

INDIVIDUAL RULES AND PRACTICES IN CIVIL CASES

JOHN P. CRONAN
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF NEW YORK

Chambers

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Southern District of New York
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Unless otherwise ordered by the Court or specifically covered by Judge Cronan's Emergency Individual Practices In Light of COVID-19, these Individual Rules and Practices shall apply to all civil matters before Judge Cronan, except for civil cases involving *pro se* litigants.

1. Communications with Chambers

A. Letters. Except as otherwise provided below, communications with Chambers shall be by letter, with copies simultaneously delivered to all counsel. Letters on behalf of parties represented by counsel must be both docketed on ECF and e-mailed as a .pdf attachment to the following address: CronanNYSDChambers@nysd.uscourts.gov. Counsel shall not provide a hard copy of correspondence e-mailed to Chambers. Letters seeking relief should (if consistent with the S.D.N.Y. Local Rules and the S.D.N.Y. ECF Rules and Instructions) be filed on ECF as letter-motions, not as ordinary letters. Any response to a letter or letter-motion shall be filed within two business days of the filing of the letter or letter-motion.

Counsel shall include the case caption and docket number in the subject line of every e-mail sent to Chambers. All letters should be text-searchable where practicable. Unless otherwise ordered by the Court, letters may not exceed three pages in length. Letters to be filed under seal or containing sensitive or confidential information must be filed in accordance with 4.A–C below. Copies of correspondence between counsel shall not be sent to the Court or docketed on ECF.

B. Telephone Calls. For questions that cannot be answered by reference to these Rules or the S.D.N.Y. Local Rules, or for docketing, scheduling, and calendar matters, counsel may contact the Courtroom Deputy, Meghan Henrich, at (212) 805-4860. For situations requiring immediate attention from the Court, counsel should call (212) 805-0218.

C. Faxes. Faxes to Chambers are not permitted, except with prior approval.

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.

2. Rules for All Filings

A. Electronic Case Filing (ECF). In accordance with the S.D.N.Y. ECF Rules and Instructions, all counsel must register promptly as ECF filers and to enter an appearance in the case. Counsel are required to register promptly for ECF after being retained or assigned. Counsel can obtain instructions on how to register at http://www.nysd.uscourts.gov/ecf_filing.php. 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.

If an ECF submission requires immediate attention from the Court, please notify Chambers by telephone after you file the submission via ECF.

All electronic submissions should be in the form of text-searchable .pdf documents, where practicable.

B. Memoranda of Law. The typeface, margins, and spacing of motion papers must conform to Local Civil Rule 11.1. Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages, and reply memoranda are limited to 10 pages. Memoranda of 10 pages or more shall contain a table of contents and a table of authorities, neither of which count against the page limit. Sur-reply memoranda will not be accepted without prior permission of the Court. Motion papers shall be filed promptly after service.

C. Unpublished Cases. Westlaw citations shall be provided, if available, to cases not available in an official reporter. Parties must provide copies of cases that are not available on Westlaw.

D. Courtesy Copies. Regarding all motion papers, including exhibits submitted in connection with a motion, a party shall submit a paper courtesy copy and an electronic courtesy copy via e-mail to Chambers at the time the papers are served. Paper courtesy copies may be submitted by regular mail or hand delivery. As for pleadings and correspondence, including letter-motions, a party need only e-mail a courtesy copy to Chambers. Courtesy copies should be marked as such and shall be submitted to Chambers for both ECF and non-ECF designated cases.

3. Rules for Specific Types of Filings

A. Complaints. Plaintiffs shall ensure that a copy of the operative complaint is posted electronically to the docket on the ECF system by e-mailing the complaint to caseopenings@nysd.uscourts.gov. There is no need to submit courtesy copies of pleadings, unless immediate relief is sought (*e.g.*, a temporary restraining order).

B. Requests for Adjournments or Extensions of Time. Requests for adjournments, extensions of time, and extensions of page lengths in memoranda shall be made by letter, and not by stipulation sent through the Orders and Judgments Clerk. Requests for adjournments or extensions of time shall be filed on ECF as letter-motions, not as ordinary letters. All requests for adjournments or extensions of time must state (1) the original date(s) set for the appearance or deadline(s) and the new date(s) requested; (2) the reason(s) for the request; (3) the number of previous requests for adjournment or extension; (4) whether these previous requests were granted or denied; and (5) whether opposing counsel consents, and, if not, the reasons given by opposing counsel for refusing to consent. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Scheduling Order (reflecting only business days) must be attached.

Absent compelling circumstances, a request for an extension or adjournment must be made at least 48 hours (*i.e.*, two business days) prior to the scheduled appearance or deadline. Requests for extensions will ordinarily be denied if made after the expiration of the original deadline. Requests for extensions of deadlines regarding a matter that has been referred to a magistrate judge shall be directed to that assigned magistrate judge.

C. Proposed Stipulations and Orders. Proposed stipulations and orders are to be submitted in both .pdf and Word version through the Orders and Judgments Clerk at orders_and_judgments@nysd.uscourts.gov. Counsel should also send a courtesy copy of any proposed order to Chambers via e-mail at CronanNYSChambers@nysd.uscourts.gov in Word and .pdf format.

D. 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.*, 19-cv-1234 [rel. 18-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.

E. Diversity Jurisdiction Cases. In any action in which subject matter jurisdiction is founded on diversity of citizenship pursuant to 28 U.S.C. § 1332, the party asserting the existence of such jurisdiction shall, prior to the Initial Pretrial Conference, submit to the Court a letter not longer than two pages explaining the basis for that party's belief that diversity of citizenship exists.

F. Default Judgments. A plaintiff seeking a default judgment must proceed by filing a motion for default judgment on ECF pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure 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 resolution of the entire action;
 - d. the proposed damages and the basis for each element of damages, including interest, attorney's 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 for the default, a Certificate of Default from the Clerk of Court stating that no answer has been filed.

The plaintiff must serve the motion for default judgment and supporting paperwork on the party against whom default judgment is sought and file an Affidavit of Service on ECF within 14 days of filing the motion for default judgment. The Court will not consider the motion for default judgment until such Affidavit of Service is filed. If more than 14 days are required to complete service of the motion for default judgment and supporting papers, the plaintiff should file a letter on ECF explaining why additional time is necessary and when the plaintiff anticipates service will be completed.

G. Settlement Agreements. The Court will not retain jurisdiction to enforce confidential settlement agreements. If the parties wish the Court to retain jurisdiction to enforce a settlement agreement, the parties must place the terms of their settlement 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.

H. Bankruptcy Appeals. Briefs must be submitted in accordance with Rules 8014–8018 of the Federal Rules of Bankruptcy Procedure. Counsel may extend these dates by joint request submitted to the Court no later than 48 hours (*i.e.*, two business days) before the brief is due.

4. Redactions and Sealed Filings

A. Redactions Not Requiring Court Approval. Nothing herein is intended to alter or modify the applicability of Rule 5.2 of the Federal Rules of Civil Procedure. The redactions expressly authorized by Rule 5.2 may be made without application to the Court.

B. Redactions and Sealed Filings Requiring Court Approval. Except for redactions permitted by 4.A above, all redactions or sealing of public court filings require Court approval. No document may be filed with the Clerk under seal without an order of this Court addressing the specific documents to be sealed. Any application to seal shall be accompanied by an affidavit or affidavits and a memorandum of law, demonstrating that the standards for sealing have been met and specifically addressing *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110 (2d Cir. 2006) and any other controlling authority. The application shall also include a proposed redacted version of the document(s) in question for public docketing.

C. Procedures for Filing Sealed or Redacted Documents. Any party seeking 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 days, a letter explaining the need to seal or redact the document.
- ii. Sealed Document(s).** Where a party seeks leave to file a document under seal, 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. ECF 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, thus, 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. ECF 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 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, may file a letter-motion by e-mail seeking leave of the Court to file in a different manner.

5. Conferences

A. Attendance by Principal Trial Counsel. Absent leave of the Court, the attorney who will serve as principal trial counsel must appear at all conferences with the Court. Any attorney appearing before the Court must enter a notice of appearance on ECF.

B. Initial Case Management Conference. The Court will generally schedule a conference pursuant to Rule 16(c) of the Federal Rules of Civil Procedure within three months of the filing of the complaint or notice of removal. The Notice of Initial Case Management Conference will be filed on ECF.

Plaintiff's counsel is responsible for ensuring that all parties have received copies of the Notice of Initial Case Management Conference. The Notice will direct the parties, *inter alia*, 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. The parties shall use the form Proposed Case Management Plan and Scheduling Order available at the Court's [website](#). At least one week before the conference date, the parties must provide to Chambers two courtesy copies of the pleadings. At least four business days before the conference date, the parties must file on ECF (1) a proposed Civil Case Management Plan and Scheduling Order and (2) a joint letter, not to exceed three pages in length absent leave of the Court, describing the case, any contemplated motions, and the prospect for settlement.

C. 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 with the opposing party, in person or by telephone, in an effort to resolve the dispute. If this meet-and-confer process does not resolve the dispute, a party may raise the dispute with the Court by filing a letter-motion on ECF, no longer than three pages, explaining the nature of the dispute and requesting an informal conference. Such a letter must include a representation that the meet-and-confer process occurred and was unsuccessful. Any opposition to a letter-motion seeking relief shall be filed as a letter, also not to exceed three pages, within three business days. The Court will seek to resolve discovery disputes quickly, by order or at an in-person or telephonic conference. Counsel are strongly urged to 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 Court is unlikely to grant additional time for discovery.

6. Motions

A. Pre-Motion Conferences in Civil Cases. For discovery motions or disputes, follow 5.C. above. Unless otherwise ordered by the Court, for motions other than discovery motions, a pre-motion conference with the Court is required before making any motion, except motions previously authorized by the Court, motions brought by order to show cause, motions by incarcerated *pro se* litigants, motions for admission *pro hac vice*, motions for reargument or reconsideration, motions for appointment of lead plaintiffs and counsel in class actions, motions for remand, motions for a preliminary injunction, motions brought pursuant to Local Rule 6.3, and motions described in Rule 6(b) of the Federal Rules of Civil Procedure and Rule 4(a)(4)(A) of the Federal Rules of Appellate Procedure.

To arrange a pre-motion conference, the moving party shall submit a letter in accordance with 1.A. above, not to exceed three pages in length absent leave of the Court, setting forth the basis for the anticipated motion. The letter shall include citations to relevant authority and should provide a brief overview of the anticipated motion. All parties served with the letter must submit a letter response, also not to exceed three pages absent leave of the Court, within three business days from submission of the notification letter. Response letters shall directly address the arguments and authorities set forth in the moving party's letter. No party shall submit a reply letter. As a general matter, affidavits and exhibits are not permitted in connection with pre-motion letters without prior written request and permission. However, when submitting a pre-motion letter regarding a request to amend a pleading, the moving party shall attach (1) the proposed amended pleading and (2) a blackline comparison of the operative pleading and proposed amended pleading. A party's submission of a pre-motion letter seeking leave to file a pre-answer motion to dismiss will stay that party's obligation to answer or move against the complaint through the date of the pre-motion conference.

B. Filing of Motion Papers. Motion papers shall be filed promptly after service.

C. Oral Argument on Motions. Parties may request oral argument by letter at the time their moving, opposing, or reply papers are filed. Oral argument will be held at the Court's discretion. The notice of motion shall state that any oral argument will occur "on a date and at a

time designated by the Court.” The Court will determine whether argument will be heard and, if so, will advise counsel of the argument date and time. Where junior lawyers are familiar with the matter under consideration, but are not experienced in arguing before a court, they should be encouraged to actively participate. If oral argument is granted, the Court is amendable to permitting more than one lawyer to argue for a party, especially where it creates an opportunity for a junior lawyer to argue.

7. Pretrial Procedures in Civil Cases

A. Courtesy Copies. Two courtesy copies of each submission described in 7.B–G below should be provided to Chambers on the date that the submission is filed or served.

B. Joint Proposed Pretrial Orders. Unless otherwise ordered by the Court, within 30 days after the close of discovery or if any dispositive motion is filed, within 30 days from the Court’s decision on such motion, the parties shall file on ECF a proposed joint pretrial order that includes the information required by Rule 26(a)(3) of the Federal Rules of Civil Procedure and the following:

- i. The full caption of the action;
- ii. The names, addresses (including firm names), telephone numbers, e-mail addresses, and any fax numbers of trial counsel;
- iii. A brief statement by the plaintiff (or, in a removed case, by the 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, each of which shall include citations to all authority 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 has asserted that remain to be tried—without recital of evidentiary matters but with citations to all statutes on which the party has relied—and of any claims and defenses that the party has previously asserted that are not to be tried;
- v. A statement by each party as to whether the case is to be tried with or without a jury, and the number of trial days needed;
- vi. A 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 course of the trial, to be read to potential jurors during jury selection;

- viii. A statement as to whether all parties have consented to a trial of the case by a magistrate judge, without identifying which party or parties have or have not so consented;
- ix. Any stipulations of fact or law that have been agreed upon by the parties. 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 the Court, a witness listed by both sides shall testify only once, with any defendant permitted to go beyond the scope of the direct examination on cross examination, and counsel should confer with respect to scheduling;
- xi. A designation by each party of deposition testimony to be offered in the party's case-in-chief, with any cross-designations and objections by any other party;
- xii. A list by each party of exhibits to be offered in the party's case-in-chief. 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;
- 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.

C. Required Pretrial Filings in Jury Cases. Unless otherwise ordered by the Court, in jury cases, the parties shall jointly file the following submissions with the Joint Proposed Pretrial Order. The parties must meet and confer in an effort to reach agreement with respect to these submissions:

- i. Proposed *voir dire* questions—a copy of which shall be e-mailed to Chambers in Word and .pdf versions—which shall include the text of any requested question and should consist of a single document and note any areas of disagreement between the parties;

- ii. A proposed verdict form—a copy of which shall be e-mailed to Chambers in Word and .pdf versions—and which should consist of a single document and note any areas of disagreement between the parties;
- iii. Proposed jury instructions—a copy of which shall be e-mailed to Chambers in Word and .pdf versions—and which shall include the text of any requested instruction and citations, if relevant, to the authority from which such instruction derives, and should consist of a single document and note any areas of disagreement between the parties;
- iv. Motions addressing any evidentiary or other issues that should be resolved *in limine*; and
- v. In cases in which a party believes it would be useful to the Court, a pretrial memorandum of law addressing any issues of law that are expected to arise at or before trial, not to exceed 10 pages absent leave of the Court.

D. Required Pretrial Filings in Non-Jury Cases. Unless otherwise ordered by the Court, in non-jury cases, the parties shall jointly file the following submissions with the Joint Proposed Pretrial Order:

- i. Proposed findings of fact and conclusions of law—a copy of which shall be e-mailed to Chambers in .pdf version—which should be detailed and note any areas of disagreement between the parties and, for each proposed factual finding, shall include citations to the record;
- ii. Motions addressing any evidentiary or other issues that should be resolved *in limine*; and
- iii. In cases in which a party believes it would be useful to the Court, a pretrial memorandum of law addressing any issues of law that are expected to arise at or before trial, not to exceed 10 pages absent leave of the Court.

E. Additional Submissions in Non-Jury Cases. In addition, at the time the Joint Pretrial Order is filed, each party shall serve the following submissions, two courtesy copies of which the party shall also submit to Chambers:

- i. Affidavits—the originals of which shall be marked as exhibits at trial—constituting the direct testimony of each trial witness, except for testimony of an adverse party, a person whose attendance must be compelled by subpoena, or a person for whom a party has requested and from whom the Court has agreed to hear direct testimony during the trial; 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 (with citations to the pertinent pages of the deposition transcript).

F. Filings in Opposition. Absent another order of the Court, any party may file the following documents within one week of the filing of the pretrial order:

- i. Objections to another party's requests to charge or proposed *voir dire* questions;
- ii. Oppositions to any motions *in limine*; and
- iii. Oppositions to any legal argument in a pretrial memorandum.

G. Courtesy Copies of Documentary Evidence. All exhibits must be pre-marked in advance of trial. In both jury and non-jury trials, three days prior to trial, each party shall submit to Chambers two sets of tabbed binders containing all documentary exhibits organized by exhibit number and a document listing all exhibits sought to be admitted. The list shall be separated into four columns labeled: (1) "Exhibit Number"; (2) "Description" (of the exhibit); (3) "Date Identified"; and (4) "Date Admitted." If the number of exhibits is so voluminous as to make compliance with this rule impractical, the parties shall contact the Court for guidance.

8. Policy on the Use of Electronic Devices

A. Standing Order M10-468. Attorneys' use of mobile phones, personal electronic devices, and general-purpose computing devices such as laptops and tablets within the Courthouse and its environs is governed by Standing Order M10-468.

B. Mobile Phones. Attorneys in compliance with the Standing Order may bring mobile phones into the courtroom, but the phones must be turned off at all times. Non-compliance with this rule will result in forfeiture of the device for the remainder of the proceedings.

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If you have any questions after reading these Individual Rules and Practices, please contact Meghan Henrich, Courtroom Deputy, at (212) 805-4860.