Revised: July 29, 2023

INDIVIDUAL PRACTICES IN CIVIL CASES

Arun Subramanian, United States District Judge

Chambers
United States District Court
Southern District of New York
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Unless otherwise ordered by the Court, these Individual Practices apply to all civil matters before Judge Subramanian except for civil pro se cases (see Individual Practices in Civil Pro Se Cases).

1. Civility in All Proceedings

Parties must act with the highest degree of professionalism and courtesy in their dealings with 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 promptly be brought to the Court's attention. For the avoidance of doubt, this provision applies to discovery communications and conduct in depositions.

2. Guidelines for All Submissions

A. Designation of Lead Trial Counsel. At the outset of each case, or upon reassignment of a matter to this Court, each party must identify to the Court one individual who shall serve as Lead Trial Counsel for that party. This designation must be provided to the Court in the party's first submission (including in reassigned cases). The designation of Lead Trial Counsel cannot be changed absent prior approval by the Court. As specified below, Lead Trial Counsel is required to personally attend all conferences before the Court and to be personally involved in discovery disputes before they are brought to the Court.

B. Amended or Corrected Filings. Any amended or corrected filing (including but not limited to amended pleadings) 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.

C. No Courtesy Copies. Unless the Court orders otherwise, parties should not submit courtesy copies of any submissions.

3. Communications with Chambers

A. Letters. Except as otherwise provided below, communications with the Court should be by letter, filed electronically on ECF. Letters seeking relief should be filed on ECF as letter-motions in accordance with Paragraph 8(A) below, not as ordinary letters. Unless otherwise ordered by the Court, letters may not exceed three pages in length.

B. Telephone Calls. Telephone calls to Chambers are permitted solely in emergency situations where a letter or letter-motion is not feasible, or as specifically authorized in Paragraph 6(B) (Conduct in Depositions). In such situations, counsel for all parties must join the call. Technical questions pertaining to ECF filings should be directed to the ECF Help Desk at helpdesk@nysd.uscourts.gov or (212) 805-0800.

C. Faxes. Faxes are not permitted except with prior approval of Chambers.

D. Hand Deliveries. Hand-delivered mail should be left with the Court Security Officers at the Worth Street entrance of the Daniel Patrick Moynihan United States District Courthouse at 500 Pearl Street, New York, NY 10007, and may not be brought directly to Chambers. If the hand-delivered letter 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.

E. Requests for Adjournments or Extensions of Time. All requests for adjournments or extensions of time must be made in writing and filed on ECF as letter-motions, not as ordinary letters, proposed stipulations, or proposed orders. The letter-motion 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. If the extension will affect any other deadlines in the case, the party seeking the extension should propose amendments to those deadlines as well. Requests for extensions of deadlines regarding a matter that has been referred to a Magistrate Judge shall be addressed to that assigned Magistrate Judge.

Any request for extension or adjournment shall be made at least two business days prior to the deadline or scheduled appearance. Requests for extensions will ordinarily be denied if made after this deadline.

F. 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 Rule

42(a)(2) of the Federal Rules of Civil Procedure, 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.

G. ECF. In accordance with the 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.

4. Conferences

A. In-Person Conferences. Unless otherwise ordered by the Court, all in-person conferences will be held in Courtroom 15A, 500 Pearl Street, New York, NY 10007.

B. Teleconferences. The following procedures shall apply to all teleconferences with the Court:

i. At least 24 hours before a scheduled teleconference, the parties must jointly email to the Court a list of counsel who may speak during the teleconference. No more than one individual should be designated to speak on behalf of each party. The email should also provide the telephone numbers from which counsel expect to join the call.

ii. Counsel should use a landline whenever possible, should not use a speakerphone, and must mute themselves whenever they are not speaking to eliminate background noise.

iii. To facilitate orderly teleconferences and the creation of an accurate transcript where a teleconference is held on the record, counsel are required to identify themselves every time they speak. Counsel should spell any proper names for the court reporter and take special care not to interrupt or speak over one another.

iv. Broadcasting or recording of any court conference is prohibited by law.

C. Attendance by Lead Trial Counsel. Lead Trial Counsel must appear at all conferences with 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. Any attorney appearing before the Court must enter a notice of appearance on ECF.

D. Initial Case Management Conference. In most cases, the Court will schedule a Federal Rule of Civil Procedure 16(c) conference to occur no more than three months after the filing of the complaint or notice of removal. Plaintiff's counsel (or, in a matter removed from state court, defense counsel) is directed to promptly notify all counsel of the Notice of Initial Pretrial Conference. In most cases, the Notice will direct the parties to submit on ECF a joint letter as well as a proposed Civil Case Management Plan and Scheduling Order attached as an exhibit to the joint letter, no later than Thursday of the week prior to the conference date. The parties shall use the form Proposed Case Management Plan and Scheduling Order available at the Court's website.

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, set a deadline for the filing of any motions for summary judgment, and set a date on which trial will commence.

E. Rule 26(f) Obligations. The parties should fulfill their obligations to confer as required by Federal Rule of Civil Procedure 26(f) as soon as practicable after service of the complaint. Any party's failure to promptly confer should be brought to the Court's attention pursuant to the procedures in Paragraph 5 of these Individual Practices.

5. Discovery Disputes

A. Parties must follow Local Civil Rule 37.2 with the following modifications. Special rules regarding disputes raised during depositions are addressed in Paragraph 6.

B. Any party wishing to raise a discovery dispute with the Court must first confer in good faith with the opposing party—in person, by videoconference, or by telephone—to resolve the dispute. This process must include at least one conference among Lead Trial Counsel for the parties involved in the dispute.

C. Where a party raises a discovery dispute with the opposing party, the opposing party must make itself available to confer in good faith to resolve the dispute within two business days of a request for a conference. If a party requests a Lead Trial Counsel conference, Lead Trial Counsel for the opposing party must make themselves available within two business days.

D. If the meet-and-confer process does not resolve the dispute within 10 business days of the dispute first being raised (or sooner, if an impasse has been reached), the party seeking discovery may file on ECF a letter-motion, no longer than three pages, explaining the nature of the dispute and, if applicable, why the party is entitled to relief and requesting an informal conference. Any letter-motion seeking relief must state: (1) the dates and times of each conference conducted pursuant to Paragraph 5(B)–(C); (2) the duration of these conferences; (3) the names of the attorneys who participated; and (4) 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 a conference with the Court. The letter-motion must specifically state that the required Lead Trial Counsel conference occurred.

E. Any opposition to a letter-motion seeking relief shall be filed as a letter, not to exceed three pages, within two business days. Counsel should be prepared to discuss with the Court the matters raised by such letters, as the Court will seek to resolve discovery disputes quickly, by order (based on the letters alone) or in a conference.

F. Counsel should seek relief in accordance with these procedures in a timely fashion. If a party waits until near the close of discovery to raise an issue that could have been raised earlier, the party is unlikely to be granted the relief that it seeks or more time for discovery.

G. Privilege Logs and Privilege Log Disputes. Privilege logs should be sufficiently detailed to enable the receiving party to evaluate a claim of privilege, including identification of attorneys involved in the relevant documents or communications. Privilege logs must be promptly produced and updated on a rolling basis as documents are produced. Each log and update must include a certification from counsel that counsel has reviewed the withheld or redacted documents, and that there is a good-faith basis to assert privilege over those documents. Disputes related to privilege logs are subject to the rules governing discovery disputes specified in Paragraph 5. The Court may on its own initiative order in camera production to the Court of unredacted documents from the producing party's log where a dispute is raised.

6. Conduct in Depositions

A. All objections during a deposition must be "stated concisely in a nonargumentative and nonsuggestive manner." Fed. R. Civ. P. 30(c)(2). Witness coaching or disruptive commentary of any kind during questioning is prohibited. Objections to the form of a question (e.g., argumentative, asked and answered, calls for a narrative response, calls for a legal conclusion, compound, vague, ambiguous, calls for speculation) should be limited to "objection form." If the examining attorney is unclear as to the nature of the form objection, they may seek further clarification from the objecting attorney.

B. If a dispute arises during a deposition, and the letter-motion procedures in Paragraph 5 are not feasible to address it, the parties may call Chambers (212-805-0238) to raise the dispute with the Court during the deposition. If a party wishes to engage the Court in this manner, all parties in attendance at the deposition must make themselves available and call the Court jointly.

7. Participation by Junior Attorneys

A. The Court encourages the participation of less-experienced attorneys in all proceedings—including pretrial conferences, hearings on discovery disputes, oral arguments, and examinations of witnesses 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, or a request for more than one attorney to speak on behalf of a party in a conference, where doing so would afford the opportunity for a junior attorney to gain experience.

8. Motions

A. Letter-Motions. When permitted by the S.D.N.Y. Local Rules and the 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.

B. Pre-Motion Conferences in Civil Cases. Pre-motion conferences are not required, except for disputes concerning discovery, which are governed by Paragraph 5 above.

C. Memoranda of Law. The typeface, margins, and spacing of motion papers must conform to Local Civil Rule 11.1. Memoranda of law in support of and in opposition to motions are limited to 20 pages, and reply memoranda are limited to five pages, except for summary judgment motions. For summary judgment motions, memoranda of law supporting or opposing summary judgment are limited to 25 pages, and reply memoranda are limited to 10 pages. Footnotes are highly disfavored and should be used sparingly. All memoranda of law shall be in 12-point font or larger (including any footnotes) and double spaced. 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. The Court will rarely grant requests, even on consent of all parties, to expand these page limits.

D. Unpublished Cases. If a party cites to a case not available in an official reporter, it need not provide copies of the case to Chambers if the case is available on Westlaw or Lexis. For cases only available on Westlaw or Lexis, the Westlaw citation should be used whenever possible.

E. Oral Argument on Motions. A party may request oral argument by indicating "ORAL ARGUMENT REQUESTED" on the cover page of its memorandum of law. A party should advise the Court by letter if oral argument would be handled by a less-experienced attorney because, as discussed in Paragraph 7 above, that may make the Court more inclined to hold oral argument. If oral argument is requested, the Court will determine whether argument will be heard and, if so, advise counsel of the argument date.

F. Use of ChatGPT and Other Tools. Counsel is responsible for providing the Court with complete and accurate representations of the record, the procedural history of the case, and any cited legal authorities. Use of ChatGPT or other such tools is not prohibited, but counsel must at all times personally confirm for themselves the accuracy of any research conducted by these means. At all times, counsel—and specifically designated Lead Trial Counsel—bears responsibility for any filings made by the party that counsel represents.

G. Motions to Dismiss

i. In any motion to dismiss arguing that a pleading fails to plausibly allege a claim, the supporting papers must clearly indicate the specific claim elements that the moving party believes have not been plausibly pleaded. In response, the non-moving party must identify the specific paragraphs in the pleading that the non-moving party believes plausibly allege those specific elements. The moving party must attach a non-argumentative chart as an exhibit to its moving papers identifying the elements not plausibly alleged, and the non-moving party must attach a responsive, non-argumentative exhibit to its responsive papers identifying the paragraphs of the complaint that plausibly allege those elements.

ii. When a motion to dismiss is filed and the non-moving party elects to amend its pleading pursuant to Federal Rule of Civil Procedure 15(a)(1), the non-moving party must, within 10 days of receipt of the motion, notify the Court and its adversary if it intends to file an amended pleading pursuant to Rule 15(a)(1), and the date by which it will do so. This provision does not alter the time for a non-moving party to file a response to the motion to dismiss as specified in the Federal Rules of Civil Procedure or Local Rules. Non-moving parties are on notice that declining to amend their pleadings to timely respond to an argument in the motion to dismiss may constitute a waiver of their right to later use the amendment process to cure defects that have been made apparent by the briefing.

a. If the party amends, the opposing party may then: (i) file an answer; (ii) file a new motion to dismiss; or (iii) submit a letter stating that it relies on the initially filed motion to dismiss.

b. If the moving party files an answer or a new motion to dismiss, the Court will deny the original motion to dismiss as moot without notice to the parties.

H. Motions for Leave to Amend a Pleading. When moving to amend any pleading, the moving party shall—in accordance with Paragraph 2(B) above—file with the motion a redline showing all differences between the operative pleading and the proposed amended pleading.

I. Summary Judgment Motions

i. Absent good cause, the Court will not ordinarily have summary judgment practice in a non-jury case.

ii. Parties may not file more than one motion for summary judgment absent prior Court approval.

iii. 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 Civil Rule 56.1. Opposing parties must reproduce each entry in the moving party's Rule 56.1 Statement and set out the opposing party's response directly beneath it.

iv. With respect to any deposition that is supplied, the index to the deposition should be included if it is available.

v. The parties should provide the Court with a complete electronic, text-searchable copy of any hearing or deposition transcript on which the parties rely, if such a copy is available, unless doing so would be unduly burdensome.

vi. Memoranda of law should include sections discussing the relevant background and facts. Parties should not merely incorporate by reference their Local Rule 56.1 Statements or Counterstatements.

J. Motions to Exclude Testimony of Experts. Unless the Court orders otherwise, motions to exclude testimony of experts, pursuant to Rules 702–705 of the Federal Rules of Evidence and the Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993), line of cases, must be made by the deadline for dispositive motions and should not be treated as motions in limine.

K. Preliminary Injunction Motions. The Court generally follows the procedure for the conduct of non-jury trials described in Paragraph 10(E) below.

L. Default Judgment Motions. If a party fails to respond to a claim, the party asserting the claim should promptly move for entry of default judgment if appropriate. A party seeking a default judgment must proceed by filing a motion for default judgment on ECF pursuant to Federal Rule of Civil Procedure 55(b)(2) and Local Civil Rule 55.2(b). A party seeking a default judgment should not proceed by order to show cause. The motion must be supported by the following papers:

i. if failure to answer is the basis for the default, a Certificate from the Clerk of Court stating that no answer has been filed;

ii. an attorney's affidavit or declaration setting forth:

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

2. the procedural history beyond service of the summons and complaint, if any;

3. legal authority for why such service was proper;

4. whether, if the default is applicable to fewer than all counterparties, the Court may appropriately order a default judgment on the issue of damages prior to resolution of the entire action;

5. the proposed damages and the basis for each element of damages, including interest, attorney's fees, and costs; and

6. legal authority for why an inquest into damages would be unnecessary;

iii. if the proposed damages are supported by calculations, native versions of the files with calculations (i.e., versions of the files in their original format, such as in ".xlsx"), which shall be emailed to Chambers;

iv. a proposed default judgment;

v. copies of all the operative pleadings; and

vi. a copy of the affidavit of service of the summons and complaint.

M. Proposed Stipulations and Orders. In accordance with the S.D.N.Y. Local Rules and the S.D.N.Y. 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 SDNY ECF Rules & Instructions §§ 13.17–19 & App'x A. As noted above, requests for extensions and adjournments must be made by letter-motion, not by proposed stipulation or proposed order.

9. Other Pretrial Guidance

A. Applications for Temporary Restraining Orders. A party should confer with its adversary before making an application for a temporary restraining order unless the party seeking relief is able to satisfy the requirements for obtaining temporary relief without notice to the adverse party set forth in Federal Rule of Civil Procedure 65(b)(1). If the party seeking relief 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 (or, if ECF is not a viable option, by email to Chambers) and then call Chambers at (212) 805-0238. If the

party 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 call Chambers with all parties on the line (at the number above).

B. Settlement Agreements. Unless the Court orders otherwise, the Court will not retain jurisdiction to enforce confidential settlement agreements. If the parties wish that the Court retain jurisdiction to enforce a settlement agreement, the parties must place the terms of their agreement on the public record. The parties may either provide a copy of the settlement agreement for the Court to endorse or include the terms of their settlement agreement in their stipulation of settlement and dismissal.

C. Bankruptcy Appeals. The parties must comply with the briefing schedule and the format and length specifications set forth in the Federal Rules of Bankruptcy Procedure (8014–8018) unless otherwise ordered by the Court.

10. Trial Submissions and Procedures

A. Joint Pretrial Order. Unless otherwise ordered by the Court, at least 14 days prior to the scheduled final pretrial conference, the parties shall both file on ECF, as a "Joint Pretrial Statement," and submit by email to the Court a proposed joint pretrial order, which shall include the following:

i. the full caption of the action;

ii. the names, law firms, addresses, telephone numbers, and email addresses of trial counsel if not already listed on the docket;

iii. a brief statement by plaintiff (or, in a removed case, by defendant) as to the basis of subject matter jurisdiction, and a brief statement by each other party as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount;

iv. a brief summary by each party of the claims and defenses that the party asserts remain to be tried, including citations to any statutes on which the party relies. Such summaries shall also identify all claims and defenses previously asserted that are not to be tried. The summaries should not recite any evidentiary matter;

v. a statement as to the number of trial days needed and whether the case is to be tried with or without a jury;

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

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

viii. a statement as to 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), and a brief summary of the substance of each witness's testimony. Absent leave of 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;

xii. a list by each party of all exhibits to be offered in its case-in-chief, with a single asterisk indicating exhibits to which no party objects on any ground. If a party objects to an exhibit, the objection should be noted by indicating the Federal Rule of Evidence that is the basis for the objection. If any party believes that the Court should rule on such an objection in advance of trial, that party should include a notation to that effect (e.g., "Advance Ruling Requested") as well. In general, the Court will rule on relevance and authenticity objections at the time of trial;

xiii. a statement of the damages claimed and any other relief sought, including the manner and method used to calculate any claimed damages and a breakdown of the elements of such claimed damages; and

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

B. Required Pretrial Filings. Unless otherwise ordered by the Court, each party shall file and serve with the joint pretrial order:

i. in all cases, motions addressing any evidentiary issues or other matters that should be resolved in limine. Absent leave of the Court, each party must file a single memorandum of law, consistent with Paragraph 8(C) above, in support of all motions in limine filed by that party;

ii. in all jury cases, joint requests to charge, joint proposed verdict forms, and joint proposed voir dire questions as specified by Paragraph 10(D) below; and

iii. in all non-jury cases, proposed findings of fact and conclusions of law. The proposed findings of fact should be detailed and should include citations to the proffered trial testimony and exhibits, as there may be no opportunity for post-trial submissions. At the time of filing, parties should also submit copies of these documents to the Court by email, both in PDF format and as a Microsoft Word document.

C. Electronic Copies of Exhibits and Exhibit Lists. Unless otherwise ordered by the Court, the parties shall also submit with the joint pretrial order (but not file on ECF):

i. an electronic copy of each exhibit sought to be admitted (with each filename corresponding to the relevant exhibit number—e.g., "PX-1," "DX-1," etc.). If submission of electronic copies would be an undue burden on a party, the party may seek leave of Court (by letter-motion filed on ECF) to submit prospective documentary exhibits in hard copy. Each hard copy shall be pre-marked (that is, with an exhibit sticker) and assembled sequentially in a loose-leaf binder (not to exceed 2-1/2 inches in thickness) or in separate manila folders labeled with the exhibit numbers and placed in redweld folders labeled with the case name and docket number; and

ii. a Microsoft Word document listing all exhibits sought to be admitted, emailed to the court. The list shall contain four columns labeled as follows: (1) "Exhibit Number"; (2) "Description" (of the exhibit); (3) "Date Identified"; and (4) "Date Admitted." The parties shall complete the first two columns, but leave the third and fourth columns blank, to be filled in by the Court during trial.

D. Requests to Charge and Proposed Voir Dire. Unless otherwise ordered by the Court, in all jury trials, joint requests to charge, joint proposed verdict forms, and joint proposed voir dire questions shall be submitted as attachments to the proposed joint pretrial order, with any differing proposals displayed in track-change format and supported by authority or other justification. At the time of filing, parties should also submit copies of these documents to the Court by email, as Microsoft Word documents. For any request to charge or proposed voir dire question on which the parties cannot agree, each party should clearly set forth its proposed charge or question, and briefly state why the Court should use its proposed charge or question, with citations to supporting authority.

E. Additional Submissions in Non-Jury Cases. Unless otherwise ordered by the Court, at the time the joint pretrial order is filed, each party in a non-jury trial shall submit to the Court by email and serve on opposing counsel, but not file on ECF, the following:

i. copies of affidavits constituting the direct testimony of each trial witness, except for the direct testimony of an adverse party, a person whose attendance is compelled by subpoena, or a person for whom the Court has agreed to hear direct testimony live at the trial. The affidavit should be

treated as a direct substitute for the witness's live testimony; that is, counsel should be attentive to the 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 they intend 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; and

ii. all deposition excerpts that will be offered as substantive evidence, as well as a one-page synopsis of those excerpts for each deposition. Each synopsis shall include page citations to the pertinent pages of the deposition transcripts.

F. Filings in Opposition. Unless otherwise ordered by the Court, any party may file the following documents within one week after the filing of the pretrial order:

i. opposition to any motion in limine; and

ii. opposition to any legal argument in a pretrial memorandum.

11. Redactions and Sealed Filings

A. Redactions Not Requiring Court Approval. The parties are referred to Rule 5.2 of the Federal Rules of Civil Procedure and the S.D.N.Y. 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 Court approval, 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).

B. Redactions and Sealed Filings Requiring Court Approval. Except for redactions permitted by Paragraph 11(A) or as provided by the protective order approved in the case, all redactions or sealing of public court filings require Court approval. To be approved, any redaction or sealing of a court filing must be narrowly tailored to serve whatever purpose justifies the redaction or sealing and must be otherwise consistent with the presumption in favor of public access to judicial documents. In general, the parties' consent or the fact that information is subject to a

confidentiality agreement between litigants is not, by itself, a valid basis to overcome the presumption in favor of public access to judicial documents.

C. Procedures for Filing Sealed or Redacted Documents. Any party seeking leave to file a document under seal or in redacted form shall proceed as follows:

i. **Meet and Confer.** The party should meet and confer with any opposing party (or any third party seeking confidential treatment of the information) in advance to narrow the scope of the request. When a party seeks leave to file a document under seal or in redacted form on the ground that an opposing party or third party has requested it, the filing party shall notify the opposing party or third party that it must file, within three business days, a letter explaining the need to seal or redact the document.

ii. **Sealed Document(s).** The party shall file a letter-motion seeking leave to file a document under seal 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 itself shall be filed in public view, should explain the reasons for seeking to file the document under seal, 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 should not include confidential information sought to be filed under seal.

iii. **Redacted Document(s).** Where a party seeks leave to file a document in redacted form, the party shall file a letter-motion seeking leave to file a document in redacted form 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 itself shall be filed in public view, should explain the reasons for seeking to file the document in redacted form, 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.

iv. **Submission by Email.** 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 it by email as a text-searchable PDF attachment with a copy simultaneously

delivered to all counsel. Any such email shall state clearly in the subject line: (1) the caption of the case, including the lead party names and docket number; and (2) a brief description of the contents of the letter. Parties may not include substantive communications in the body of the email; such communications may be included only in the body of the letter.

D. Protective Order. The parties should conform any proposed protective order as closely as possible to the Court's Model Protective Order, which is available on Judge Subramanian's webpage. If the parties alter the Court's Model Protective Order in any way other than conforming the caption and signatures, they must provide a redline indicating all such modifications by email to Chambers. The Court disfavors modifications to the Court's Model Protective Order.

12. Use of Electronic Devices and WiFi Access for Hearings and Trials

A. Use of Electronic Devices. Electronic devices (including mobile telephones, personal electronic devices, and computers) may not be used in Judge Subramanian's Courtroom without his permission. More broadly, the use of any such devices within the Courthouse and its environs is governed by the Court's Standing Order M10-468. If required by the Standing Order, counsel seeking to bring a device into the Courthouse shall submit an Electronic Device and Wi-Fi Access Request Form, available on the Court's website, to the Court by e-mail as early as possible—and certainly no later than three business days before the start of the trial or hearing. Requests submitted later than three business days prior to the relevant trial or hearing 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 turned off at all times. Non-compliance with this rule may result in forfeiture of the device for the remainder of the proceedings.

Wi-Fi Access for Hearings and Trials. Attorneys may obtain authorization to use the Court's Wi-Fi system in Judge Subramanian's Courtroom during a hearing or trial. For further information, see Judge Subramanian's Individual Practices for Hearings and Trials, available on Judge Subramanian's webpage.