

**INDIVIDUAL RULES AND PRACTICES OF
HONORABLE JOANNA SEYBERT**

UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF NEW YORK
Alfonse M. D’Amato Federal Building
United States District Court
100 Federal Plaza, Courtroom 1030
Central Islip, New York 11722

Chambers Phone Number: (631) 712-5610
Chambers Email: Seybert_Chambers@nyed.uscourts.gov
Eric Russo, Courtroom Deputy
Direct Phone Number: (631) 712-5615
Email Address: Eric_Russo@nyed.uscourts.gov

► **Unless otherwise specified, all matters before the Court shall be conducted in accordance with the following practices.**

► **Unless otherwise excused, all filing with the Court is to be done electronically through the Court’s Electronic Case Filing System (“ECF”). See Rule II.**

I. COMMUNICATIONS WITH CHAMBERS

- A. **Ex Parte Communications.** Except as otherwise permitted by law or in accordance with these Individual Rules, **ex parte communications with Chambers are not permitted.**
- B. **Letters.** Except as provided below, communications with the Court **shall be by letter filed to ECF**, with copies simultaneously served upon all counsel, via ECF notification or other means. Letters shall include the case name and number, and shall not exceed four (4) pages. Copies of correspondence between Counsel **shall not** be filed or sent to the Court. Parties seeking clarification of these Individual Rules or case-specific matters shall file a letter requesting same.
- C. **Requests for Court Action.** Any document seeking relief **of any kind** from the Court must be filed as a “Motion” (and not as a “Letter”). To file a Letter Motion, use the ECF “Other Documents” event.
- D. **Telephone Calls and Emails.** Telephone calls and emails to Chambers are permitted **only in emergency situations requiring immediate attention.** When calling or emailing in such situations, be prepared to provide the case name and number. Refer to Rule I(F) before calling regarding extension requests. **NOTE:** **The Court will not review any messages left on (631) 712-5610; if necessary, call again.**

1. **Urgent Scheduling and Calendar Matters.** For urgent scheduling and calendar matters, call or e-mail Eric Russo, Courtroom Deputy, at (631) 712-5615 or at Eric_Russo@nyed.uscourts.gov”. E-mail is preferred. (Note the underscore between “Eric” and “Russo”.)
 2. **Docketing Matters.** Do not contact Chambers with questions regarding docketing or ECF, including questions seeking ECF filing assistance. Information regarding the Court’s docketing and ECF System is available on the Court’s website. Questions regarding docketing, ECF filing, and ECF training are to be directed to the Clerk’s Office at (631) 712-6010.
 3. **Case and Motion Status.** Chambers will not address inquiries regarding the status of a party’s case or any pending motions therein.
- E. **Faxes.** Faxes are not permitted without prior permission from the Court.
- F. **Requests for Adjournments or Extensions of Time.**
1. **All requests for adjournments of Court appearances and scheduled hearings or extensions of deadlines shall be made as soon as a party is aware of the need and, in any event, at least two (2) business days prior to the appearance, scheduled hearing, or deadline, absent an emergency.**
 2. All adjournment and extension requests shall be addressed to the Court and filed as a letter motion in accordance with Rule I(B). The subject appearance or deadline is not adjourned unless the Court informs the parties – typically by notice to ECF – that the letter motion has been granted. All adjournment and extension requests must state:
 - a. The original scheduled Court date, due date or deadline;
 - b. The number of previous requests for adjournments or extensions;
 - c. Whether previous requests were granted or denied;
 - d. The reason for the request;
 - e. Whether the adversary consents, and if not, the reasons given by the adversary for refusing to consent; and
 - f. If the requested adjournment or extension affects any other scheduled date(s), the request must list the proposed change for such other date(s) and, if applicable, suggest dates on which all parties are available.

3. **Requests for extensions of time to file responsive pleadings** shall be addressed to the assigned Magistrate Judge and shall be filed to ECF. See Rule III(H)(1).

G. **Notification of Settlement.** Any time a settlement is reached, including prior to jury selection or during trial, the parties are **required** to immediately notify the Court by filing a notice letter to ECF. The notice letter shall indicate when the parties expect to execute a formal Stipulation of Settlement or Dismissal.

II. **ELECTRONIC CASE FILING (ECF)**

A. **Generally.** In accordance with the Local Rules, all documents must be filed electronically on the Court's ECF System. Information regarding ECF is available on the Court's website. All questions regarding ECF are to be directed to the Clerk's Office at (631) 712-6010. **Do not contact Chambers with ECF or docketing questions.**

B. **Pro Se Parties.** Pro se parties are automatically exempt from mandatory electronic filing unless the pro se party is a practicing attorney admitted to practice in the Eastern District of New York. However, parties represented by counsel must file documents electronically, even in pro se cases.

C. **Text Searchable Documents.** All documents filed to ECF must be text searchable.

D. **Exhibits.** Any party filing exhibits to ECF **must**: (1) file each exhibit as a separate PDF file; and (2) clearly identify and describe each exhibit. (For example, "Exhibit A – Jane Smith Dep.")

III. **MOTIONS**

A. **Strict compliance with the Federal Rules of Civil Procedure, Local Rules of the Eastern District of New York, and this Court's Individual Rules is required. Submissions not in compliance, including, but not limited to untimely submissions, may not be considered by the Court.**

B. **Pre-Motion Conference Requests in Civil Cases are required for dismissal motions pursuant Rule 12 of the Federal Rules of Civil Procedure and summary judgment motions pursuant to Rule 56 of the Federal Rules of Civil Procedure.** If warranted, the Court will set a briefing schedule for proposed motion(s) at the pre-motion conference.

1. **Requesting a Pre-Motion Conference.** To request a pre-motion conference, the moving party shall file a letter motion of no more than four (4) pages, briefly stating the basis for the anticipated underlying motion. The opposing party shall submit a letter response, of not more than four (4) pages, setting forth its position in opposition. If applicable, the opposing

party shall state whether it seeks to file a cross-motion. All pre-motion conference requests are to be filed in accordance with Rule I(B) above. Carefully review Rule III(B)(5) regarding the exchange of Local Rule 56.1 Statements in advance of summary judgment pre-motion conference requests.

2. **Pre-Motion Conferences and Deadlines.** The filing of a pre-motion conference request does not stay any future deadlines, except that such a motion concerning a proposed motion to dismiss will stay the defendant's time to answer or otherwise move with respect to the Complaint. The parties shall adhere to the deadlines set by the assigned Magistrate Judge and shall file pre-motion conference requests prior to the set deadline for filing dispositive motions.
3. **Court May Construe Pre-Motion Conference Request as Motion.** **PARTIES ARE ON NOTICE:** In the Court's discretion, in appropriate cases, the pre-motion conference request and response thereto may be construed as the proposed underlying motion and corresponding opposition. In such an instance, the parties will be notified, and the Court will set a hearing on the motion. Arguments not raised in the pre-motion conference request or during the subsequent hearing shall be deemed waived.
4. **Motions to Dismiss.** Responses to pre-motion conference requests regarding proposed motions to dismiss are to be filed no later than seven (7) days after receipt of the movant's motion.
5. **Summary Judgment Motions.** Responses to pre-motion conference requests regarding motions for summary judgment are to be filed no later than twenty-one (21) days after receipt of the movant's pre-motion conference request. Adherence to Local Civil Rule 56.1 is required.
 - a. **Rule 56.1 Statement.** Along with the required pre-motion conference request, any party seeking leave to file a motion for summary judgment must also file a Local Rule 56.1 Statement. Each numbered paragraph in the Rule 56.1 Statement must contain only one factual assertion. Each factual assertion must be followed by a supporting citation to the record. Failure to comply with this rule may constitute grounds for striking the Rule 56.1 Statement and/or denying the pre-motion conference request.
 - b. **Rule 56.1 Counterstatement.** Within twenty-one (21) days after receipt of the movant's Rule 56.1 Statement, the party opposing the pre-motion conference request must serve the movant with a counterstatement pursuant to Local Rule 56.1(b). The Rule 56.1 Counterstatement must: contain numbered paragraphs tracking those in the movant's Rule 56.1 Statement; for each paragraph, state specifically

E. Page Limitations, Formatting, and Bundling.

1. **Memoranda of Law.** Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to twenty-five (25) pages, and reply memoranda are limited to ten (10) pages. All memoranda must contain an index of cases; all memoranda of ten (10) or more pages shall also contain a table of contents. All requests to file rebuttals, sur-replies, etc., and to exceed page limits must be made by letter motion; such requests are granted sparingly.
2. **Formatting.** Motion paper captions must list all active plaintiffs and defendants. Motion papers shall have: one-inch margins; 12-point Times New Roman or larger font; and, be double spaced (with no more than 23 lines per page). To the extent necessary, footnotes shall be printed in 10-point Times New Roman or larger font and be single spaced.
3. **Bundling Rule.** No motion papers are to be filed until the motion has been fully briefed, unless doing so could result in a loss of a legal right. However, when serving papers, a party may file with the Court its transmittal letter setting forth the papers being served. The initial movant shall file all motion papers and related matters once briefing has been completed.

F. Courtesy Copies. See Rule IV.

G. Oral Argument. If the Court determines it wishes to hear oral argument on a motion, it will schedule a hearing date and notify the parties of same.

H. Motions Referred to the Assigned Magistrate Judge.

1. **Discovery and Non-Dispositive Motions.** All discovery and non-dispositive pretrial motions and applications shall be made to the assigned Magistrate Judge in accordance with that Magistrate Judge's individual rules. Non-dispositive motions and applications include, but are not limited to:
 - a. All discovery requests and applications, including motions to stay discovery and Rule 37 motions;
 - b. Requests to amend the pleadings;
 - c. Requests for an extension of time to serve, answer or file amended pleadings;
 - d. Stipulations concerning amendments to pleadings;
 - e. Applications concerning confidentiality/protective orders;

- f. Motions to substitute and/or withdraw counsel;
- g. Pro hac vice motions; and
- h. Motions for attorney's fees.

- 2. **Dispositive Motions.** From time to time, the Court may refer dispositive motions to the assigned Magistrate Judge for a report and recommendation on whether the pending motion should be granted. After referral, the parties shall direct further filings regarding the referred motion to the assigned Magistrate Judge, with the exception that all requests for extensions of time to file objections to reports and recommendations shall be directed to this Court.

IV. **COURTESY COPIES**

- A. **ECF-Filed Documents of more than Ten (10) Pages.** For all documents filed on ECF that are more than ten (10) pages, one courtesy copy of such document shall be sent to Chambers. Courtesy copies are to be the filed version of the document printed from ECF with the automatically generated ECF header (e.g., "Case 1:20-cv-01234-JS Document 100 Filed 06/3/2020 Page 1 of 10").
- B. **Motion Papers.** Notwithstanding that the movant is responsible for filing all papers regarding its motion, each party shall provide the Court with courtesy copies of its filed motion papers. This encompasses all related materials, including exhibits. Courtesy copies are to be the filed version of the documents printed from ECF with the automatically generated ECF header.
- C. **Delivery Methods.** Courtesy copies are to be hand delivered or sent via mail or delivery service to Chambers. Said copies are to be submitted: (1) as left-side, spiral-bound, stapled, or bindered (and not velo-bound); and (2) with exhibits organized and sequentially separated by tabs. Emailing courtesy copies as attachments is not an accepted method of delivery.

V. **CONFERENCES**

- A. Unless otherwise ordered, conferences are held in Courtroom 1030 of the United States District Court located at 100 Federal Plaza in Central Islip, New York. All parties shall appear promptly at the scheduled time and wait in the Courtroom until the case is called.
- B. All counsel appearing at conferences must:
 - 1. Have filed a notice of appearance;
 - 2. Be fully familiar with the case;

3. Be prepared to discuss all aspects of the case;
4. Have authority to consummate settlements; and
5. Be fully familiar with Rule 16 of the Federal Rules of Civil Procedure.

VI. CIVIL TRIAL PROCEDURES

- A. Joint Pretrial Orders.** Unless otherwise ordered by the Court, within sixty (60) days from the date for the completion of discovery in a civil case or, if a dispositive motion has been filed, within sixty (60) days of a decision resolving the motion, the parties shall submit to the Court for its approval a joint pretrial order setting forth the information required by Rule 26(a)(3) of the Federal Rules of Civil Procedure and the following:
1. The full caption of the action.
 2. The names (including firm names), addresses, telephone numbers, and email addresses of trial counsel.
 3. 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 statutes relied upon and relevant facts as to citizenship and jurisdictional amount.
 4. A brief summary by each party of the claims and defenses which remains to be tried, without recital of evidentiary matter, but including citations to all statutes relied upon.
 5. 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.
 6. 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).
 7. Any stipulation or agreed statements of fact or law which have been agreed to by all parties.
 8. A statement by each party as to the witnesses whose testimony is to be offered in its case in chief with a brief narrative statement of the expected testimony of each witness. This list must indicate whether such witnesses will testify in person or by deposition and whether such witnesses will be called for impeachment or rebuttal purposes. A party may not call as a

witness an individual who is not listed in its portion of the witness list, except when prompt notice has been given and good cause has been shown.

9. 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.
10. A list by each party of exhibits to be offered in its case in chief. The opposing party must indicate to which exhibits it objects and the nature of the objection (e.g., “authenticity”, “hearsay”, and “Rule 403”). Any objection not listed shall be deemed waived. The list will also include possible impeachment documents and/or exhibits, as well as exhibits that will be offered only on rebuttal. Parties are expected to resolve all issues of authenticity, chain of custody, and related grounds before trial. Meritless objections based on these grounds may result in the imposition of sanctions. Except for good cause shown, only exhibits listed will be received into evidence.

B. Default Deadlines and Filings Prior to Civil Jury Trials. Parties appearing pro se are to seek the Court’s guidance at the pretrial conference. **PARTIES ARE ON NOTICE:** The Court may depart from these default deadlines and will notify counsel at a pretrial conference or via ECF notification of any such changes or modifications.

1. Fourteen Days Prior to Jury Selection

- a. **Damages:** Counsel shall file a detailed statement regarding the damages and other relief sought at trial.
- b. **Motions in Limine:** All motions addressing any evidentiary or other issues that should be resolved in limine are to be fully briefed and filed at least fourteen (14) days prior to jury selection.
- c. **Pretrial Memoranda (a.k.a. Trial Briefs):** Parties may file pretrial memoranda addressing the contested legal issues expected to arise at or before trial. Such memoranda shall not exceed twenty-five (25) pages. A courtesy copy shall be delivered to Chambers. See Rule IV.

2. Five Days Prior to Jury Selection

- a. The parties must jointly file:
 - i. Proposed voir dire questions to ask prospective jurors;
 - ii. Requests to charge (that should be limited to the elements of the claims, the damages sought, and the defenses raised); and

B. MOTIONS

1. **Strict compliance with the Federal Rules of Criminal Procedure, Local Rules of the Eastern District of New York, and this Court’s Individual Rules is required. Submissions not in compliance may not be considered by the Court. ALL MOTIONS shall be addressed by this Court unless the Court informs the parties – typically by order or notice on ECF – that the motion will be referred to the assigned Magistrate Judge.**

2. **Requests for Adjournments of Court Appearances or Extensions of Time to File Documents.**
 - a. **All requests for adjournments of court appearances or extensions of time to file documents shall be made as soon as a party is aware of the need and, in any event, at least two (2) business days prior to the scheduled appearance, due date, or deadline, absent an emergency. See Rule I(D)(1) if an emergency has risen resulting in the late request.**

 - b. **Requests for Extensions of Time to File Documents.** Requests for extensions of time to file documents shall be filed as a “Motion for Extension of Time to File”. The deadline to file the document(s) is not extended unless the Court informs all parties – typically by order or notice on ECF – that the motion has been granted. All requests for extensions of time must state:
 - i. The original scheduled due date or deadline;
 - ii. The number of previous requests for extensions;
 - iii. Whether previous requests were granted or denied;
 - iv. The reason for the requested extension of time;
 - v. Proposed date(s) for the Court’s consideration; and
 - vi. Whether the other party(ies) consents, and if not, the reasons given for refusing to consent. If the requested extension affects any other scheduled due dates or deadlines, the request must list the proposed changes for all such other dates.

- c. **Requests for Adjournments of Court Appearances.** Requests for adjournments of court appearances shall be filed as a “Motion to Continue”. The scheduled appearance is not adjourned unless the Court informs all parties – typically by order or notice on ECF – that the motion has been granted. All requests for adjournments of court appearances must state:
- i. The original scheduled Court date;
 - ii. The number of previous requests for adjournments;
 - iii. Whether previous requests were granted or denied;
 - iv. The reason for the requested continuance of the court appearance;
 - v. At least three (3) suggested dates on which all parties are available. **NOTE:** If the Court is unavailable during the dates/times proposed, it may reschedule the appearance to a date/time of its convenience;
 - vi. Whether the other party(ies) consents, and if not, the reasons given for refusing to consent; and
 - vii. If applicable, whether the defendant consents to a **Waiver of Speedy Trial** for the time between the original scheduled Court date and the proposed date.

3. **Domestic Travel Requests**

- a. **All requests to travel within the United States shall be made as soon as the defendant is aware of the need and, in any event, at least five (5) business days prior to the scheduled travel date, absent an emergency. See Rule I(D)(1) if an emergency has arisen resulting in the late request.**
- b. Requests to travel within the United States shall be filed as a “Motion to Travel”. The requested travel is not permitted unless the Court informs all parties – typically by order or notice on ECF – that the motion has been granted. All domestic travel requests must include:

- i. The dates the defendant intends to leave and return to the District;
- ii. The location to which the defendant intends to travel to;
- iii. The reason or purpose for the requested travel;
- iv. The number of previous requests to travel and if the previous travel requests were for the same or similar purpose (i.e., work or family related travel);
- v. Whether previous requests were granted or denied; and
- vi. Whether the Government **and** the Pretrial Services Department or the U.S. Probation Department (whichever applicable) consents to the requested travel, and if not, the reasons given for refusing consent.

4. International Travel Requests

- a. **All requests to travel outside of the United States shall be made as soon as the defendant is aware of the need and, in any event, at least forty-five (45) business days prior to the scheduled travel date, absent an emergency. See Rule I(D)(1) if an emergency has arisen resulting in the late request.**
- b. Requests to travel outside of the United States shall be filed as a “Motion to Travel”. The requested travel is not permitted unless the Court informs all parties – typically by order or notice on ECF – that the motion has been granted. All international travel requests must include:
 - i. A request to have the defendant’s Passport returned for the sole purpose of the intended travel (the defendant must acknowledge the requirement to immediately surrender the Passport upon return to the District);
 - ii. The dates the defendant intends to leave and return to the District;
 - iii. The location to which the defendant intends to travel;
 - iv. The reason or purpose for the requested travel;

- v. The number of previous requests to travel and if the previous travel requests were for the same or similar purpose (i.e., work or family related travel);
- vi. Whether previous requests were granted or denied; and
- vii. Whether the Government **and** the Pretrial Services Department or the U.S. Probation Department (whichever applicable) consents to the requested travel, and if not, the reasons given for refusing consent.

C. PLEA HEARINGS

1. Plea Hearings shall proceed before this Court unless the Court informs the parties – typically by order or notice on ECF – that the Plea Hearing will be referred to the assigned Magistrate Judge or the Magistrate Judge on duty. If a Plea Hearing is not already scheduled before this Court, the parties must first contact this Court to schedule the proceeding. If the Court is not available, the Court will then direct the parties to contact the assigned Magistrate Judge or the Magistrate Judge on duty.

2. General Court Practice

- a. The parties are to submit to the Court a copy of the proposed Plea or Cooperation Agreement at least **two (2) business days prior** to the scheduled proceeding. The agreement does not have to be fully executed/signed at this time, but it must be a final version.
- b. The parties are to fully complete the Court’s “Standard Plea Form” and submit it **BEFORE** the proceeding begins. Submission of this form can be made on the day of the proceeding.

D. SENTENCINGS.

1. General Court Practice

- a. In addition to any written sentencing memoranda, the Court allows defense counsel, the defendant, and the Government to make oral presentations for the Court’s consideration.
- b. Pursuant to the Victims’ Rights Act, the Court allows victims of the crime(s) and/or any other persons to make oral presentations for the Court’s consideration. At least **one (1) business day prior** to the

sentencing proceeding, the parties must notify the Court that such persons would like to address the Court.

2. Filing of Sentencing Memoranda

a. Sentencing memoranda shall be filed as a “Sentencing Memorandum” and not as a “Letter”. If the Government is requesting a downward departure pursuant to Section 5K1.1 of the U.S. Sentencing Guidelines, it shall be filed as a “Motion for Downward Departure”.

b. All sentencing memoranda, regardless of the filer, are due **one (1) week prior** to sentencing, unless otherwise ordered by the Court. If a party chooses to proceed without filing a sentencing memorandum, a letter to the Court advising as such must be filed on said due date, in lieu of the memorandum.

c. **PARTIES ARE ON NOTICE:**

i. Once sentencing memoranda are filed, further sentencing submissions **will not be accepted** without prior, written, approval from the Court. Requests to file a supplemental sentencing memorandum shall be filed as a “Motion for Leave to File Document”. The supplemental memorandum is not permitted unless the Court informs the parties – typically by order or notice on ECF – that the motion has been granted.

ii. If the Court does not receive any sentencing related filings by the due date set forth in its scheduling order, it may, sua sponte, adjourn sentencing to a date and time of its convenience.

d. **Courtesy Copies**. See Rule IV.

3. Requests for Adjournments of Sentencings or Extensions of Time to File Sentencing Memoranda

a. **Requests for Adjournments of Sentencings**. Requests for adjournments of sentencing shall be filed as a “Motion to Continue Sentencing”. Sentencing is not adjourned unless the Court informs all parties – typically by order or notice on ECF – that the motion

has been granted. All requests for adjournments of court appearances must state:

- i. The original scheduled Court date;
- ii. The number of previous requests for adjournments;
- iii. Whether previous requests were granted or denied;
- iv. The reason for the continuance of the court appearance;
- v. At least three (3) suggested dates on which all parties are available. If the requested adjournment affects the due dates for the filing of sentencing memoranda, the request must list the proposed changes for all such other dates. **NOTE:** If the Court is unavailable during the dates/times proposed, it may reschedule the sentencing proceeding to a date/time of its convenience; and
- vi. Whether the other party(ies) consents, and if not, the reasons given for refusing to consent.

b. Requests for Extensions of Time to File Sentencing Memoranda. Requests for extensions of time to file sentencing memoranda shall be filed as a “Motion for Extension of Time to File”. The deadline to file is not extended unless the Court informs all parties – typically by order or notice on ECF – that the motion has been granted. All requests for extensions of time must state:

- i. The original scheduled due date;
- ii. The number of previous requests for extensions;
- iii. Whether previous requests were granted or denied;
- iv. The reason for the requested extension of time;
- v. Proposed date(s) for the Court’s consideration; and
- vi. Whether the other party(ies) consents, and if not, the reasons given for refusing to consent.