February 2022

INDIVIDUAL PRACTICES IN CIVIL CASES[1]
JENNIFER E. WILLIS, UNITED STATES MAGISTRATE JUDGE

Chambers
U.S. District Court
500 Pearl Street, Room 701
New York, NY 10007
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Deputy
Christopher Davis

Note on Consent Jurisdiction: If the parties wish to consent to having Judge Willis preside over their case for all purposes, the necessary form is available at https://nysd.uscourts.gov/hon-jennifer-e-willis. In consent cases, the Magistrate Judge assumes the role of the District Judge and thus the right to a jury trial is preserved. Any appeal is directly to the Court of Appeals.

I. Communications with Chambers

A. Letters. Letters to the Court are permitted. Letters should be filed on ECF[2] except for settlement conference submissions and *in camera* submissions. Letters may not exceed 3 singe-spaced pages in length (exclusive of exhibits).

Parties shall not copy the Court on correspondence sent between counsel or the Parties.

Pro se Parties. By Standing order, a *pro se* party must mail all communications with the Court to the Pro Se Intake Unit located at 500 Pearl St., Room 230, New York, NY 10007. A *pro se* party may not call Chambers or send any document or filing directly to Chambers. Submissions requiring immediate attention should be hand-delivered to the Pro Se Intake Unit. Unless the Court orders otherwise, all communications with the Court will be docketed upon receipt; such docketing shall constitute service on any user of the ECF system. If any other party is not a user of the ECF System (*e.g.*, if there is another *pro se* party in the case), a *pro se* party must send copies of any filing to the party and include proof of service affirming that he or she has done so. Questions can be directed to the Pro Se Intake Unit at (212) 805-0175.

B. Letter Motions. Letter motions shall be filed on ECF in accordance with the S.D.N.Y. Local Rules. Requests that may be made by letter motion include requests for an adjournment, an extension, a pre-motion conference, sealing, and a settlement conference. Letter motions are limited to 3 single-spaced pages (not including exhibits). Courtesy copies of letter motions are not required unless exhibits, if any, exceed 5 pages.

[1] Requests for reasonable accommodations on account of disability or religion with respect to the Court's rules or in connection with any proceeding before Judge Willis may be emailed to WillisNYSDChambers@nysd.uscourts.gov. Counsel and parties are invited to inform the Court of their preferred pronouns.

[2] ECF Rules and Instructions are available at https://www.nysd.uscourts.gov/rules/ecf-related-instructions.

C. **Requests for Adjournments or Extensions of Time.** All requests for adjournments or extensions of time must be filed on ECF as letter motions. The letter motion must state: (1) the original date(s); (2) the number of previous requests for adjournment or extension; (3) the reason for the extension; and (4) whether the adversary consents and, if not, the reasons given by the adversary for refusing to consent.

D. **Hand Deliveries.** Hand-delivered mail should be left with the Court Security Officers at the Worth Street entrance of 500 Pearl Street and may not be brought directly to Chambers.

E. **Faxes.** The fax number for Judge Willis's Chambers is (212) 805-7906. Faxes may not exceed three pages. All faxes must simultaneously be faxed or delivered to all parties.

F. **Calendar Matters.** For docketing, scheduling and calendar matters, call Chambers at (212) 805-0244 between 9:00 AM and 5:00 PM.

II. Motions

A. **Pre-Motion Conferences in Civil Cases.** Pre-motion conferences are required where the proposed motion is returnable before Judge Willis, or where the proposed motion has been referred to Judge Willis, except that no pre-motion conference is required for (i) motions for admission *pro hac vice*, (ii) motions by litigants in actions where a party is incarcerated and *pro se*, (iii) motions for reconsideration or reargument, (iv) motions for a new trial, (v) motions *in limine*, (vii) motions listed in Fed. R. App. P. 4(a)(4)(A), (viii) motions for recusal, (ix) habeas corpus petitions, and (x) applications made by order to show cause.

Discovery Motions. Parties shall follow Local 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 the meet-and-confer does not resolve the dispute, a party may submit a letter motion no longer than 3 single-spaced pages, explaining the nature of the dispute and requesting a conference. Such letter motion must state when the meet-and-confer occurred. Any responsive letter should be submitted within 3 business days after submission of the letter motion and should be no longer than 3 single-spaced pages. The Court will endeavor to resolve the issue during a conference without the need for formal briefing. However, if formal briefing is required, the Court will set a schedule for such briefing at the conference.

Motions other than Discovery Motions. To arrange a pre-motion conference for non-discovery matters, the moving party shall submit a letter motion in accordance with Individual Practice I.B. The letter motion should set forth the nature of the anticipated motion. Any responsive letter should be submitted within 3 business days after submission of the letter motion. The filing of a request for a pre-motion conference to dismiss prior to the filing of the Answer stays the time for the filing of an Answer until after the conference is held or until further order of the Court.

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 shall count against the page limit. Sur-reply memoranda will not be accepted without prior permission of the Court.

C. Oral Argument on Motions. Parties may request oral argument by noting such request on their moving papers or filing a letter requesting the same. Junior members of legal teams representing clients are invited to argue motions they have helped prepare and to question witnesses with whom they have worked. Firms are encouraged to provide this opportunity to junior attorneys for training purposes; a request for oral argument is more likely to be granted if a party identifies a lawyer to argue the motion who has graduated law school within the previous five years.

D. Courtesy Copies of Motion Papers. A party must send to Chambers two courtesy copies of each motion paper the party files, marked as such, at the time of filing.

E. Requests to File Materials Under Seal. All Confidential Materials filed with the Court may be redacted or filed under seal only as the Court directs upon appropriate application by either party or as required by Federal Rule of Civil Procedure 5.2, which describes sensitive information that must be redacted from public court filings.

Any party wishing to file in redacted form any pleading, motion, memorandum, exhibit, or other document, or any portion thereof, based on a party's designation of information as Confidential, must make a specific request to the Court by letter motion explaining the reasons for seeking to file that submission under seal.

The letter motion must be filed in public view, must explain the particular reasons for seeking to file that information under seal, and should not include confidential information sought to be filed under seal. Supporting papers must be filed separately and may be filed under seal or redacted only to the extent necessary to safeguard information to be filed under seal.

The proposed sealed document must be contemporaneously filed under seal in the ECF system and electronically related to the letter motion. The summary docket text, but not the sealed document, will be open to public inspection and should not include confidential information sought to be filed under seal.

The filing party shall also (a) publicly file the document with the proposed redactions, and (b) electronically file under seal a copy of the unredacted document with the proposed redactions highlighted.

Any party unable to comply with the requirement for electronic filing under seal through the ECF system, or who has reason to believe that a particular document should not be electronically filed, must move for leave of the Court to file on paper.

The pendency of the application to seal does not affect any deadlines that may govern the proposed filing. The parties shall comply with such deadlines by filing the redacted version on ECF, serving the unredacted papers at issue on any opposing parties, and providing courtesy copies of the unredacted version to Chambers.

If the Court approves the filing under seal, no further submissions shall be required. If the Court denies, in part, the motion for filing under seal, the party who made the submission shall be required to refile the document with modified redactions as directed by the Court.

F. Motions in *Pro Se* Cases. As required by Local Civil Rule 7.2, counsel must provide a *pro se* litigant with printed copies of decisions cited in any submission that are reported exclusively in computerized databases.

Where a party seeks summary judgment against a *pro se* litigant, the party must also comply with the notice requirements of Local Civil Rule 56.2. Where a party moves to dismiss or for judgment on the pleadings against a *pro se* litigant and refers to matters outside the pleadings, counsel must serve and file the notice set forth in Local Civil Rule 12.1. In such situations, counsel is strongly encouraged to move in the alternative for summary judgment so that the *pro se* litigant understands, based on the Local Civil Rule 56.1 submission, exactly what facts are relevant to the motion.

III. Pre-Trial Practice

A. Initial Case Management Conference. Before the Initial Case Management Conference, parties must meet and confer on a discovery plan. One week before the scheduled conference, the parties shall file on ECF a Proposed Case Management Plan and Report of Rule 26(f) Meeting. Parties shall use the template available at https://nysd.uscourts.gov/hon-jennifer-e-willis.

Lead counsel for the parties are expected to attend the Initial Case Management Conference. Reasonable accommodations will be made for parties or their counsel who cannot attend in person on account of disability. An incarcerated party who is unable to attend this or other conferences will be able to participate by telephone or video.

B. Case Management Conferences. The Court shall hold regular case management conferences. Counsel are expected to be prepared for such conferences and ready to discuss the status of discovery, the potential for settlement, and any other issues. Junior members of legal teams are invited to address the Court at case management conferences. Firms are encouraged to provide this opportunity to junior attorneys for training purposes.

C. **Confidentiality Stipulations and Orders.** In cases where confidential information will be exchanged, the parties may utilize the Court's model Protective Order, available at https://nysd.uscourts.gov/hon-jennifer-e-willis. Should the parties apply for a protective order that differs from the Court's model, the parties should attach the proposed order showing a comparison of how the proposed order differs from the Court's model.

D. **Electronic Discovery.** The parties may utilize the model ESI Plan and Proposed Order, as appropriate, available at https://nysd.uscourts.gov/hon-jennifer-e-willis. The model may be modified to the extent appropriate for the case.

E. **Hearing Transcripts.** When applicable, parties shall coordinate the ordering of a hearing transcript from the court reporter. The ordering party shall send a courtesy copy of the transcript to Chambers. *Pro se* parties are exempt from this Rule.

IV. Pretrial Procedures

The following procedures apply only to those cases where the parties have consented under 28 U.S.C. § 636(c) to have all proceedings, including trial, before Judge Willis.

A. **Joint Pretrial Orders in Civil Cases.** Unless otherwise ordered by the Court, within 30 days from the date of completion of discovery in a civil case, the parties shall submit to the Court for its approval a Joint Pretrial Order. In general, except in *pro se* cases, a Joint Pretrial Order shall include the following:

- **a.** The full caption of the action;
- **b.** The name, address, telephone number and email of each principal member of the trial team;
- **c.** A list of each claim and defense that will be tried and identification of the governing law (including applicable regulations) governing each such claim and defense;
- **d.** If applicable, a list of any claims and defenses asserted in the pleadings that are not to be tried;
- **e.** A list by each party of its trial witnesses that it, in good faith, expects to present, with an indication of whether the witnesses will testify in person or by deposition and the general subject area of the witness's testimony and anticipated length of time needed for each witness;
- **f.** A statement as to how and when the parties will give notice to each other of the order of their trial witnesses and, if the parties cannot agree, the parties' statement that they will agree to the Court's default rule (*i.e.* that the parties shall advise each other by no later than 48 hours before the start of trial as to the order of their witnesses);

g. A list by each party of exhibits that it, in good faith, expects to offer in its case in chief, together with any specific objections thereto;

h. All stipulations or statements of fact or law on which the parties have agreed;

i. A proposed schedule by which the parties will exchange demonstratives that the parties intend to use at trial, notify each other of any objections thereto, consult with each other regarding those objections, and notify the Court of any remaining disputes;

j. Proposed *voir dire* questions;

k. Proposed jury instructions;

l. Proposed verdict sheet; and

m. All other matters that the Court may have ordered or that the parties believe are important to the efficient conduct of the trial, such as bifurcation or sequencing of issues to be tried, anticipated *in limine* motions, and any technology needed for trial.

In *pro se* cases, no Joint Pretrial Order is needed. Instead, within 30 days after the completion of discovery each party shall file its own Pretrial Statement. The *pro se* party's Pretrial Statement need take no particular form, but must be concise and contain: (1) a statement of the facts the party hopes to prove at trial; (2) a list of all documents or other physical objects that the party plans to put into evidence at trial; and (3) a list of the names and addresses of all witnesses the party intends to have testify at trial. The Statement must be sworn by the party to be true and accurate based on the facts known by the party. The party must file an original Pretrial Statement with the *Pro Se* Office and serve a copy on all other parties or their counsel if represented. The original Pretrial Statement must indicate the date a copy was mailed to the other party or that party's attorney.

B. Courtesy Copies of Exhibits. The parties shall each send a courtesy copy of all exhibits, pre-marked, to WillisNYSDChambers@nysd.uscourts.gov. Exhibits need not be filed electronically on ECF. The parties shall also each submit one hard copy of the pre-marking exhibits in a well-organized three-ring binder, separated by tab dividers.

V. Settlement Conferences

The Court believes the parties should fully explore settlement at the earliest practical opportunity. Early consideration of settlement allows the parties to avoid the substantial cost, expenditure of time, and uncertainty that are typically a part of the litigation process. Even for those cases that cannot be resolved, early consideration of settlement can provide the parties with a better understanding of the factual and legal nature of their dispute and streamline the issues to be litigated.

The following are the procedures applicable to settlement conferences:

a. **Confidential.** All settlement conferences are "off the record" and strictly confidential. All communications relating to settlement may not be used in discovery and will not be admissible at trial.

b. **Magistrate Judge's Role.** The Magistrate Judge functions as a mediator, attempting to help the parties reach a settlement.

c. **Pre-Conference Meet and Confer.** The Court strongly encourages parties to meet and confer prior to the settlement conference.

d. **Settlement Conference Summary Letter.** No later than 7 days before the settlement conference, each party must provide the Court and the opposing party with a letter, not to exceed 3 pages, summarizing the issues in the case, the settlement value of the case and rationale for it, case law authority relevant to settlement discussions, and any other facts that would be helpful to the Court in preparation for the conference. Parties may attach exhibits to their letters to the extent they believe the exhibits would aid settlement discussions. The letter should be emailed to Chambers and the opposing party.

e. **Exchange of Demand/Offer.** If the plaintiff has not already made a settlement demand, such a demand shall be communicated to the opposing party no later than 14 days prior to the conference. If it has not already done so, the opposing party shall respond to any demand no later than 8 days prior to the conference.

f. **Attendance.** The parties—not just the attorneys—must attend the settlement conference in person. In the event personal attendance is a hardship, a party may make a written request no later than 1 week in advance of the conference to attend by phone. Each party must supply its own interpreter, if required. Corporate parties or labor unions must send the person with decision-making authority to settle the matter to the conference. Where liability insurance is involved, a decision-making representative of each carrier must attend unless specifically excused by the Court. Where any government agency is a party, counsel of record must be accompanied by a knowledgeable representative from the agency. In addition, in cases where the Comptroller of the City of New York has authority over settlement, the Assistant Corporation Counsel must make arrangements in advance of the conference for a representative of the Comptroller either to attend the conference or to be available by telephone to approve any proposed settlement.

   Reasonable accommodations will be made for parties or their counsel who cannot attend in person on account of disability. An incarcerated party who is unable to attend the settlement conference will be able to participate by telephone or video.

g. **Consequences of Non-Compliance with Attendance Requirement.** If a party fails to comply with the attendance requirements, that party may be required to reimburse all the other parties for their time and travel expenses and may face other sanctions.

h. Settlement Conference Materials. Two courtesy copies of the settlement letter shall be submitted to the Court if the exhibits to the letter exceed 10 pages. Courtesy copies must be provided no later than 1 business day after submission of the letter. Courtesy copies should be placed in well-organized three-ring binder(s). Where appropriate, the binder(s) shall be separated by tab dividers preceded by an exhibit list. Courtesy copies must be provided no later than 1 business day after the filing.

If a party is submitting a video, the clip shall be provided on a thumb drive delivered to Chambers and labeled with a case name and docket number. Alternatively, the clip may be emailed to Chambers.