties have or have not so consented. **(5)** (*Dolinger, Fox, Freeman, Peck, Pitman*)
- ix. Any stipulations or agreed statements of fact or law which have been agreed to by all parties. **(10)** (*Cott, Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Peck, Pitman*)
- x. A statement by each party as to witnesses whose testimony is to be offered in its case-in-chief, indicating whether such witnesses will testify in person or by deposition. **(9)** (*Cott, Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Pitman*)
- xi. A designation by each party of deposition testimony to be offered with cross-designations and objections by any other party. **(9)** (*Cott, Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Pitman*)
- xii. A list of exhibits to be offered **(9)** (*Cott, Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Pitman*)
 - a. ... with one star indicating an exhibit to which no party objects on the grounds of authenticity **(8)** (*Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Pitman*)
 - b. ... with two stars indicating an exhibit to which no party objects **(8)** (*Dolinger, Ellis, Fox, Francis, Freeman, Gorenstein, Maas, Pitman*)
- xiii. Statement of damage claims/relief sought. **(2)** (*Gorenstein, Katz*)

EASTERN DISTRICT MAGISTRATE JUDGES' INDIVIDUAL PRACTICES

EASTERN DISTRICT MAGISTRATE JUDGES' INDIVIDUAL PRACTICES

Contents

1. Communications with Chambers	1
A. Letters	1
B. Telephone Calls	1
C. Faxes to Chambers	1
D. Email	2
E. Requests for Adjournments or Extensions of Time	2
2. Pleadings and Motions.....	3
A. Courtesy Copies	3
B. Pre-Motion Conferences	4
C. Memoranda of Law	6
D. Oral Argument on Motions	6
3. Pretrial Procedures	6
A. Filings Prior to Trial in Civil Cases	6
B. Pretrial Order	8
C. Briefing Schedules	10
D. Discovery Disputes	10
4. Civil Trial Practices	11
A. Electronic Case Filing (ECF).....	11
B. Jury Trials	12
C. Witnesses	12
D. Exhibits	13
E. Sidebars	13
F. Interpreter Services	13
G. Change of Address	13
H. Closing Arguments	13

EASTERN DISTRICT MAGISTRATE JUDGES' INDIVIDUAL PRACTICES¹

1. Communications with Chambers

A. Letters

- i. Letters to chambers should be simultaneously delivered to all counsel. **(6)** *(Bloom, Brown, Levy, Lindsay, Reyes, Tomlinson)*
- ii. Letters are not to exceed three pages. **(1)** *(Lindsay)*
- iii. Letters to chambers should be filed electronically via ECF. **(4)** *(Brown, Go, Levy, Tomlinson)*
- iv. Letters between counsel not to be sent to Court. **(9)** *(Bloom, Boyle, Go, Gold, Lindsay, Mann, Orenstein, Pohorelsky, Reyes)*
 - a. ...except as an attachment to requests for judicial intervention. **(1)** *(Mann)*

B. Telephone Calls

- i. To chambers, permitted. **(10)** *(Azrack, Brown, Levy, Lindsay, Orenstein, Pohorelsky, Pollak, Reyes, Tomlinson, Wall)*
 - a. ...but not about requests for adjournments or extensions of time, which should be filed via ECF. **(1)** *(Orenstein)*
 - b. ...and should be directed to law clerks at the main chambers number **(1)** *(Brown)*
- ii. To chambers, permitted only in emergency situation requiring immediate attention. **(5)** *(Bloom, Boyle, Go, Gold, Mann)*

C. Faxes to Chambers

- i. Permitted. **(2)** *(Pollak, Reyes)*
 - a. ...only if copies sent to all counsel. **(1)** *(Reyes)*

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- ii. Permitted only in emergency situation requiring immediate attention. **(2)** *(Brown, Go)*
 - a. ...and request must already be electronically filed. **(4)** *(Brown, Reyes, Tomlinson, Wall)*
- iii. Permitted only if authorized by Court. **(6)** *(Bloom, Gold, Levy, Lindsay, Mann, Pohorelsky)*
 - a. ...and permission is granted only in extraordinary circumstances. **(1)** *(Gold)*
 - b. ...and copies must be simultaneously faxed to all counsel. **(3)** *(Gold, Lindsay, Tomlinson)*
 - c. ...and hard copies of fax not to be sent without permission from chambers. **(1)** *(Levy)*
- iv. Permitted in cases not subject to ECF requirements. **(1)** *(Tomlinson)*
- v. Not permitted, except for ex parte settlements. **(1)** *(Orenstein)*

Fax limit, without prior authorization

- i. Four pages. **(3)** *(Brown, Orenstein, Tomlinson, Wall)*
- ii. Five pages. **(2)** *(Gold, Reyes)*
- iii. Ten pages. **(1)** *(Pollak)*
- iv. Fifteen pages. **(1)** *(Go)*

D. Email

- i. Parties may not submit documents to the Court via email, unless instructed to do so by the Court. **(2)** *(Orenstein, Reyes)*
- ii. Parties may not communicate with chambers via email unless prior authorization has been granted. **(1)** *(Reyes)*

E. Requests for Adjournments or Extensions of Time

Must be made:

- i. At least 48 hours prior to scheduled appearance. **(13)** *(Azrack, Bloom, Boyle, Brown, Gold, Levy, Lindsay, Orenstein, Pohorelsky, Pollak, Reyes, Tomlinson, Wall)*
 - a. ...by fax and ECF. **(1)** *(Pollak)*

- b. ...a courtesy copy must be faxed to chambers. **(2)** (*Brown*)
- ii. At least 72 hours prior to scheduled appearance. **(2)** (*Go, Mann*)
 - a. ...in the case of a settlement conference, two weeks in advance **(1)** (*Mann*)
- iii. Via ECF filing **(3)** (*Levy, Orenstein, Wall*)
- iv. Must not be made by telephone. **(3)** (*Gold, Levy, Pohorelsky*)
 - a. ...except in the case of an emergency. **(1)** (*Levy*)

Must state:

- i. The original date. **(12)** (*Azrack, Bloom, Boyle, Brown, Go, Gold, Levy, Mann, Orenstein, Pohorelsky, Reyes, Tomlinson*)
- ii. The number of previous requests for adjournment or extension. **(12)** (*Azrack, Bloom, Boyle, Brown, Go, Gold, Levy, Mann, Orenstein, Pohorelsky, Reyes, Tomlinson*)
- iii. Whether prior requests were granted or denied. **(10)** (*Bloom, Boyle, Brown, Go, Gold, Levy, Mann, Orenstein, Reyes, Tomlinson*)
- iv. Whether the adversary consents, and, if not, reason for refusal. **(13)** (*Azrack, Bloom, Boyle, Brown, Go, Gold, Levy, Mann, Orenstein, Pohorelsky, Reyes, Tomlinson, Wall*)
- v. If the requested adjournment or extension affects any other scheduled dates, a proposed order reflecting requested adjournment/extension. **(13)** (*Azrack, Bloom, Boyle, Go, Gold, Levy, Lindsay, Mann, Orenstein, Pohorelsky, Reyes, Tomlinson, Wall*)
- vi. Reason for the request. **(9)** (*Azrack, Bloom, Brown, Gold, Levy, Lindsay, Reyes, Tomlinson, Wall*)
- vii. How much additional time is requested. **(2)** (*Azrack, Levy*)
- viii. A proposed alternative date. **(6)** (*Azrack, Brown, Gold, Orenstein, Tomlinson, Wall*)

2. Pleadings and Motions

A. Courtesy Copies

- i. Courtesy copies of pleadings and motions must be sent to chambers at the same time they are filed. **(7)** (*Boyle, Gold, Levy, Lindsay, Orenstein, Pollak, Tomlinson*)

- a. ...two courtesy copies. **(1)** (*Reyes*)
- ii. Courtesy copies of dispositive motions made to the presiding District Judge should not be provided to the Magistrate Judge, unless the motion is referred to him/her. **(7)** (*Azrack, Brown, Lindsay, Orenstein, Reyes, Tomlinson, Wall*)
- iii. Courtesy copies of motion papers filed electronically should not be submitted. **(8)** (*Azrack, Bloom, Boyle, Brown, Mann, Orenstein, Reyes, Wall*)
 - a. ...unless the submission exceeds 10 pages or contains more than two exhibits. **(1)** (*Go*)
 - b. ...unless the submission exceeds 15 pages. **(1)** (*Wall*)
 - c. ...unless the submission exceeds 20 pages, including exhibits. **(4)** (*Azrack, Boyle, Brown, Tomlinson*)
 - d. ...unless the submission exceeds 25 pages. **(2)** (*Bloom, Orenstein*)
 - e. ...unless the submission exceeds 35 pages. **(1)** (*Mann*)
 - f. ...unless there are non-text exhibits. **(1)** (*Orenstein*)
 - g. ...unless asked to do so by the Court **(3)** (*Gold, Orenstein, Pohorelsky*)
- iv. The Court will determine whether the submission of courtesy hard copies would be useful, and, if so, advise counsel. **(1)** (*Reyes*)

B. Pre-Motion Conferences

- i. For discovery motions, follow:
 - a. Local Civil Rules 37.3 and 6.4. **(6)** (*Bloom, Go, Gold, Levy, Mann, Pohorelsky*)
 - b. Local Civil Rules 37.3 and 6.1. **(6)** (*Boyle, Lindsay, Orenstein, Reyes, Tomlinson, Wall*)
 - c. Local Civil Rule 37.3 **(2)** (*Brown, Lindsay*)
 - d. Prior to filing any formal motions, submit a letter to the Court and opposing counsel detailing the issues and the need, if any, for a formal motion. The Court may call a pre-motion conference or direct the filing of a formal motion thereafter if necessary. **(1)** (*Pollak*)

- ii. Pre-motion conferences not required for discovery motions. **(2)** (*Orenstein, Tomlinson*)
 - a. ... except that a pre-motion conferences is required before filing a discovery motion on notice (as opposed to letter brief). **(1)** (*Orenstein*)
- iii. For motions other than discovery motions, parties must follow the rules of the District Judge. **(2)** (*Go, Pohorelsky*)
- iv. Pre-motion conferences required *only for*...
 - a. summary judgment. **(1)** (*Wall*)
 - b. amending pleadings. **(1)** (*Pohorelsky*)
 - c. bringing third-party actions. **(1)** (*Pohorelsky*)
- v. Not required for any motion **(1)** (*Brown*)
- vi. Pre-motion conferences required before any motion. **(7)** (*Azrack, Boyle, Gold, Levy, Lindsay, Mann, Reyes*)

except motions...

- a. for habeas corpus petitions. **(3)** (*Azrack, Levy, Gold*)
- b. for prisoner petitions. **(3)** (*Azrack, Levy, Gold*)
- c. for Social Security appeals. **(3)** (*Azrack, Levy, Gold*)
- d. for bankruptcy appeals. **(3)** (*Azrack, Levy, Gold*)
- e. by any pro se litigant. **(2)** (*Azrack, Levy*)

Length of letter to arrange conference?

- i. No more than two pages. **(2)** (*Tomlinson, Wall*)
- ii. No more than three pages. **(7)** (*Boyle, Levy, Lindsay, Mann, Orenstein, Pohorelsky, Reyes*)
 - a. Letter response not to exceed three pages to be filed within seven days from service of the notification letter. **(1)** (*Mann*)
 - b. Letter response not to exceed three pages to be filed within five days from service of the notification letter. **(1)** (*Pohorelsky*)

- c. Letter response not to exceed three pages to be filed within four days from service of the notification letter. **(1)** (*Reyes*)
- d. Letter response not to exceed three pages to be filed within three days from service of the notification letter. **(3)** (*Brown, Lindsay, Tomlinson*)

C. Memoranda of Law

- i. Support of and in opposition to: 25 pages. **(8)** (*Azrack, Boyle, Gold, Orenstein, Pohorelsky, Reyes, Tomlinson, Wall*)
- ii. Support of and in opposition to: 20 pages. **(2)** (*Brown, Lindsay*)
- iii. Reply: 10 pages. **(10)** (*Azrack, Boyle, Brown, Gold, Lindsay, Orenstein, Pohorelsky, Reyes, Tomlinson, Wall*)
- iv. Memoranda of 10 pages or more must contain a table of contents. **(9)** (*Azrack, Boyle, Gold, Lindsay, Orenstein, Pohorelsky, Reyes, Tomlinson, Wall*)
 - a. ... and a table of authorities. **(1)** (*Reyes*)
- v. The Court expects counsel to exercise their professional judgment as to the length of the briefs and may impose limits if that expectation is not met. **(3)** (*Go, Levy, Mann*)

D. Oral Argument on Motions

- i. Is held on all motions, where the parties are represented by counsel. **(2)** (*Brown, Tomlinson*)
- ii. Must be requested by letter, and the Court will determine whether argument will be heard and, if so, advise counsel of the time. **(11)** (*Azrack, Boyle, Go, Gold, Levy, Mann, Orenstein, Pohorelsky, Pollak, Reyes, Wall*)
- iii. Must be requested on the cover of the moving, opposition, or reply papers, and the Court will determine whether argument will be heard and, if so, advise counsel of the time. **(1)** (*Lindsay*)

3. **Pretrial Procedures**

A. Filings Prior to Trial in Civil Cases

Must be filed:

- i. At least one week before trial. **(1)** (*Wall*)

- ii. 10 days before trial. **(1)** (*Tomlinson*)
- iii. 14 days before trial if date fixed, or 30 days after filing of the final pretrial order if no trial date. **(1)** (*Go*)
- iv. 15 days before trial. **(3)** (*Azrack, Brown, Lindsay*)
- v. 15 days before trial if date fixed, or 30 days after filing of the final pretrial order if no trial date. **(4)** (*Gold, Levy, Pollak, Reyes*)
- vi. Two weeks prior to the commencement of trial **(1)** (*Pohorelsky*)
- vii. No later than the Thursday prior to trial. **(1)** (*Boyle*)
- viii. Pursuant to the schedule set up by the Court. **(1)** (*Mann*)
- ix. Varying deadlines depending on type of document. **(1)** (*Orenstein*)

Must contain:

- i. In jury cases, requests to charge and proposed voir dire questions. **(13)** (*Azrack, Boyle, Brown, Go, Gold, Levy, Lindsay, Mann, Orenstein, Pollak, Reyes, Tomlinson, Wall*)
 - a. ...proposed voir dire questions may be submitted on the Wednesday before trial. **(1)** (*Go*)
 - b. ...proposed voir dire questions and requests to charge may be submitted on the Thursday before trial. **(3)** (*Boyle, Gold, Pollak*)
- ii. In jury cases, proposed instructions and verdict sheets. **(7)** (*Azrack, Levy, Lindsay, Mann, Pollak, Reyes, Tomlinson*)
- iii. In non-jury cases, a statement of the elements of each claim or defense involving such party, together with a summary of the facts required to establish each element. **(12)** (*Azrack, Boyle, Go, Gold, Levy, Lindsay, Mann, Orenstein, Pollak, Reyes, Tomlinson, Wall*)
- iv. In non-jury cases, proposed findings of fact and conclusions of law **(1)** (*Pollack*)
- v. In all cases, motions addressing issues which should be resolved in limine. **(13)** (*Azrack, Boyle, Brown, Go, Gold, Levy, Lindsay, Mann, Orenstein, Pollak, Reyes, Tomlinson, Wall*)
- vi. In any case where a party believes it would be useful, a pretrial memorandum. **(11)** (*Azrack, Boyle, Go, Gold, Levy, Lindsay, Mann, Orenstein, Pollak, Reyes, Wall*)

- a. ...pretrial memorandum required in all cases. **(1)** (*Tomlinson*)
- vii. Witness list. **(2)** (*Pohorelsky, Tomlinson*)
 - a. ...of any fact and expert witness whose testimony is to be offered at trial, indicating whether the witnesses will testify in person or by deposition. **(1)** (*Pohorelsky*)
- viii. A statement regarding damages and other relief sought. **(11)** (*Azrack, Go, Gold, Levy, Lindsay, Mann, Orenstein, Pollak, Reyes, Tomlinson, Wall*)
- ix. A list of exhibits to be offered at trial. **(1)** (*Pohorelsky*)
- x. Two courtesy copies of all exhibits. **(1)** (*Azrack*)
- xi. Identification of materials to be relied upon pursuant to Rule 803(18) of the *Federal Rules of Evidence* (learned treatises). **(1)** (*Pollak*)

B. Pretrial Order

- i. Not required unless directed by Court. **(2)** (*Boyle, Pohorelsky*)

Must be filed...

- i. 60 days following completion of discovery in a civil case. **(4)** (*Go, Gold, Levy, Reyes*)
- ii. Upon completion of discovery in a civil case. **(1)** (*Azrack*)
- iii. On or before the date set forth in the Scheduling Order. **(6)** (*Brown, Lindsay, Mann, Orenstein, Tomlinson, Wall*)

Contents

- i. The full caption of the action. **(11)** (*Brown, Go, Gold, Levy, Lindsay, Mann, Orenstein, Pollak, Reyes, Tomlinson, Wall*)
- ii. The names, addresses **(11)** (10) (*Brown, Go, Gold, Levy, Lindsay, Mann, Orenstein, Pollak, Reyes, Tomlinson, Wall*)
- 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 of absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount. **(11)** (*Brown, Go, Gold, Levy, Lindsay, Mann, Orenstein, Pollak, Reyes, Tomlinson, Wall*)
- iv. A brief summary by each party of the claims and defenses the party has asserted which remain to be tried, identifying claims and defenses

previously asserted which are not to be tried. **(11)** (*Brown, Go, Gold, Levy, Lindsay, Mann, Orenstein, Pollak, Reyes, Tomlinson, Wall*)

- v. A statement by each party as to whether the case is to be tried with or without a jury. **(11)** (*Brown, Go, Gold, Levy, Lindsay, Mann, Orenstein, Pollak, Reyes, Tomlinson, Wall*)
- vi. An estimate of the number of trial days needed. **(11)** (*Brown, Go, Gold, Levy, Lindsay, Mann, Orenstein, Pollak, Reyes, Tomlinson, Wall*)
- vii. A statement as to whether parties have consented to trial by a Magistrate Judge, without identifying which parties have or have not so consented. **(3)** (*Brown, Gold, Mann*)
- viii. Any stipulations or agreed statements of fact or law which have been agreed to by all parties. **(12)** (*Azrack, Brown, Go, Gold, Levy, Lindsay, Mann, Orenstein, Pollak, Reyes, Tomlinson, Wall*)
 - a. ...to be filed three business days before trial. **(1)** (*Orenstein*)
- ix. A statement by each party as to witnesses whose testimony is to be offered in its case-in-chief, indicating whether such witnesses will testify in person or by deposition. **(13)** (*Azrack, Boyle, Brown, Go, Gold, Levy, Lindsay, Mann, Orenstein, Pollak, Reyes, Tomlinson, Wall*)
- x. A designation by each party of deposition testimony to be offered with cross-designations and objections by any other party. **(12)** (*Azrack, Brown, Go, Gold, Levy, Lindsay, Mann, Orenstein, Pollak, Reyes, Tomlinson, Wall*)
 - a. ...to be filed three business days before trial. **(1)** (*Orenstein*)
- xi. A list of exhibits to be offered. **(14)** (*Azrack, Boyle, Brown, Go, Gold, Levy, Lindsay, Mann, Orenstein, Pohorelsky, Pollak, Reyes, Tomlinson, Wall*)
 - a.with one star indicating that no parties objects on grounds of authenticity **(2)** (*Go, Gold*)
 - b. ...to be filed three business days before trial. **(1)** (*Orenstein*)
- xii. List of witnesses. **(13)** (*Azrack, Boyle, Go, Gold, Levy, Lindsay, Mann, Orenstein, Pohorelsky, Pollak, Reyes, Tomlinson, Wall*)
 - a. ...to be filed three business days before trial. **(1)** (*Orenstein*)
- xiii. List of experts to be called at trial. **(12)** (*Boyle, Go, Gold, Levy, Lindsay, Mann, Orenstein, Pohorelsky, Pollak, Reyes, Tomlinson, Wall*)

- a. ...to be filed three business days before trial. **(1)** (*Orenstein*)

C. Briefing Schedules

- i. Parties are to set up their own briefing schedule. **(7)** (*Azrack, Boyle, Brown, Orenstein, Pohorelsky, Reyes, Tomlinson*)
 - a. ...subject to Court approval. **(3)** (*Azrack, Reyes, Tomlinson*)
 - b. ...for non-discovery motions. **(2)** (*Pohorelsky, Reyes*)
 - c. ...which may be revised on consent, informing chambers by letter. **(2)** (*Boyle, Orenstein*)
 - d. ...which cannot be changed without Court approval. **(3)** (*Azrack, Reyes, Tomlinson*)
- ii. Briefing schedules will be set by the Court. **(2)** (*Pollak, Wall*)
 - a. If an extension of time is necessary, the parties may agree to a revised schedule and inform the Court by letter. **(1)** (*Pollak*)
- iii. If a party decides to make a motion for summary judgment, a briefing schedule will be established by the Court at the pre-motion conference. **(1)** (*Lindsay*)
- iv. No party is to serve any motion papers prior to obtaining Court approval for the schedule. **(2)** (*Azrack, Reyes*)

D. Discovery Disputes

If unable to reach agreement...

- i. Submit letter, which should be jointly composed, and describe the issues in dispute, position of each party, and cite authority. **(1)** (*Reyes*)
- ii. Initiate telephone conference with the Magistrate Judge. **(1)** (*Azrack*)
 - a. Attorneys are not permitted to submit letters or formal motions regarding the substance of discovery disputes unless specifically authorized to do so. **(1)** (*Azrack*)
- iii. Make an application to the Magistrate Judge. **(1)** (*Pohorelsky*)
- iv. If parties cannot agree on a revised schedule, contact the Court in writing and a revised schedule will be set. **(1)** (*Pollak*)
- v. For deposition problems, contact the Court immediately by telephone. The Court will either resolve the matter or instruct the parties to move on to

other issues in the deposition until such time as the Court can address the dispute. Under no circumstances should the parties discontinue the deposition without first attempting to contact the Court. **(1)** (*Pollak*)

4. Civil Trial Practices

A. Electronic Case Filing (ECF)

- i. Counsel must file all documents electronically. **(12)** (*Azrack, Bloom, Boyle, Go, Gold, Mann, Orenstein, Pohorelsky, Pollak, Reyes, Tomlinson, Wall*)
- ii. For all cases designated ECF, parties are responsible for being current in any and all matters filed electronically by this Court. Orders will be posted electronically, and parties not registered on ECF will not receive them. **(8)** (*Azrack, Boyle, Mann, Orenstein, Pohorelsky, Reyes, Tomlinson, Wall*)
- iii. Written requests by attorneys for an exemption from electronic filing will be considered for good cause by the assigned Magistrate Judge. **(5)** (*Azrack, Go, Mann, Orenstein, Reyes*)
 - a. Requests must be submitted no later than two weeks before the date of the initial conference. **(2)** (*Go, Mann*)
 - b. Such requests will be granted only in limited circumstances. **(5)** (*Azrack, Go, Mann, Orenstein, Reyes*)
- iv. 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. **(8)** (*Bloom, Brown, Go, Mann, Orenstein, Reyes, Tomlinson, Wall*)
- v. 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. **(1)** (*Go*)
 - a. Parties filing non-text exhibits or materials in excess of 50 pages shall submit a courtesy copy of the entire filing. **(2)** (*Reyes, Tomlinson*)
 - b. Parties filing non-text exhibits or materials in excess of 100 pages shall submit a courtesy copy of the entire filing. **(1)** (*Wall*)

- vi. Sealed documents or documents containing sealed/sensitive information must be submitted in hard copy only and labeled “sealed” or “sensitive.” **(3)** (*Brown, Tomlinson, Wall*)
- vii. *Ex parte* settlement statements must be submitted in hard copy only. **(5)** (*Brown, Orenstein, Reyes, Tomlinson, Wall*)
 - a. ...by fax only. **(3)** (*Orenstein, Reyes, Wall*)

B. Jury Trials

Proposed Requests to Charge, Voir Dire questions, and Verdict Forms:

- i. Counsel for each party shall provide the Court with any voir dire requests which pertain specifically to the case at issue. **(1)** (*Pollak*)
- ii. Counsel for each party shall submit proposed requests to charge the jury, with citations of authorities. **(1)** (*Pollak*)
- iii. Counsel for each party shall submit proposed verdict forms, special verdict forms, and proposed special interrogatories to the jury. **(1)** (*Pollak*)
- iv. The Court will conduct all voir dire. **(1)** (*Orenstein*)
- v. A joint list of the names of all witnesses or person about whom testimony is expected must be provided to prospective jurors during voir dire. **(1)** (*Orenstein*)

C. Witnesses

- i. Witnesses that were not identified in the joint pre-trial order may not be called at trial. **(13)** (*Azrack, Boyle, Go, Gold, Levy, Lindsay, Mann, Orenstein, Pohorelsky, Pollak, Reyes, Tomlinson, Wall*)
- ii. No later than the end of each trial day, counsel must notify each other and the Court of witnesses to be called the following day. **(1)** (*Orenstein*)
- iii. Cross-examination in a civil case may go beyond the scope of direct to avoid making the witness return to testify in the opposing party’s case, absent a contrary ruling made before the start of a witness’s direct testimony. **(1)** (*Orenstein*)
 - a. However, to the extent that cross-examination exceeds the scope of the direct pursuant to this rule, counsel should not ask leading questions (unless the witness is hostile or otherwise associated with the opposing party.) **(1)** (*Orenstein*)

D. Exhibits

- i. All exhibits must be pre-marked for trial and exchanged with the other parties. **(9)** (*Boyle, Levy, Mann, Orenstein, Pohorelsky, Pollak, Reyes, Tomlinson, Wall*)
 - a.at least ten days before the trial. **(8)** (*Levy, Mann, Pollak, Reyes, Tomlinson, Wall*)
- ii. No later than the first day of trial, all parties are to provide the Court with tabbed binders containing copies of all of the exhibits. **(1)** (*Pohorelsky*)
- iii. If exhibits are voluminous, they should be placed in binders with tabs. **(6)** (*Levy, Mann, Pollak, Reyes, Tomlinson, Wall*)

E. Sidebars

- i. Sidebar conferences will be kept to a minimum. Counsel are expected to anticipate and raise evidentiary issues during breaks in the trial to avoid wasting the jurors' time. **(1)** (*Orenstein*)

F. Interpreter Services

- i. Interpreter services are not provided by Court in civil cases; party must make his own arrangements to conduct his case in English. **(2)** (*Bloom, Pollack*)

G. Change of Address

- i. Parties must keep the Court apprised of their current address and telephone number. **(2)** (*Bloom, Pollack*)

H. Closing Arguments

- i. Closing arguments will start with the defendant and conclude with the plaintiff. There will be no rebuttal. **(1)** (*Orenstein*)