Last updated: April 29, 2024

INDIVIDUAL RULES & PRACTICES
Honorable Margaret M. Garnett, United States District Judge

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TABLE OF CONTENTS

Last updated: April 29, 2024

I. INDIVIDUAL RULES & PRACTICES APPLICABLE TO ALL MATTERS

A. Civility in All Proceedings.

Parties must act with the highest degree of professionalism and courtesy in their dealings with the other parties, the Court and Court staff, and anyone else involved in the litigation. Abusive conduct of any kind will not be tolerated and should be promptly brought to the Court's attention. This provision applies equally to discovery communications between the parties and to conduct in depositions.

B. Communications with Chambers.

1. Letters. Except as otherwise provided below, communications with the Court shall be by letter. Letters must be filed electronically on ECF. Letters seeking relief should be filed on ECF as letter-motions, not as ordinary letters. Letters may not exceed three pages in length (single-spaced, with standard font and margins) without prior permission from Chambers. Letters solely between parties or their counsel or otherwise not addressed to the Court may not be filed on ECF or otherwise sent to the Court (except as exhibits to an otherwise properly filed document).

2. Telephone Calls. Telephone calls to Chambers are strongly disfavored and are permitted only in urgent situations requiring immediate attention. Parties should review these Individual Rules & Practices before calling with questions about the Court's rules and practices. Technical questions pertaining to ECF filings should be directed to the ECF Help Desk at HelpDesk@nysd.uscourts.gov or (212) 805-0800.

3. Email. Although the Court prefers communications from parties be made by letter or letter-motion filed on ECF as directed by Rule I(B)(1), *supra*, there may be certain instances where email communication is necessary or more efficient. Such instances may include, for example, notifying the Court of last-minute travel delays that will affect a party's ability to be present at a scheduled conference or alerting the Court to an urgent letter filed on ECF.

Any email to the Court shall state the caption of the case clearly in the subject line, beginning with the docket number and including the lead party names. All email correspondence with the Court must copy all counsel of record in the action; communications that do not will not be read or acted upon. If the email references a letter or other document filed on ECF, an as-filed PDF copy of that letter must be attached.

Parties should not email (or call) Chambers with questions that can be answered by closely reading the Chambers website, these Individual Rules & Practices, or the S.D.N.Y. Local Rules.

4. Faxes. Faxes to Chambers are not permitted.

5. Requests for Adjournments or Extensions of Time. All requests for adjournments or extensions of time should be made by letter-motion and must state: (1) the reason for the proposed adjournment or extension; (2) the original date(s); (3) the number of previous requests for adjournment or extension of time; (4) whether the other party or parties consent and, if not, the reason given for refusing to consent; and (5) proposed alternative dates, including any other scheduled dates that may be affected by the requested adjournment or extension. Absent an emergency, the request must be made at least two business days prior to the original due date. In the event of such an emergency, after filing the appropriate letter-motion on ECF, the parties should also alert Chambers to the filing by email, following the procedures pertaining to email communications with the Court detailed in Rule I(B)(3), *supra*, and clearly stating the nature of the emergency.

6. Hand Deliveries. Hand-delivered mail should be left with the Court Security Officers at the Worth Street entrance of the Daniel Patrick Moynihan Courthouse at 500 Pearl Street, New York, NY 10007, and may not be brought directly to Chambers. However, if the hand-delivered material is urgent and requires the Court's immediate attention, ask the Court Security Officers to notify Chambers that an urgent package has arrived that needs to be retrieved by Chambers staff immediately.

7. Related and Consolidated Cases. 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.*, 12-CV-1234 [rel. 11-CV-4321]). After two or more actions have been consolidated for all purposes under a single docket number pursuant to Fed. R. Civ. P. 42(a)(2), all future court papers and correspondence should be filed only in the docket under which the cases have been consolidated and should reference only that docket number.

8. Electronic Case Filing ("ECF"). In accordance with the S.D.N.Y. Electronic Case Filing Rules and Instructions, counsel are required to register promptly as ECF filers and to enter an appearance in the case. Counsel are responsible for updating their contact information on ECF should it change, and they are responsible for checking the docket sheet regularly, regardless of whether they receive an ECF notification of case activity. For assistance with updating contact information, please contact the ECF Help Desk at HelpDesk@nysd.uscourts.gov or (212) 805-0800; do not file a letter-motion advising the Court of the change.

9. Urgent Communications. Matters filed via ECF are not necessarily reviewed the same day they are filed. If a matter requires urgent attention, parties should so alert Chambers by email in accordance with the above rules, in addition to filing any related submission on ECF.

C. General Guidelines for All Submissions.

1. Submissions to be Filed on ECF. In accordance with the S.D.N.Y. Electronic Case Filing Rules and Instructions, except as otherwise expressly provided, all documents filed with the Court must be filed electronically.

2. Text-Searchable Submissions. All written submissions and supporting materials must be text-searchable to the extent practicable.

3. Amended or Corrected Filings. Any amended or corrected filing shall be filed with a redline showing all differences between the original and revised filing. Any motion to amend a pleading shall similarly be filed with a redline showing all differences between the operative pleading and the proposed amended pleading.

D. Redactions and Filing Under Seal.

1. Redactions Not Requiring Court Approval. The parties are referred to the E-Government Act of 2002, Fed. R. Civ. P. 5.2, and the Southern District's ECF Privacy Policy ("Privacy Policy"). There are two categories of information that may be redacted from public court filings without prior permission from the Court: "sensitive information" and information requiring "caution." Parties should not include in their public filings, unless necessary, the five categories of "sensitive information" (*i.e.*, social security numbers [use the last four digits only], names of minor children [use the initials only], dates of birth [use the year only], financial account numbers [use the last four digits only], and home addresses [use only the City and State]). Parties may also, without prior approval from the Court, redact from their public filings the six categories of information requiring "caution" described in the Privacy Policy (*i.e.*, any personal identifying number, medical records [including information regarding treatment and diagnosis], employment history, individual financial information, proprietary or trade secret information, and information regarding an individual's cooperation with the government).

2. Redactions Requiring Court Approval, Generally. There is a presumption in favor of public access to judicial documents, and any requests for redaction or sealing must be narrowly tailored to serve whatever purpose justifies the redaction or sealing. Other than redactions referenced in Rule I(D)(1), *supra*, any party wishing to file a submission in redacted form or under seal must request permission to do so. Unless delayed docketing is requested, the requesting party shall proceed as outlined in Rules I(D)(3) and I(D)(4), *infra*.

3. Redactions Requiring Court Approval in Civil Cases.

i. Meet and Confer. Prior to requesting the Court's permission to redact or seal, the requesting party shall meet and confer with their adversary in a good-faith effort to narrow the need for redactions or sealing and to secure consent, if possible.

ii. **Redacted Document(s).** Where a party seeks leave to file a document with redactions, the party shall file a letter-motion on ECF in accordance with Standing Order 19-MC-583 and Section 6 of the S.D.N.Y. Electronic Case Filing Rules and Instructions. The letter-motion shall (1) request the redactions; (2) indicate whether the party's adversary consents to the redactions and, if the adversary does not consent, describe the basis for objection; (3) describe the efforts to meet and confer; and (4) explain why redactions are appropriate in light of the presumption of public access to the federal courts. The letter-motion shall be filed in public view and should not include confidential information. At the same time, the party shall (1) publicly file on ECF and electronically relate to the letter-motion a copy of the document with the proposed redactions; and (2) file under seal on ECF (with the appropriate level of restriction) and electronically relate to the motion an unredacted copy of the document with the proposed redactions highlighted.

iii. **Sealed Document(s).** Where a party seeks leave to file a document in sealed form, the party shall file a letter-motion on ECF in accordance with Standing Order 19-MC-583 and Section 6 of the S.D.N.Y. Electronic Case Filing Rules and Instructions. The letter-motion shall (1) request the sealing; (2) indicate whether the party's adversary consents to the sealing and, if the adversary does not consent, describe the basis for objection; (3) describe the efforts to meet and confer; and (4) explain why sealing is appropriate in light of the presumption of public access to the federal courts. The letter-motion shall be filed in public view and should not include confidential information. The proposed sealed document shall be contemporaneously filed under seal on ECF (with the appropriate level of restriction) and electronically related to the motion (or to the relevant Court order, if the Court previously granted leave to file the document under seal). Note that the summary docket text, but not the document itself, will be open to public inspection and, thus, should not include confidential information sought to be filed under seal.

iv. **Submissions by Alternative Method.** Any party unable to comply with the requirements for electronic filing under seal through the ECF system, or who believes that a particular document should not be electronically filed at all, shall file a letter-motion seeking leave of the Court to file in a different manner. If the party is unable to file such a letter-motion on ECF, or believes there is good cause not to file such a letter-motion on ECF, the party may submit the letter-motion and the document at issue by email to Chambers as text-searchable PDF attachments, copying all counsel.

4. Redactions Requiring Court Approval in Criminal Cases.

i. **Redacted Document(s).** The party shall file the redacted version of the document on ECF and shall simultaneously file a letter-motion seeking leave

to file the document with those redactions and email Chambers, in accordance with Rule I(D)(4)(iv)–(v), *infra*.

ii. **Sealed Exhibit(s).** Any party seeking leave to file a fully sealed exhibit attached to an unsealed or redacted document shall file the main document (in accordance with Rule I(D)(4)(i), *supra*, if the party is seeking redactions to the main document) on ECF, accompanied by a single page marked "SEALED" in place of any exhibit that the party seeks leave to file under seal, regardless of the actual length of such exhibit. The party shall simultaneously file a letter-motion on ECF requesting leave to file in that manner and email the submission and letter-motion to Chambers in accordance with Rule I(D)(4)(iv)–(v), *infra*.

iii. **Sealed Entire Document(s).** Any party seeking to file under seal an entire submission (with or without exhibits) shall not file anything on ECF in the first instance and shall email the submission and a letter-motion to Chambers. The letter-motion must explain the purpose of the sealing and why sealing is appropriate in light of the presumption of public access. If the party believes that the letter-motion itself should be sealed or redacted, the letter-motion should so state and should provide the justification therefor.

iv. **Letter-Motion.** The letter-motion described in Rules I(D)(4)(i)–(ii), *supra*, must explain the purpose of the redactions or sealing and why the redactions or sealing are appropriate in light of the presumption of public access. Simultaneously, the party must email Chambers in accordance with Rule I(D)(4)(v), *infra*. The party should endeavor to draft the letter-motion in a form that can be filed publicly on ECF. If, however, the party believes that the letter-motion itself should be sealed or redacted, the party should (1) provide justification for this in the letter-motion; (2) include an unredacted copy of the letter-motion as an attachment to the email described in Rule I(D)(4)(v), *infra*; and (3) if possible, file a redacted version of the letter-motion on ECF.

v. **Emailing Chambers.** Simultaneously with the procedures set out in Rules I(D)(4)(i)–(ii), *supra*, the party should email to Chambers (1) a clean (unredacted) copy of the document to be sealed or redacted; (2) if seeking redaction, a copy of the document highlighting the information that has been redacted in the ECF filing; and (3) a copy of the letter-motion (unredacted, should the party also be seeking leave to file the letter-motion with redactions or under seal).

5. Delayed Docketing. Unless delayed docketing is specifically requested and granted, the Court will file any redacted or sealed documents with the District's Sealed Records Department.

E. Policy on the Use of Electronic Devices.

Attorneys' use of electronic devices (including mobile telephones, personal electronic devices, computers, and printers) within the Courthouse and its environs is governed by the Court's Standing Order M10-468, available at https://nysd.uscourts.gov/sites/default/files/pdf/standing-order-electronic-devices.pdf. If required by the Standing Order, counsel seeking to bring a device into the Courthouse shall submit a copy of the Electronic Devices General Purpose Form, available at https://nysd.uscourts.gov/forms/fillable-form-electronic-devices-general-purpose, to the Court by e-mail at least three business days prior to the relevant trial or hearing. Untimely requests may be denied on that basis alone. If permitted by the Standing Order, mobile telephones are permitted inside the Courtroom, but they must be kept silent (*i.e.*, no notification sounds or vibrations) at all times. Absent permission from the Court, counsel may not use their phones at counsel tables during proceedings. Non-compliance with this rule may result in forfeiture of the device for the remainder of the proceedings.

Devices may not be used to record or transmit any Court proceeding, and photographs or video recordings are not permitted.

II. INDIVIDUAL RULES & PRACTICES IN CIVIL MATTERS

A. Conferences and Discovery.

1. In-Person Conferences. Unless otherwise ordered by the Court, all in-person conferences will be held in Courtroom 906 of the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, NY 10007. If any counsel wishes for a conference to be conducted remotely (by telephone or video), he or she should confer with all other counsel and promptly file a letter-motion to that effect in accordance with Rule I(B)(1), *supra*.

2. Telephone and Video Conferences ("Remote Conferences"). Unless otherwise ordered by the Court, any Remote Conference will be held via a Microsoft Teams meeting organized by the Court. The following procedures shall apply to all Remote Conferences:

i. At least one business day before a scheduled Remote Conference, the parties must jointly email to the Court a list of counsel—absent permission of the Court, no more than two per party—who may speak during the Remote Conference.

ii. Prior to the Remote Conference, the Court will issue an Order with instructions regarding how to join the Microsoft Teams meeting. The Court will also email the Teams meeting link and dial-in information to counsel.

iii. Counsel who will be speaking should have their video cameras on throughout the proceeding but should remain muted unless actively speaking. Counsel in attendance who will not be speaking must have their videos off and be muted for the duration of the conference.

iv. If counsel joins the Remote Conference by audio-only, counsel should dial-in using a landline whenever possible, should use a headset or handset instead of speakerphone, and must mute themselves whenever they are not speaking to eliminate background noise. To facilitate the creation of an accurate transcript if the conference is held on the record, counsel who are joining the conference audio-only are required to identify themselves every time they speak. Counsel should spell any proper names for the court reporter. Counsel should also take special care not to interrupt or speak over one another.

v. The broadcasting or recording of any court conference is prohibited by law.

3. Attendance by Principal Trial Counsel. The attorney who will serve as principal trial counsel must appear at all conferences with the Court.

4. Participation by Junior Attorneys. The Court encourages the participation of less experienced attorneys in all proceedings—including pretrial conferences, hearings on discovery disputes, and witness examinations at trial—particularly where that attorney played a substantial role in drafting the underlying filing or in preparing

the relevant witness. The Court may be inclined to grant a request for oral argument, which it generally disfavors, where doing so would afford the opportunity for a junior attorney to gain courtroom experience. Nevertheless, all attorneys appearing before the Court must have authority to bind the party they represent consistent with the proceeding (for example, by agreeing to a discovery or briefing schedule), and should be prepared to address any matters likely to arise at the proceeding.

5. Initial Case Management Conference. The Court will generally schedule a Fed. R. Civ. P. 16 conference approximately six weeks from the filing of the Complaint. Plaintiff's counsel (or, in a matter removed from state court, defendant's counsel) is responsible for distributing copies of the Notice of Initial Pretrial Conference to all parties. The Notice will direct the parties to submit to the Court, approximately one week prior to the conference date, a joint proposed Case Management Plan and Scheduling Order (a model of which can be found on the Court's public webpage at https://nysd.uscourts.gov/hon-margaret-m-garnett) and a joint letter, not to exceed three pages in length (single-spaced, with standard font and margins), describing the case, any contemplated motions, and the prospect for settlement. Requests for adjournments of the initial pretrial conference must be made in accordance with Rule I(B)(5), *supra*.

6. Discovery Disputes. Parties must follow Local Civil Rule 37.2 with the following modifications.

Any party wishing to raise a discovery dispute with the Court must first confer in good faith at least once with the opposing party—in person, by videoconference, or by telephone—to resolve the dispute. If the meet-and-confer process does not resolve the dispute, the party seeking discovery must submit a letter-motion to the Court via ECF, no longer than three pages (single spaced, with standard font and margins), explaining the nature of the dispute and why the party is entitled to relief. The initial letter-motion must state: (1) the date(s), time(s), and duration of each meet-and-confer conference; (2) the names of the attorneys who participated; and (3) that the moving party informed the adversary during the last conference that the moving party believed the parties to be at an impasse and that the moving party would be requesting relief from the Court.

If the opposing party wishes to respond, it must do so in a letter not to exceed three pages within two business days, and should promptly advise Chambers by email (following the instructions for email correspondence with the Court detailed in Rule I(B)(3), *supra*) that a responsive letter will be forthcoming. Reply letters are not permitted.

If the Court schedules a conference, counsel should be prepared to discuss the matters raised by such letters, as the Court will seek to resolve discovery disputes quickly.

7. Post-Fact-Discovery Conference. The Court will generally schedule a post-fact-discovery conference approximately 25 to 30 days after the close of fact

discovery. No later than seven days after the deadline for a summary judgment letter has passed, *see* Rule II(B)(9) *infra*, the parties shall submit to the Court a joint letter, not to exceed three pages in length (single-spaced, with standard font and margins), as directed and outlined in greater detail in the Civil Case Management Plan and Scheduling Order, with brief descriptions of various aspects of the status of the case.

B. Motions.

1. Pre-Motion Letters and Conferences. Pre-motion letters or conferences are not required, except for letter-motions concerning discovery, which are governed by Rule II(A)(6), *supra*, and the procedure applicable to summary judgment motions, described in Rule II(B)(9), *infra*.

2. 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. All memoranda of law shall be formatted with one-inch margins and double-spaced. All text must be in 12-point font or larger. Memoranda of 10 pages or more shall contain a table of contents and table of authorities, neither of which shall count against the page limit.

3. Courtesy Copies. Two courtesy copies of a complete set of motion papers should be submitted by the movant at the time the reply is served, or as soon thereafter as reasonably practicable. Courtesy copies shall be mailed or hand-delivered to Chambers (*see supra* Rule I(B)(6) for hand-delivery instructions). Courtesy copies shall be submitted according to the following instructions:

i. Briefs should be printed single-sided and stapled in the upper-left corner. If there are any exhibits or supplemental materials filed with that brief, the brief shall be placed in the front left pocket of a three-ring binder containing those materials, as described below;

ii. In the three-ring binder, any affidavits, declarations, exhibits, or other motion papers filed with that brief should be printed double-sided, three-hole-punched, placed in the binder, and separated by binder tabs;

iii. Binder tabs should either (a) identify the tabbed document by title (*e.g.*, "Affidavit of Jane Doe"), or (b) be numbered, as long as a corresponding table of contents is included as the front page of the binder;

iv. Binders should include cover and spine sheets that clearly identify the full case name and the documents included within (*e.g.*, "Plaintiff's Opposition to Defendants' Motion to Dismiss"); and

v. If the parties have redacted or filed under seal any portion of the motion papers or attendant exhibits, courtesy copies are to be unredacted, but the portions redacted from public filings should be highlighted so that the Court will know to refrain from quoting those passages in opinions and orders.

Do not VeloBind or binder clip any courtesy copies submitted to the Court.

4. Letter-Motions. When permitted by the S.D.N.Y. Local Rules and S.D.N.Y. Electronic Case Filing Rules and Instructions, letters seeking relief should be filed on ECF as letter-motions, not as ordinary letters. Courtesy copies of letter-motions should not be provided to Chambers.

5. Oral Argument on Motions. As a matter of course, the Court will not typically hold oral argument on motions. A party may nevertheless request oral argument by indicating "ORAL ARGUMENT REQUESTED" on the cover page of its memorandum of law. If a party believes that the Court would benefit from oral argument for a particular reason not obvious from the parties' briefing, the party may file a short letter—not a letter-motion—explaining the reason(s) on ECF no later than three business days after the reply motion has been filed. In this letter, the party should advise the Court if the oral argument would be handled by a less experienced attorney because, as discussed in Rule II(A)(4), *supra*, that may make the Court more inclined to hold oral argument. If oral argument is requested, the Court will determine whether the argument will be heard and, if so, advise counsel of the argument date.

6. Motions to Dismiss. If a defendant files a motion to dismiss, a plaintiff may amend the complaint within 21 days of the motion to dismiss to address the issues raised in the motion rather than answering the motion. Prior permission of the Court is not required. If the plaintiff chooses to file an amended complaint, the defendant must within 14 days after service of the amended complaint (1) answer; (2) file a new or supplemental motion to dismiss; or (3) submit a letter on ECF stating that it relies on the previously filed motion to dismiss.

7. Motions for Leave to Amend a Pleading. When moving to amend any pleading, the moving party shall file with the motion a redline showing all differences between the operative pleading and the proposed amended pleading.

8. Motions to Exclude the Testimony of Experts. Unless the Court orders otherwise, motions to exclude the testimony of experts, pursuant to F.R.E. 702–705 and the *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), line of cases must be made within 30 days after the close of expert discovery and should not be treated as motions *in limine*.

9. Motions for Summary Judgment. If a party wishes to move for summary judgment, it must, within 14 days after the close of fact discovery, request that the pre-motion / pretrial conference previously scheduled for after the close of fact discovery serve as a pre-motion conference. To so request, the moving party shall submit a letter via ECF, not to exceed three single-spaced pages in length, setting forth the basis for the anticipated motion, including the legal standards governing the claims at issue. Moreover, if a party wishes to make a summary judgment motion but believes such a motion is more appropriately made after expert discovery, the letter

should so state. Other parties shall respond similarly within one week. The Court will review and discuss with counsel any anticipated summary judgment motions at the pre-motion / pretrial conference. Should no party wish to move for summary judgment, the parties shall file a joint letter in advance of the post-fact-discovery conference as outlined, *supra*, under Rule II(A)(7) and in the Civil Case Management Plan and Scheduling Order.

i. **Generally Not Available in Non-Jury Cases.** Absent good cause, the Court generally will not consider summary judgment motions in non-jury cases. Notwithstanding this general prohibition, if a party wishes to move for summary judgment in a non-jury case, that party should so indicate in a letter to the Court following the instructions applicable to jury cases, *supra* Rule II(B)(9).

ii. **Rule 56.1 Statements.** If summary judgment briefing is scheduled, the parties must meet and confer to prepare a Joint 56.1 Statement setting forth all undisputed facts ("Joint Statement of Undisputed Facts"), with the moving party first providing a draft to all other parties of facts it reasonably believes to be undisputed. Any party moving for summary judgment shall provide all other parties with an electronic copy, in Microsoft Word format, of the moving party's Statement of Material Facts Pursuant to Local Rule 56.1 as to any additional facts not contained in the Joint Statement of Undisputed Facts. Opposing parties should insert any responsive entry directly beneath the moving party's corresponding numbered paragraph. If the opposing party wishes to file their own, additional statements of material facts, it shall begin numbering each entry where the moving party left off.

iii. **Exhibits.** For courtesy copies, any exhibits that cannot be provided as a hard copy (*e.g.*, Excel spreadsheets with numerous columns, videos) should be indicated as such using a slipsheet.

10. Motions for Default Judgment. A plaintiff seeking a default judgment must proceed by filing a motion for default judgment on ECF pursuant to Fed. R. Civ. P. 55(b)(2) and Local Civil Rule 55.2(b). A plaintiff seeking a default judgment should not proceed by Order to Show Cause. The motion must be supported by the following papers:

i. An attorney's affidavit or declaration setting forth:

   a) The basis for entering a default judgment, including a description of the method and date of service of the summons and complaint;

   b) The procedural history beyond service of the summons and complaint, if any;

c) Whether, if the default is applicable to fewer than all of the defendants, the Court may appropriately order a default judgment on the issue of damages prior to the resolution of the entire action;

d) The proposed damages and the basis for each element of damages, including interest, attorneys' fees, and costs; and

e) Legal authority for why an inquest into damages would be unnecessary;

ii. A proposed default judgment;

iii. Copies of all the operative pleadings;

iv. A copy of the affidavit of service of the summons and complaint; and

v. If failure to answer is the basis of the default, a Certificate from the Clerk of Court stating that no answer has been filed.

The Court will review the motion for default judgment and, if appropriate, issue an order setting a date and time for a default judgment hearing. If the Court issues such an order, the plaintiff must then serve on the party against whom default judgment is sought: (1) the motion for default judgment and supporting papers; and (2) the Court's order setting a date and time for the default judgment hearing. The plaintiff must file proof of such service on the docket in the manner and by the date specified in the Court's order setting the default judgment hearing.

11. Motions for Temporary Restraining Orders ("TROs"). A party must confer with his or her adversary before making an application for a TRO unless the requirements of Fed. R. Civ. P. 65(b) are met.

In the absence of an emergency that would justify seeking immediate relief in person, if the party seeking relief:

(1) believes that Rule 65(b)(1)'s requirements can be met and a temporary restraining order should issue without notice to the adverse party, the party should file its papers on ECF under seal and then immediately call Chambers at (212) 805-0236; or

(2) is prepared to seek relief on notice to the adverse party, the party seeking relief should simultaneously file its papers on ECF, serve them on all other parties, and then email Chambers, attaching as-filed PDFs of all papers.

As with any other communication with Chambers, parties must follow the instructions for all email and telephone communications with Chambers detailed in Rules I(B)(2)–(3), *supra*.

12. Proposed Stipulations and Orders. In accordance with the S.D.N.Y. Local Rules and the Electronic Case Filing Rules and Instructions, parties should file on ECF all proposed stipulations and orders that they wish the Court to sign, using the

appropriate ECF filing event. *See* S.D.N.Y. ECF Rules & Instructions §§ 13.17-19 & App'x A. As noted in Rule I(B)(5), *supra*, requests for extensions and adjournments should be made by letter-motion, not by proposed stipulation or proposed order.

C. Settlement.

1. Settlement Agreements. The Court will not retain jurisdiction to enforce confidential settlement agreements. If the parties request that the Court retain jurisdiction to enforce the agreement, the parties must place the terms of their settlement agreement on the public record. The parties may request that the Court endorse the settlement agreement or include the terms of their settlement agreement in their stipulation of settlement and dismissal.

III. INDIVIDUAL RULES & PRACTICES IN *PRO SE* CIVIL MATTERS

A. *Pro Se* Office.

The *Pro Se* Office is located at the Thurgood Marshall Courthouse, 40 Foley Square, Room 105, New York, NY 10007. A *pro se* party can also contact the *Pro Se* Office at (212) 805-0175.

B. Communications with Chambers.

1. Telephone Calls by a *Pro Se* Party. *Pro se* parties should call the *Pro Se* Office at (212) 805-0175 with any questions. *Pro se* parties may not call the Court.

2. Written Communications by a *Pro Se* Party. All communications with the Court by a *pro se* party should be in writing and delivered in person, mailed, or emailed to the *Pro Se* Office (Thurgood Marshall Courthouse, 40 Foley Square, Room 105, New York, NY 10007). No documents or court filings may be sent directly to Chambers. Unless the Court orders otherwise, all communications with the Court will be filed on the public docket.

3. Contact Information. *Pro se* parties are required to maintain their current mailing address on the docket and must notify the Court of any change of address by filing a change of address form with the *Pro Se* Office.

4. Communications by Parties Represented by Counsel. Except as otherwise provided below, communications with the Court by a represented party are governed by Rules I(B)(1)–(9), *supra*.

5. Requests for Adjournments or Extension of Time. All requests for adjournments or extensions of time must be made in writing and must state: (1) the original date(s); (2) the number of previous requests for adjournment or extension; (3) whether these previous requests were granted or denied; (4) the reasons for the requested extension; (5) whether the adversary consents and, if not, the reasons given by the adversary for refusing to consent; and (6) the date of the parties' next scheduled appearance before the Court, as well as any other existing deadlines.

Requests for extensions of deadlines regarding a matter that has been referred to a Magistrate Judge must be addressed to that assigned Magistrate Judge. Absent an emergency, any request for extension or adjournment must be made at least two business days prior to the deadline or scheduled appearance. Requests for extensions will ordinarily be denied if made after the expiration of the original deadline.

C. Filing of Papers and Service.

1. Papers Filed by a *Pro Se* Party. A *pro se* party may file papers with the Court by: (a) mailing or delivering them in person to the *Pro Se* Office (address listed above); (b) emailing them as an attachment in PDF format to Temporary_Pro_Se_Filing@nysd.uscourts.gov, in which case the *pro se* party should

follow the instructions contained in the April 1, 2020 Addendum to the Court's ECF Rules & Instructions; or (c) filing them on the electronic case filing system ("ECF"), if the *pro se* party has filed a motion to participate in ECF that has been granted by the Court.

A motion to participate in ECF is available in the *Pro Se* Office and at http://nysd.uscourts.gov/file/forms/motion-for-permission-for-electronic-case-filing-for-pro-se-cases. If the Court grants a motion to participate in ECF, the *pro se* party will not receive hard copies of any document filed on ECF.

No papers may be sent directly to Chambers.

2. Service on a *Pro Se* Party. Unless a *pro se* party has consented to electronic service, counsel in *pro se* cases must serve a *pro se* party with a paper copy of any document that is filed electronically and must file with the Court a separate Affidavit of Service. Submissions filed without proof of service that a *pro se* party was served will not be considered.

To ensure timely service of documents, non-incarcerated *pro se* parties are encouraged to consent to receive electronic service through ECF, as it will generally expedite the progress of the litigation. To do so, *pro se* parties should review the instructions available at https://www.nysd.uscourts.gov/sites/default/files/2021-03/Consent_Pro-Se_Eservice-Instructions.pdf, and then submit a Consent to Electronic Service Form.

D. Discovery.

1. Discovery Requests. All requests for discovery by a *pro se* party should be sent to counsel for the party from whom discovery is sought. Discovery requests should not be sent to the Court.

2. Discovery Disputes. If there are any discovery disputes, the parties are required to confer with one another to try to resolve the dispute without raising any issue with the Court. If the parties are unable to resolve their dispute, either party may file a letter-motion, no longer than three pages (single-spaced, with standard font and margins) and in accordance with Rule III(B)(2) above, explaining the nature of the dispute and requesting an informal conference. If the opposing party wishes to respond to the letter, it must promptly file a responsive letter, not to exceed three pages (single-spaced, with standard font and margins).

E. Motions.

1. Filing and Service. All motions, unless brought on by an Order to Show Cause, should be made with a return date six weeks after the date of service. Unless otherwise ordered by the Court, opposing papers must be served and filed within four weeks of service of the motion papers, and reply papers, if any, must be served and filed within two weeks of receipt of opposition papers.

2. *Pro Se* Notices. Parties who file a motion to dismiss, a motion for judgment on the pleadings, or a motion for summary judgment must provide the *pro se* party with a copy of the notices required under Local Civil Rules 12.1 or 56.2.

3. Courtesy Copies. Two courtesy hard copies of all formal motion papers, marked as such, should be submitted to Chambers by the non-*pro se* party at the time the reply is due. Courtesy copies should not be submitted to Chambers at the time of filing. If all the parties are *pro se*, then no courtesy copies of formal motion papers are required.

4. Motions to Dismiss. If a defendant files a motion to dismiss, a *pro se* plaintiff may amend the complaint within 30 days to address the issues raised in the motion rather than responding to the motion. If the *pro se* plaintiff chooses to file an amended complaint, the defendant must within 14 days after service of the amended complaint (1) answer; (2) file a new or supplemental motion to dismiss; or (3) submit a letter on ECF stating that it relies on the previously filed motion to dismiss.

5. Oral Argument. Unless otherwise ordered by the Court, argument will not be heard in *pro se* matters.

F. Initial Case Management Conference.

Absent a motion to dismiss, the Court will generally schedule an initial case-management conference within two months of the filing of the answer. Conferences may be held remotely or in person. In-person conferences will be held in Courtroom 906 of the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, NY 10007.

An incarcerated party may not be able to attend scheduled in-person conferences but may be able to participate by telephone. If an incarcerated party is unable to participate by telephone, a family member or a representative may attend or otherwise participate in the conference. If a representative is designated, he or she should contact Chambers at (212) 805-0236 to determine the location of the conference. The Court will also have a transcript of the conference sent to the incarcerated party. If an incarcerated party does not have counsel and cannot participate by telephone, and a representative cannot attend a conference, the *pro se* party should write to the Court in advance of the conference regarding any issue the *pro se* party wishes to have addressed at the conference.

The Court will set a schedule for the case at the initial case management conference. In most cases, the Court will give the parties four months (from the date of the conference) to complete all discovery and set a deadline for the filing of any motions for summary judgment 30 days after the close of discovery. In advance of the initial case management conference, the parties should, if practicable, confer with one another to determine if such a schedule would be appropriate or if there is anything unusual about the case that would require more time and be prepared to discuss those

issues at the conference. The Court will issue a written order memorializing all dates and deadlines following the conference.

G. Trial.

1. Pretrial Statement. Unless otherwise ordered by the Court, within 30 days of the completion of discovery or, if a summary judgment motion is filed, within 30 days of the Court's ruling on summary judgment, a *pro se* plaintiff shall file a concise, written Pretrial Statement. This Statement does not need to take a particular form, but it must contain the following: (1) a statement of the facts the *pro se* plaintiff hopes to prove at trial; (2) a list of all documents or other physical objects that the *pro se* plaintiff plans to put into evidence at trial; and (3) a list of the names and addresses of all witnesses the *pro se* plaintiff intends to have testify at trial. The Statement must be sworn by the *pro se* plaintiff to be true and accurate based on the facts known by the *pro se* plaintiff. The *pro se* plaintiff shall file an original, plus one courtesy copy, of this Statement with the *Pro Se* Office and serve a copy on the defendant(s) or their counsel if they are represented. The original Statement must include a certificate stating the date a copy of the Statement was served to all other parties. Two weeks after service of the *pro se* plaintiff's Statement, the defendant(s) or their counsel must file and serve a similar Statement of its case containing the same information.

2. Other Pretrial Filings. If the case is to be tried before only a judge without a jury, any parties represented by counsel must also file proposed findings of fact and conclusions of law at the time of filing their Pretrial Statement. If the case is to be tried before a jury, any parties represented by counsel must also file proposed *voir dire* questions, a proposed jury charge, and a proposed verdict form at the time of filing the Pretrial Statement. At the time of filing, a represented party should e-mail these documents to the Court (GarnettNYSDChambers@nysd.uscourts.gov), in both PDF and Microsoft Word formats. The *pro se* party may file such documents but is not required to do so and need not submit them by e-mail. If the *pro se* party wants to file such documents, that party should do so as outlined in Rule III(C)(1) above.

H. Resources.

1. Court Website. Important information concerning proceeding *pro se* in this Court is available at the Court's website (https://www.nysd.uscourts.gov/prose).

2. *Pro Se* Law Clinic. There is a *Pro Se* Law Clinic in this District to assist non-incarcerated people who are parties in civil cases and do not have lawyers. The Clinic may be able to provide a non-incarcerated *pro se* litigant with advice in connection with his or her case. The *Pro Se* Law Clinic is run by a private organization called the New York Legal Assistance Group ("NYLAG"); it is not part of, or run by, the Court (and, among other things, therefore cannot accept filings on behalf of the Court, which must still be made by any *pro se* party through the *Pro Se* Office).

A *pro se* party can make an appointment with NYLAG through NYLAG's website (https://nylag.org/gethelp/) by completing an intake form online, available at https://nylagoi.legalserver.org/modules/matter/extern_intake.php?pid=142&h=cea984&; by visiting the kiosk at the Courthouse; or by calling (212) 659-6190 and leaving a message. The Clinic is in the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, NY, in Room LL22, which is just inside the Pearl Street entrance to that Courthouse. Under normal circumstances, the Clinic is open on weekdays from 10:00 a.m. to 4:00 p.m., except on days when the Court is closed.

IV. INDIVIDUAL RULES & PRACTICES IN CRIMINAL MATTERS

A. Arraignment and Initial Pretrial Conference.

When a case is assigned to this Court, the Government shall email Chambers, copying the Courtroom Deputy (Keeva_Verneus@nysd.uscourts.gov), to arrange a time for an arraignment and initial conference. The Government shall provide (1) the name of the defendant(s); (2) defense counsel's name and contact information; (3) whether the defendant(s) is/are detained (and, if so, the relevant Reg. No.) or bailed; (4) whether any defendant requires an interpreter (and, if so, the relevant language); (5) times that the Government and defense counsel are available for the arraignment and initial conference; and (6) any other pertinent information. The Government shall email all charging instruments to Chambers, if they are not available on ECF, at least two business days prior to the conference.

At the initial pretrial conference and all conferences thereafter, the Government shall be prepared to address its ongoing duty to comply with its obligations to timely disclose exculpatory evidence under *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny, including as set forth in the standing order pursuant to Fed. R. Crim. P. 5(f).

B. Defense Counsel.

1. Benefactor Payments. Whenever defense counsel has received, or is receiving, a benefactor payment that subjects counsel to a conflict of interest, said counsel must promptly inform the Court and request a *Curcio* hearing.

2. Other Conflicts. Counsel have an obligation to promptly inform the Court upon learning of any other conflict of interest, whether a potential or an actual conflict, and to request a *Curcio* hearing if appropriate.

3. Substitution of Counsel. When there is a request for substitution of defense counsel, counsel of record must email Chambers, copying the Courtroom Deputy (Keeva_Verneus@nysd.uscourts.gov) and the Government, to request a conference be scheduled as soon as possible. If defense counsel believes an *ex parte* conference is necessary, it should so indicate in its email. At the conference, the Court will address the application by defense counsel to be relieved. The defendant, proposed replacement counsel, and the Government must also attend the conference.

4. Requests for Funding by CJA Counsel. CJA counsel requesting funding to engage investigative, expert, mentorship, or other services should do so through the CJA eVoucher system, not by letter to the Court. Requests for funding to engage associate CJA counsel, however, must be made by letter on ECF. Requests for authorization to seek interim payments may be made *ex parte* and under seal, via email to Chambers, copying the Courtroom Deputy.

C. Bail Modifications and Appeals.

1. Bail Modifications. Any written request for a bail modification by a defendant shall be filed on ECF as a letter-motion and shall indicate whether the Government and Pretrial Services consent to the request. If the requested modification pertains to a specific event or date, the request shall be made at least two business days prior to the relevant event or date.

2. Bail Appeals. A party who wishes to appeal an adverse bail determination by the Magistrate Judge shall contact Chambers, copying the Courtroom Deputy (Keeva_Verneus@nysd.uscourts.gov), to arrange a conference for that purpose. The party that brings the appeal shall provide the Court with the transcript of the argument on bail before the Magistrate Judge and any written submissions before the Magistrate Judge as to bail at least one business day prior to the conference.

D. Guilty Pleas.

If a defendant intends to enter a disposition to a charge, the Government must email Chambers, copying the Courtroom Deputy (Keeva_Verneus@nysd.uscourts.gov), to schedule a time for a change-of-plea proceeding. The Government must be prepared to inform Chambers: (1) the times that it and defense counsel are available for the plea; (2) whether the plea will be conducted under seal; and (3) whether an interpreter is required (and, if so, the relevant language).

At least two business days prior to the plea, the Government must email Chambers any plea agreement, cooperation agreement, *Pimentel* letter, and any related documents (*e.g.*, superseding charging instrument, order of forfeiture, etc.).

The Court expects change-of-plea proceedings to begin on time. Defendants and defense counsel must review any plea, cooperation, or other agreement (with the assistance of an interpreter, if necessary) in advance of the proceeding, so that the plea may begin at the scheduled time. The parties should execute any plea or cooperation agreement prior to the scheduled time for the plea. The defendant should also be prepared in advance to give a narrative allocution that incorporates all of the elements of the offense(s) to which the defendant is pleading guilty. In the interest of clarity and efficiency, counsel is encouraged to assist the defendant(s) in writing an allocution that can be read in open court during the plea proceeding.

The Court further expects that defense counsel will have determined whether detention of the defendant is required under 18 U.S.C. § 3143(a)(2) upon the entry of a guilty plea, subject to the limited exception provided in 18 U.S.C.§ 3145(c) for cases in which it is clearly shown that there are exceptional reasons why detention would not be appropriate, and prepared the defendant for the possibility of detention commencing at the end of the plea proceeding.

E. Motions.

1. General Procedures. All parties must submit motion papers on ECF and must submit courtesy copies to the Court, following Rule II(B)(3), *supra*, except that defense counsel and the Government may separately submit courtesy copies to the Court by no later than the time the motion is fully submitted. If multiple defendants in a case have filed pretrial motions, the Government must respond to all motions in a single, omnibus brief, unless otherwise ordered.

2. Discovery Motions. In submitting discovery motions, counsel are expected to comply with this District's Local Criminal Rule 16.1. Any discovery motion must contain the required Rule 16.1 affidavit.

3. 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. All memoranda of law shall be in twelve-point font or larger, double spaced, and text-searchable. Memoranda of 10 pages or more shall contain a table of contents and a table of authorities, neither of which shall count against the page limit. Sur-reply memoranda will not be accepted without prior permission of the Court. All appendices to memoranda of law must be indexed.

F. Sentencing.

1. Adjournments. Any request for an adjournment of sentencing must be made by letter-motion on ECF no later than three business days before the scheduled proceeding. The request must state the reason for the adjournment and whether opposing counsel consents.

2. Written Submissions on Sentence. Courtesy copies of written sentencing submissions and letters must be submitted to Chambers, following Rule II(B)(3), *supra*, except that defense counsel and the Government may separately submit courtesy copies to the Court by no later than the time the Government's submission is due. Except as otherwise provided by the Court, a defendant's sentencing submission shall be filed two weeks in advance of the date set for sentence. The Government's sentencing submission shall be filed one week in advance of the date set for sentence.

3. Filing Sentencing Submissions and Letters. Except for submissions requested to be filed under seal, every document in a sentencing submission, including letters, must be filed on ECF. Letters should be grouped and filed together as attachments to a single document marked "SENTENCING SUBMISSION," with the caption and docket number clearly indicated. The defendant is responsible for filing all letters submitted on behalf of the defendant, including those from friends and relatives. The Government is responsible for filing all letters from victims. In this regard, the parties are referred to Section I(D) regarding sealing and redactions above.

V. PRE-TRIAL PROCEDURES AND RELATED FILINGS

For civil jury trials, refer to Rules V(A)–V(B)(1) and V(D).

For civil non-jury trials, refer to Rule V(A) and V(C)–V(D).

For criminal jury trials, refer to Rules V(A)(2), V(B)(2), and V(D).

For criminal non-jury trials, refer to Rules V(A)(2) and V(D).

In criminal cases, the Court will enter an order scheduling a final pretrial conference and setting deadlines for pretrial submissions.

A. Pre-Trial Procedures in Civil and Criminal Cases.

1. Joint Pretrial Order – Civil Cases Only. On a schedule ordered by the Court, the parties shall file on ECF a proposed Joint Pretrial Order that includes the information required by Fed. R. Civ. P. 26(a)(3) and the following information:

i. The full caption of the action;

ii. The names, law firms, addresses, telephone numbers, and email addresses of trial counsel;

iii. A brief statement (by each party to the extent their positions differ) of the factual and legal basis for or against subject matter jurisdiction, including citations to statutes and relevant facts as to citizenship and jurisdictional amount;

iv. A brief summary (by each party to the extent their positions differ) of the claims and defenses that remain to be tried, including citations to any relevant statute, and a brief summary of claims and defenses previously asserted that are not to be tried. The summaries shall not recite any evidentiary matter and shall not be argumentative;

v. The number of trial days requested and whether the case is to be tried with or without a jury, without identifying which parties do or do not seek a jury trial;

vi. A joint statement summarizing the nature of the case, that may be read to potential jurors during jury selection;

vii. A list of people, places, and institutions that are likely to be mentioned during the course of the trial, to be read to potential jurors during jury selection;

viii. A statement of whether all parties have consented to trial by a Magistrate Judge, without identifying which parties do or do not consent;

ix. Any stipulations or agreed statements of fact or law to which all parties consent. In a jury case, the parties should memorialize any such stipulations or agreed statements of fact or law in a standalone document that can be marked and admitted at trial;

x. A list of all trial witnesses, indicating whether such witnesses will testify in person or by deposition, whether such witnesses will require an interpreter (and, if so, which party will pay the costs for the interpreter), a brief summary of the substance of each witness's testimony, and the expected duration of direct- and cross-examination for each witness. Absent leave of the Court, a witness listed by both sides shall testify only once (with the defendant permitted to go beyond the scope of the direct on cross-examination) and counsel should confer with respect to scheduling;

xi. A designation by each party of deposition testimony to be offered in its case-in-chief and any counter-designations and objections by any other party. The parties need not designate deposition testimony to be used for impeachment purposes only. In addition to a designation list, the parties shall provide the complete deposition transcripts with color-coded highlighting indicating the portions designated by each party and the objections listed in the margins. Each party shall also provide a one-page synopsis of the deposition excerpt(s) it plans to offer. Any objections not made are waived;

xii. A list by each party of exhibits to be offered in its case-in-chief, in accordance with Rule V(D)(1), *infra*.

xiii. A statement of each element of damages and, except for intangible damages (*e.g.*, pain and suffering, mental anguish, or loss of consortium), the manner and method used to calculate any claimed damages, and a breakdown of the elements of such claimed damages;

xiv. Other requested relief; and

xv. A statement of whether the parties consent to less than a unanimous verdict.

Unless the Court orders otherwise for good cause shown, the parties shall be ready for trial 30 days after the deadline for the Joint Pretrial Order.

2. Motions *in Limine*. Unless otherwise ordered by the Court, the parties shall file and serve motions addressing any evidentiary issues or other matters to be resolved *in limine* no later than four weeks before trial. Any party wishing to file a motion *in limine* must first confer in good faith with the opposing party in an effort to resolve the dispute; all motions *in limine* must include a representation that the meet-and-confer process occurred and was unsuccessful. Absent leave of the Court, each party must file a single memorandum of law in support of *all* motions *in limine* filed by that party. Responses are due within one week after the filing of a motion *in limine*. No reply briefs shall be filed.

B. Additional Required Pretrial Submissions in Jury Cases.

1. Joint Proposed *Voir Dire*, RTCs, and Verdict Sheet in Civil Cases. Unless otherwise ordered by the Court, in civil jury cases, the parties shall file via ECF joint case-specific proposed *voir dire* questions, joint case-specific proposed requests to

charge (in plain English), and a joint verdict sheet at least two weeks prior to trial. For any proposed *voir dire* question or request to charge on which the parties cannot agree, each party should clearly set forth its proposed question or charge and briefly state why the Court should use its proposed question or charge, with citations to supporting authority. Absent good reason, the parties should not include proposed language for standard instructions (about, for example, the role of the Court and the jury, the standard of proof, etc.), as the Court is likely to use its own standard instructions; instead, the parties should include a list of standard instructions that they believe are appropriate and focus their attention on case-specific requests to charge. Proposed *voir* dire questions should include only those questions unique to the facts of the case being tried. At the time of filing, parties should also submit copies of these documents to the Court by email as Microsoft Word documents.

2. Proposed *Voir Dire*, RTCs, and Verdict Sheet in Criminal Cases. Unless otherwise ordered by the Court, in criminal jury cases, the parties shall each file via ECF case-specific proposed *voir dire* questions, case-specific proposed requests to charge (in plain English), and a verdict sheet at least two weeks prior to trial. If multiple defendants will be tried, all defendants must, unless otherwise ordered, submit a single request to charge and a single set of proposed *voir dire* questions. Absent good reason, the parties should not include proposed language for standard instructions (about, for example, the role of the Court and the jury, the standard of proof, etc.), as the Court is likely to use its own standard instructions; instead, the parties should include a list of standard instructions that they believe are appropriate and focus their attention on case-specific requests to charge. Proposed *voir* dire questions should include only those questions unique to the facts of the case being tried. At the time of filing, parties should also submit copies of these documents to the Court by email as Microsoft Word documents.

C. Additional Required Pretrial Submissions in Civil Non-Jury Cases.

1. Proposed Findings of Fact and Conclusions of Law. Unless otherwise ordered by the Court, the parties shall file proposed findings of fact and conclusions of law by the time of filing the Joint Pretrial Order. The parties must meet and confer in an effort to reach agreement with respect to those findings and conclusions as to which there is no dispute; as to any agreed-upon findings and conclusions, the parties must make a joint submission. The proposed findings of fact should be detailed and include citations to the proffered trial testimony and exhibits, as there may be no opportunity for post-trial submissions. At the time of filing, the parties should also submit copies of these documents to the Court by email in both Microsoft Word and PDF format, as well as provide courtesy copies as set out in Rule II(B)(3).

2. Affidavits. Counsel shall email to the Court a copy of the direct testimony of each witness (excluding the direct testimony of an adverse party, a person whose appearance must be compelled by subpoena, or a person for whom the Court has agreed to hear direct testimony live at trial) in the form of an affidavit setting forth the

narrative of their testimony in numbered paragraphs. Counsel shall also deliver courtesy copies to the Court. The affidavit should be treated as a direct substitute for the witness's live testimony; that is, counsel should be attentive to the Federal Rules of Evidence (*e.g.*, hearsay and the like) and authenticate any exhibits that will be offered through that witness's testimony. Three business days after submission of such affidavits, counsel for each party shall submit a list of all affiants whom counsel intends to cross-examine at the trial. Only those witnesses who will be cross-examined need to appear at trial. The original signed affidavits should be brought to trial to be marked as exhibits, at which time any objections to particular paragraphs of an affidavit can be made.

D. Trial Exhibits and Demonstrative Aids.

1. Exhibit List. Within the deadlines ordered by the Court, the parties shall email to the Court and opposing counsel a Microsoft Word document listing all exhibits sought to be admitted. The list shall contain six columns labeled as follows: (1) "Exhibit Number"; (2) "Description" (of the exhibit); (3) "Authenticity Objection"; (4) "Admissibility Objection"; (5) "Date Identified"; and (6) "Date Admitted." The parties shall complete the first four columns, but leave the fifth and sixth columns blank, to be filled in by the Court during trial. If a party objects to an exhibit, the objection should be noted in the third and/or fourth columns by indicating the Federal Rule of Evidence that is the basis for the objection and any other authority. In civil cases, any objections not made shall be deemed waived, and any exhibits not objected to shall be deemed admissible at trial. In general, the Court will rule on relevance and authenticity objections at the time of trial.

2. Exhibits. At the start of trial, parties shall also email the Court and opposing counsel (but not file on ECF) an electronic copy of each exhibit sought to be admitted, and in a criminal case, Section 3500 material, with each filename corresponding to the relevant exhibit number (*e.g.*, "GX-1," "PX-1," "DX-1," etc.). If files are too large for submission by email, the parties may provide the Court materials via a secure file-sharing link. Parties shall also provide the Court with two tabbed, three-ring binders containing the exhibit list described in Rule V(D)(1), *supra*, and the pre-marked documentary exhibits, as well as (in criminal cases) Section 3500 material from the Government, in sequential order. Any exhibits that cannot be provided as a hard copy (*e.g.*, Excel spreadsheets with numerous columns, videos) should be indicated as such using a slipsheet.

Court time may not be used for marking exhibits. Exhibits shall be pre-marked, and if possible, pre-admitted in advance of the Court session.

Any exhibit offered in evidence should, at the time it is offered, be shown to opposing counsel unless it was provided pre-marked to counsel before the proceeding. At the end of the hearing or trial, counsel should make sure they have all of their original exhibits.

3. Demonstratives. Demonstratives that will not be introduced into evidence need not be listed, but they must be shared with the Court and opposing counsel in advance of their attempted use in Court. Prior to any attempted use of demonstratives, the parties shall confer in an effort to resolve any objections to their use. Any objections that are not resolved shall be raised with the Court no later than the business day prior to the anticipated use of the demonstrative.

E. Wi-Fi Access and Technology Instructions.

1. Wi-Fi Access. Attorneys may obtain authorization to use the Court's Wi-Fi system in Judge Garnett's Courtroom during a hearing or trial by submitting an Electronic Device and Wi-Fi Access Request Form, available on the Court's website. The completed form should be submitted as early as possible—and certainly no later than five business days before the start of the trial or hearing. If approved and signed by Judge Garnett, a copy of the Order will be sent to the requesting attorney, who will receive a network name, username, password, and instructions from the District Executive's Office on or before the first day of the scheduled proceeding. Wi-Fi access is limited to the approved attorney (who may not share his or her username or password with others) for the duration of the proceeding and for Courtroom 906 (unless Judge Garnett or another judicial officer grants permission for it to be used in another courtroom). If an attorney wishes to test the Wi-Fi prior to the proceeding, that request must also be made to Chambers at least five business days prior to the proceeding.

2. Audio-Visual Needs. If a party wishes to use audio-visual equipment at a hearing or trial, it is that party's responsibility to ensure that any required approvals are obtained and that the necessary equipment is set up and working properly in advance of trial. For jury trials, the parties must contact the Courtroom Deputy, Keeva Verneus, at (212) 805-4560 or Keeva_Verneus@nysd.uscourts.gov sufficiently in advance of trial to make the necessary arrangements for a technology walk-through and to test the equipment; it is also recommended that parties in a bench trial contact Ms. Verneus for these purposes. To the extent that authorization is required to use electronic devices, a party must submit an Electronic Device and Wi-Fi Access Request Form, which is available on the Court's website. The completed form should be submitted as early as possible, and certainly no later than five business days before the start of the trial or hearing.

VI. TRIAL PROCEDURES

A. Efficiency and Time Management.

1. Schedule. Unless otherwise decided by the Court, trials will generally be conducted Monday through Thursday from 9:30 a.m. to 5:00 p.m., with breaks throughout the day. When the jury is not seated, the parties may raise issues for rulings that may arise during the trial. In jury trials, in order to keep distractions during the trial to a minimum, counsel shall be present by 9:00 a.m. and available after 5:00 p.m. to discuss scheduling and any disputed matters that may arise.

2. Time Limits. In most civil cases, the Court will impose time limits on both sides at the final prehearing or pretrial conference. The parties should be prepared to address the issue of time limits at the final prehearing or pretrial conference.

3. Sidebars. Sidebars during jury trials are strongly disfavored and will not be permitted if abused. Counsel are expected to anticipate any issues that might require argument and to raise those issues with the Court in advance of the time that the jury will be hearing the evidence, ideally in advance of the final pretrial conference.

4. Conferring with Opposing Party. Whenever possible, a party shall first raise any issue with the opposing party before raising the issue with the Court, including anticipated evidentiary and legal issues that require argument.

5. Witness Availability. The parties are expected to present witnesses throughout the entire trial day. Unless good cause is shown, if a party does not have another witness available on a given day, that party will be deemed to have rested. Counsel shall notify the Court and other counsel in writing, at the earliest possible time, of any particular scheduling problems involving witnesses so that other arrangements can be made to fill the trial day.

6. Jury Selection. The jury will be selected by the struck panel method.

The Court will conduct a *voir dire* of the number of panelists computed by combining the number of jurors to be selected and the number of peremptory challenges. After the *voir dire* of each juror, there will be a determination as to whether there are any challenges for cause. Each panelist removed for cause will be replaced, so that a full panel is present before any peremptory challenges are exercised.

Next, peremptory challenges will be exercised against the panelists who compose the potential members of the regular jury. Peremptory challenges will be exercised simultaneously, with the parties each submitting a written list of panelists that they wish to excuse. Any overlap among those lists will not result in parties receiving additional challenges. The jurors will be selected starting with the unchallenged juror with the lowest number.

Finally, peremptory challenges are exercised against the panelists who comprise the potential alternate jurors. Again, peremptory challenges will be exercised simultaneously. In the event of an overlap in challenges, the jurors will be selected from among those with the lowest numbers.

B. Promoting Juror Understanding.

1. Jury Instructions. All instructions to the jury will be in plain language that is as understandable as possible to non-lawyers.

2. Preliminary Instructions. The Court will give preliminary instructions on the law at the beginning of the trial, before the parties' opening statements. The preliminary instructions will explain the jury's role, trial procedures, the nature of evidence and its evaluation, basic relevant legal principles, including definitions of unfamiliar legal terms, the parties' claims and defenses, what the parties need to prove in order to sustain their claims and defenses, burden of proof, and any pertinent instructions. Preliminary instructions will facilitate better decision-making by jurors as well as a greater understanding of their duty in the decision-making process. Jurors' ability to recall relevant evidence and apply the law to the facts will improve if they understand in advance the context in which they will be required to evaluate or analyze the evidence presented during the trial.

3. Supplemental Instructions. The Court will give supplemental instructions during the course of the trial, as necessary, to assist the jury in understanding the facts and law.

4. Final Instructions. The Court will give final instructions on the law at the end of the presentation of evidence, before the parties' closing statements. The Court will communicate clearly to the jury that the instructions given at the end of the trial will control deliberations. Each juror will be provided with a written copy of the final instructions for use while the jury is being instructed and during deliberations.

C. Other Tools to Promote Juror Understanding.

1. Juror Note Taking. Jurors will be permitted but not required to take notes during the trial. Jurors will be instructed that the notes are to aid their memory of the evidence and are not a substitute for their recollection of the evidence in the case.[1] The Court will provide each juror with a notebook or paper and pens. The notes will be collected and destroyed at the conclusion of the trial.

2. Other. The Court is open to other techniques to enhance juror comprehension.

[1] Sample jury instruction: "If you took notes during the course of the trial, you shall not show your notes to or discuss your notes with any other juror during your deliberations. Any notes you have taken are to be used solely to assist you. The fact that a particular juror has taken notes entitles that juror's views to no greater weight than those of any other juror. Finally, your notes are not to substitute for your recollection of the evidence in the case. If you have any doubt as to any testimony, you may request that the testimony be read back to you, as I mentioned earlier."

D. Juror Deliberations.

1. Exhibits. The Court ordinarily will provide all exhibits admitted into evidence to the jurors for use in the jury room during deliberations. Immediately before the jury deliberates, the parties shall provide the Court with digital copies of the admitted exhibits as set forth in Rule V(D)(2) above.

2. Juror Questions. When jurors submit a question during deliberations, the Court, in consultation with the parties, will supply a prompt, complete, and responsive answer or will explain to the jurors why it cannot do so.

3. Impasse. The Court will endeavor to assist a jury that advises the Court that it has reached an impasse in its deliberations, including directing that further proceedings occur if appropriate.

E. Conduct During a Trial.

1. Counsel shall address all remarks to the Court, not to opposing counsel.
2. Only one attorney for each party shall examine, or cross-examine, each witness. The attorney stating objections, if any, during direct examination shall be the attorney recognized for cross-examination. The attorney who conducts direct examination shall be the attorney who states any objections during cross-examination.
3. Counsel shall refer to all persons, including witnesses, other counsel, and parties by their surnames and not by their first or given names.
4. In making an objection, counsel shall be brief and direct. (For example, by stating, "Objection, hearsay," or by citation to the relevant Federal Rule of Evidence number.) In jury trials, counsel shall not argue the objection in the presence of the jury or argue with the ruling of the Court in the presence of the jury.
5. Offers of, or requests for, a stipulation shall be made privately, not within the hearing of the jury. In most instances, stipulations shall be reduced to writing in a form that can be marked and admitted at trial.
6. During jury trials, counsel shall not make any motion (*e.g.*, for a mistrial) in the presence of the jury. Such matters may be raised during a recess, or in exigent circumstances, by requesting a sidebar.
7. Counsel shall request permission before approaching the bench. Any document that counsel wishes to have the Court examine shall be handed to the Courtroom Deputy. Absent permission from the Court, counsel are to remain at the lectern during witness examinations.
8. Counsel shall avoid delay by having all exhibits counsel intends to use with a witness prepared and readily accessible when commencing the examination.

9. Counsel shall be respectful of opposing counsel, the litigants, and the witnesses.

F. Post-Hearing and Post-Trial Procedures.

Counsel are responsible for promptly raising any issue concerning the accuracy of transcripts certified by the Court Reporter to be used for purposes of appeal. Counsel perceiving an error that is material shall stipulate to the appropriate correction or, if agreement cannot be reached, shall proceed by motion on notice. Non-material defects in syntax, grammar, spelling, or punctuation should be ignored.