

## Judge John Gleeson

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### *Motions Returnable*

Set by the court; Friday mornings

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

#### 1. *Communications With Chambers*

##### A. *Writing*

Except as provided below, communications with chambers shall be in writing and filed on ECF, with copies simultaneously delivered to all parties who do not receive automatic notification through ECF. Copies of correspondence between counsel shall not be sent to the Court.

Written submissions filed under seal shall be delivered on paper and not filed on ECF. Each such submission shall be accompanied by an explanation of why sealing is necessary. If the Court disagrees that sealing is necessary, the document will be placed in the public file.

Parties shall deliver courtesy copies, marked as such, of all written submissions that are over 30 pages in length.

##### B. *Telephone Calls*

Telephone calls to chambers are permitted. For docketing, scheduling or calendar matters, call Ilene Lee at (718) 613-2455.

##### C. *Faxes*

Faxes to chambers are permitted only if prior authorization is obtained. For docketing, scheduling or calendar matters, call Ilene Lee at (718) 613-2455.

D. *Request for Adjournments or Enlargement of Time*

All requests for adjournments or enlargement of time must be in writing and state:

- i. The original date.
- ii. The number of previous requests for adjournment or enlargement.
- iii. Whether these previous requests were granted or denied.
- iv. Whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent.

If the requested adjournment or enlargement of time affects any other scheduled dates, proposed revised dates must be provided. If the request is for an adjournment of a court appearance, absent an emergency, it shall be made at least 48 hours prior to the scheduled appearance.

2. *Motions*

A. *Pre-Motion Conference Requests in Civil Cases*

For discovery motions, follow Local Civil Rules 37.3 and 6.4. For motions other than discovery motions, in all cases where the parties are represented by counsel, except habeas corpus/prisoner petitions and Social Security and Bankruptcy appeals, a pre-motion conference with the court must be requested before making:

- i. Any motion pursuant to Fed. R. Civ. P. 12 or 56.
- ii. Any motion for a change of venue.
- iii. Any motion to amend a pleading pursuant to Rule 15 of the Fed. R. Civ. P. where leave of court is required.

To request a pre-motion conference, the moving party shall file and serve a letter not to exceed three (3) pages in length setting forth the basis for the anticipated motion. All parties served may, but are not required to, serve and file a letter response, not to exceed three (3) pages within seven (7) days from service of the notification letter.

Rule 12(a) prescribes time requirements for the filing of answers and for the filing of motions permitted under Rule 12. For the purposes of these timing requirements, a promotion conference letter requesting permission to file a motion permitted by the Rule shall be considered the equivalent of the motion itself.

In many cases, it will be apparent from the letter requesting a pre-motion conference that such a conference will not be a useful expenditure of the parties' time, and a motion schedule will be set (or the parties will be directed to set one) without a pre-motion conference. Counsel are informed that such decisions are commonly made before the time for filing response letters has expired, but any such decision shall be revisited upon the filing of a timely response letter.

A pre-motion conference request in connection with a proposed Rule 56 motion shall include a preliminary Rule 56.1 statement. A response letter opposing such a pre-motion conference request shall include a preliminary Rule 56.1 counter-statement. Counsel should bear in mind the limited purpose of the preliminary Rule 56.1 statement and counter-statement, which is to determine whether the proposed motion is necessary. The final Rule 56.1 statement and counter-statement submitted upon the briefing of the motion itself may be more extensive than the preliminary Rule 56.1 statement and counter-statement submitted in connection with the pre-motion conference request.

Note that these provisions do *not* apply to motions other than those specifically enumerated. For example, letters requesting pre-motion conferences do not apply to motions pursuant to Fed. R. Civ. P. 50, 59 and 60, and counsel should be aware that the Court of Appeals will not accept an argument that compliance with district court motion rules should excuse noncompliance with Fed. R. App. P. 4. *See, e.g., Bowles v. Russell*, 127 S. Ct. 2360, 2362-63 (2007) (holding no jurisdiction exists over appeal filed within time permitted by district court but outside time provided by Fed. R. App. P. 4(a)(6)).

B. *Memoranda of Law*

Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages, and reply memoranda are limited to 10 pages. Memoranda of 10 pages or more shall contain a table of contents.

C. *Filing of Motion Papers*

The notice of motion and all supporting papers are to be served on the other parties along with a cover letter setting forth whom the movant represents and the papers being served. All motion papers shall be filed on ECF simultaneously with service.

D. *Oral Argument on Motions*

Where the parties are represented by counsel, oral argument will be held on all motions. The notice of motion shall state the date and time of the oral argument if the Court has already provided one. Otherwise it shall state that oral argument will be “on a date and at a time to be designated by the court.” The court will contact the parties to set the specific date and time for oral argument.

3. *Pretrial Procedures*

A. *Joint Pretrial Orders in Civil Cases*

Unless otherwise ordered by the Court, within 60 days from the date for the completion of discovery in a civil case, the parties shall submit to the court for its approval a joint pretrial order, which shall include the following:

- i. The full caption of the action.
- ii. The names, addresses (including firm names), and telephone and fax numbers of trial counsel.
- iii. A brief statement by plaintiff as to the basis of subject matter jurisdiction, and a brief statement by each other party as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount.
- iv. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matter but including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried.
- v. A statement by each party as to whether the case is to be tried with or without a jury, and the number of trial days needed.
- vi. A statement as to whether or not all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented).
- vii. Any stipulations or agreed statements of fact or law which have been agreed to by all parties.
- viii. A list by each party as to the fact and expert witnesses whose testimony is to be offered in its case in chief, indicating whether such witnesses will testify in person or by deposition. Only listed witnesses will be permitted to testify except when prompt notice has been given and good cause shown.
- ix. A designation by each party of deposition testimony to be offered in its case in chief, with any cross-designations and objections by any other party.
- x. (1) A statement of stipulated facts, if any.  
(2) A schedule listing exhibits to be offered in evidence and, if not admitted by stipulation, the party or parties that will be offering them. The schedule will also include possible impeachment documents and/or exhibits, as well as exhibits that will be offered only on rebuttal. The parties will list and briefly describe the basis for any objections that they have to the admissibility of any exhibits to be offered by any other party. Parties are expected to resolve before trial all issues of authenticity, chain of custody and related grounds. Meritless objections based on these grounds may result in the imposition of sanctions. Only exhibits listed will be received in evidence except for good cause shown; and

(3) All exhibits must be premarked for the trial and exchanged with the other parties at least ten days before trial. Where exhibits are voluminous, they should be placed in binders with tabs.

B. *Filings Prior to Trial in Civil Cases*

Unless otherwise ordered by the Court, each party shall file 15 days before the date of commencement of trial if such a date has been fixed, or 30 days after the filing of the final pretrial order if no trial date has been fixed:

- i. On the Thursday before trial in jury cases, requests to charge and proposed voir dire questions. Requests to charge should be limited to the elements of the claims, the damages sought and defenses. General instructions will be prepared by the court. When feasible, proposed jury charges should also be submitted to chambers electronically in IBM Word Perfect format. Counsel may provide the charges on a diskette or else contact chambers to obtain an email address for the charges.
- ii. By claim, a detailed statement regarding damages and other relief sought.
- 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 relied upon to establish each element.
- iv. In all cases, motions addressing any evidentiary or other issues which should be resolved *in limine*.
- v. In any case where such party believes it would be useful, a pretrial memorandum.