Effective: October 29, 2020

INDIVIDUAL PRACTICES IN CIVIL CASES
Lewis J. Liman, United States District Judge

Chambers
United States District Court
Southern District of New York
500 Pearl Street, Room 701
New York, NY 10007
(212) 805-0226
LimanNYSDChambers@nysd.uscourts.gov

Courtroom
500 Pearl Street
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Matthew Fishman, Courtroom Deputy
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***Pro Se* Intake Unit's Mailing Address**
Pro Se Intake Unit
Daniel Patrick Moynihan United States District Courthouse
500 Pearl Street
New York, NY 10007

***Pro Se* Intake Unit's Physical Address**
Pro Se Intake Unit
Thurgood Marshall United States District Courthouse, Room 105
40 Foley Square
New York, NY 10007

COVID-19 NOTE: The Court has published a supplement to these Individual Practices (titled "COVID-19 Emergency Individual Practices in Civil and Criminal Cases") that *supersedes* these Practices in many respects. All parties are directed to consult that document, which is available at https://nysd.uscourts.gov/hon-lewis-j-liman.

Unless otherwise ordered by Judge Liman, these Individual Practices apply to all civil matters, including *pro se* cases. If a case has been referred to a magistrate judge for general pretrial purposes, the magistrate judge's practices will control with respect to all matters within the scope of the referral. In cases designated to be part of a pilot project or plan (including the protocols set forth in Local Civil Rule 83.10), the procedures in such project or plan shall govern to the extent that they are inconsistent with these Individual Practices.

A note to *pro se* parties: Unless otherwise indicated, the practices below apply to every party before the Court. However, as indicated throughout, *pro se* parties are excepted from certain requirements otherwise set forth. *Pro se* parties should note, in particular, the *pro se* rules for communicating and filing papers with the Court set forth in Paragraphs 1(H) and 2(M).

***Pro se* parties should be advised that there is a *Pro Se* Law Clinic available to assist non-incarcerated people who are unrepresented parties in civil cases. The Clinic may be able to provide a non-incarcerated *pro se* party 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; 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 unrepresented party through the *Pro Se* Intake Unit). The Clinic is located in the Thurgood Marshall United States Courthouse, 40 Centre Street, New York, NY in Room LL22, which is just inside the Pearl Street entrance. The Clinic is open on weekdays from 10 a.m. to 4 p.m., except on days when the Court is closed. An unrepresented party can make an appointment in person or by calling (212) 659-6190.**

1. Communications with Chambers

A. **Letters.** Except as otherwise provided below, all communications with Chambers shall be by letter. All letters shall be filed on ECF in text-searchable form and should not exceed three single-spaced pages in length. Letters seeking relief should be filed on ECF as letter-motions in accordance with Paragraph 1(B) below. Parties should not submit courtesy copies of letters.

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).

B. **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 text-searchable letter-motions. All requests for adjournments and extensions should be filed as letter-motions. Parties should not submit courtesy copies of letter-motions.

Any party wishing to file a letter-motion shall include in the letter-motion a statement that it first attempted to confer in good faith with the opposing parties, in person or by telephone, in an effort to resolve the dispute. The letter-motion should not indicate the content of the meet-and-confer unless independently relevant.

If a letter-motion has consent of all opposing parties, the letter-motion should so indicate. If it does not, any opposing party should submit a letter setting forth its position *within two business days* after the initial letter-motion is filed.

C. **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, and should state: (1) the original date(s), (2) the number of previous requests for adjournment or extensions of time, (3) whether these previous requests were granted or denied, (4) whether the opposing parties consent, and, if not, the reasons given by the opposing parties for refusing to consent, and (5) the date of the parties' next scheduled appearance before the Court.

If the requested adjournment or extension affects any other scheduled dates, any non-*pro se* party moving for relief must attach a proposed revision to the Case Management Plan and Scheduling Order. A *pro se* party may, but is not required to, submit a proposed revision to the Case Management Plan and Scheduling Order. Requests for extensions of deadlines regarding a matter that has been referred to a magistrate judge shall be directed to that magistrate judge.

If the requested adjournment or extension affects the Case Management Plan and Scheduling Order, such request must comply with the requirements set forth in Paragraph 3(A) below.

Any request should be made at least *two business days* prior to the deadline or scheduled appearance.

D. Telephone Calls. Except as set forth elsewhere in these Individual Practices, telephone calls to Chambers should be reserved only for questions that cannot be answered by reference to these Individual Practices or the S.D.N.Y. Local Rules, or for urgent matters requiring immediate attention. In such situations, call Chambers at (212) 805-0226.

E. Faxes. Faxes to Chambers are not permitted without prior permission.

F. 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. Hand deliveries are continuously retrieved from the Worth Street entrance by Courthouse mail staff and then forwarded 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.

G. Urgent Communications. As a general matter, the Court reviews materials filed via ECF at the latest on the business day after they have been filed. If a submission requires immediate attention, please notify Chambers by telephone after filing it on ECF.

H. Communications by a *Pro Se* Party. Unless a *pro se* party is approved for ECF filing pursuant to Paragraph 2(M), all communications with the Court by a *pro se* party must be sent to the *Pro Se* Intake Unit at the following mailing address:

Pro Se Intake Unit
Daniel Patrick Moynihan United States District Courthouse
500 Pearl Street
New York, NY 10007

or delivered in person to the *Pro* Se Intake Unit at the following physical address:

Pro Se Intake Unit

Thurgood Marshall United States District Courthouse, Room 105
40 Foley Square
New York, NY 10007

No documents or court filings should be sent directly to Chambers. Copies of correspondence between a *pro se* party and opposing parties shall not be sent to the Court. Any questions should be directed to the *Pro Se* Intake Unit at (212) 805-0175; *pro se* parties may not call the Court directly. Unless the Court orders otherwise, all communications with the Court by a *pro se* party 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 that party and include an Affidavit of Service or other statement affirming that it has done so. Copies of correspondence between a *pro se* party and opposing parties shall not be sent to the Court.

I. **Communications by a Party Opposing a *Pro Se* Party.** Communications with the Court by a represented party in a *pro se* case must be accompanied by an Affidavit of Service affirming that the *pro se* party was served with a copy of the communication.

2. All Filings

A. **ECF.** In accordance with the S.D.N.Y. Electronic Case Filing Rules and Instructions, counsel must register promptly as ECF filers and enter appearances. Instructions are available on the Court website at https://nysd.uscourts.gov/electronic-case-filing. Counsel are responsible for updating their contact information on ECF as needed. The Court expects that counsel will check the docket sheet regularly, regardless of whether they receive an ECF notification of case activity.

B. **Filing of Motion Papers.** Motion papers shall be filed promptly after service. They should not include a return date.

C. **Text-Searchable Submissions.** All filings on ECF should be in text-searchable format created by converting the document electronically to .pdf by computer (that is, not by scanning a pre-existing document). If a .pdf is created by scanning a pre-existing document (for instance, in the case of a pre-existing documentary exhibit), the party should use software to make the document text-searchable where possible.

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.*, 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.

E. Pre-Motion Letters and Conferences in Civil Cases. Absent order of the Court, neither pre-motion letters nor pre-motion conferences are required.

F. Protective Orders. All parties wishing to propose a protective order must, after receiving the Court's permission in accordance with Paragraph 1(B), submit a proposed protective order that conforms as closely as possible with the Court's Model Protective Order, which is available on the Judge's website. The proposed protective order *must* be accompanied by a cover letter that states whether the parties have adopted, without alteration, the Court's Model Protective Order or whether the parties have made alterations. Any changes *must* be reflected in a redline that should be filed as an exhibit to the proposed protective order.

G. Redactions and Filing Under Seal

Sealing/Redactions Not Requiring Court Approval. Federal Rule of Civil Procedure 5.2 describes sensitive information that must be redacted from public court filings without seeking prior permission from the Court.

Sealing/Redaction Requiring Court Approval. Letter-motions for approval of sealed or redacted filings and the subject documents, including the proposed sealed document(s), must be filed electronically through ECF in conformity with the Court's standing order, 19-mc-00583, and S.D.N.Y. Electronic Case Filing Rules and Instructions, section 6. The 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 separately filed electronically and may be filed under seal or redacted only to the extent necessary to safeguard information sought to be filed under seal.

The proposed sealed document must be contemporaneously filed under seal in the ECF system and electronically related to the 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.

Where the motion seeks approval to redact information from a document that is to be publicly filed, the filing party shall: (1) publicly file the document with the proposed redactions, and (2) electronically file under seal a copy of the unredacted document with the proposed redactions highlighted. Both documents must be electronically filed through the ECF system and related to the motion.

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 in the traditional, on-paper manner.

H. Memoranda of Law. The Court does not impose page limitations on memoranda of law. The parties should agree upon reasonable page limits for principal briefs and reply briefs, exercising their sound judgment so as not to unnecessarily burden the Court. If parties are unable to agree, memoranda in support of and in opposition to

motions are limited to 25 pages while reply memoranda are limited to 10 pages. Memoranda of more than 10 pages shall contain a table of contents and table of authorities. The Court reserves the right to impose page limits at any point if parties do not appropriately exercise the latitude afforded under this rule.

I. **Unpublished Cases.** Westlaw citations should be provided, if available, to cases not available in an official reporter. If a party provides a citation to other than an official reporter or Westlaw, it shall submit a copy of the decision with its filing.

J. **Briefing Schedule on Motions.** The parties may extend the deadlines set forth in Local Civil Rule 6.1 by an agreed-upon schedule, which shall govern as long as it is disclosed to the Court in a letter accompanying the initial motion. Where the Court orders otherwise, Court-ordered deadlines apply. Any extensions should be sought pursuant to the procedures set forth in Paragraph 1(C).

The following special rules for the timing of motion filings in *pro se* cases apply: unless otherwise ordered by the Court, papers filed in opposition to a motion in a *pro se* case 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.

K. **Courtesy Copies.** Courtesy copies are not required unless directed by the Court.

L. **Oral Argument.** Parties may request oral argument in their moving or opposing papers. The Court will determine whether argument will be heard and, if so, will advise counsel of the argument date. The Court may *sua sponte* order parties to appear for oral argument on any motion.

M. **In a *Pro Se* Case.** Any *pro se* party that wishes to participate in electronic case filing ("e-filing") must file a Motion for Permission for ECF (available at https://nysd.uscourts.gov/sites/default/files/2019-04/2012-prosemotionecffiling-final.pdf and in the *Pro Se* Intake Unit). If the Court grants a motion to participate in "e-filing," that party *will not* receive hard copies of any document filed electronically via ECF.

In the event that a *pro se* party is not participating in e-filing, and notwithstanding anything in the foregoing Individual Practices to the contrary, all papers to be filed with the Court by a *pro se* party shall be sent to the *Pro Se* Intake Unit at the following mailing address:

Pro Se Intake Unit
Daniel Patrick Moynihan United States District Courthouse
500 Pearl Street
New York, NY 10007

or delivered in person to the *Pro* Se Intake unit at the following physical address:

Pro Se Intake Unit
Thurgood Marshall United States District Courthouse, Room 105

40 Foley Square
New York, NY 10007

3. Specific Types of Filings

A. Motions to Amend Case Management Plan and Scheduling Order. Any motion to amend the Case Management Plana and Scheduling Order shall be accompanied by a letter identifying with particularity why "good cause" exists for such amendment. *See* Fed. R. Civ. P. 16(b)(4) ("A schedule may be modified only for good cause and with the judge's consent."). The letter must "describ[e] what discovery [the moving party] conducted in the time period originally scheduled and [whether] there are circumstances that were not foreseen at the time of the order sought to be modified." *Furry Puppet Studio Inc. v. Fall Out Boy*, 2020 WL 4978080, at *1 (Feb. 24, 2020). "The movant should also set forth the remaining discovery to be conducted, why it is important and could not have been conducted earlier, why the requested time (and not some lesser time) is necessary, how allowing additional time would contribute to 'the just, speedy, and inexpensive determination' of the matter, and any prejudice it would suffer if a modification is not made." *Id.* (quoting Fed. R. Civ. P. 1). Parties should consult *Furry Puppet Studio* for further description of the "good cause" standard. As explained therein, the following factors do not provide a basis for relief: "carelessness, an attorney's otherwise busy schedule, or a change in litigation strategy." *Id.*

B. Motions for Preliminary Injunction. The Court generally follows the procedure for the conduct of non-jury trials described in Paragraph 5(C). That is, parties must submit any documentary exhibits, declarations, and/or affidavits in support of or in opposition to such motions at the time they submit their legal memoranda in support of or in opposition to such motions.

C. Motions to Dismiss. Amendment as of right is permitted pursuant to Federal Rule of Civil Procedure 15(a)(1)(B). If the plaintiff amends its pleading, absent objection by a defendant, the Court will deny the motion to dismiss, as moot, without prior notice to the parties. The moving party may then (a) file an answer, (b) file a new motion to dismiss, or (c) submit a letter-motion stating that it relies on the initially-filed motion to dismiss. In the event of (c), the Court will treat the initially-filed motion to dismiss as a new motion to dismiss the amended pleading.

D. Motions for Summary Judgment. The deadline for the latest date to submit motions for summary judgment will be set at the Initial Pretrial Conference.

i. Rule 56.1 Statements. Counsel for a 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. Counsel for 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. The opposing party need not but may file its own additional Statement of Material Facts. To streamline the summary

judgment briefing process, the Court strongly encourages the parties to negotiate and submit a Joint Rule 56.1 Statement setting out all facts on which the parties agree.

Parties should not incorporate the Rule 56.1 statement by reference in their memoranda of law as a substitute for a statement of all material facts. Rather, the memorandum of law itself, which should comply with Paragraph 2(H), must set forth all material facts in a fact section. Each factual statement should cite (with specific page and/or paragraph numbers) to declarations, affidavits or other documents that have been separately filed. Factual statements contained within other sections of the memorandum also must be followed by a citation to documents in the record.

ii. **Exception for *Pro Se* Parties.** A *pro se* party moving for summary judgment is required to file with the Court a Statement of Material Facts Pursuant to Local Rule 56.1, but it need not be provided in Microsoft Word format, nor need it be provided to any other party.

E. **Default Judgments.** A plaintiff seeking a default judgment must proceed by way of a Motion for Default Judgment pursuant to the procedure set forth in Attachment A.

F. **Bankruptcy Appeals.** Briefs must be submitted in accordance with Federal Rules of Bankruptcy Procedure 8009 and 8010. Counsel may extend the default deadlines by stipulation submitted to the Court no later than two business days before the brief is due.

4. Conferences

A. **Initial Pretrial Conference.** The Notice of Initial Pretrial Conference will be docketed on ECF. If all parties are represented, plaintiff's counsel (or, in a matter removed from state court, defense counsel) must notify all counsel of the Notice and must alert the Court via letter-motion *two business days* in advance of the scheduled time if the conference needs rescheduling. Such letter-motion should include three proposed alternative times. However, the Court reserves the right to set the conference on a date and time convenient to the Court without regard to the requested alternative times. If there is a combination of represented and *pro se* parties, the represented parties shall take responsibility to notify any *pro se* parties. If all parties are *pro se*, there is no responsibility for any party to notify another.

If the parties require a court reporter for an Initial Pretrial Conference, they should send a separate letter at the time of submission of the Case Management Plan and Scheduling Order.

The Notice will direct the parties, *inter alia*, to jointly submit on ECF at least one week before the conference a proposed Case Management Plan and Scheduling Order, available on the Court's website at https://www.nysd.uscourts.gov/hon-lewis-j-liman. The proposed joint Case Management Plan and Scheduling Order should include responses on which the parties have been able to reach agreement. Parties

may submit alternative proposals for areas on which they cannot agree. In addition to the matters set forth in Federal Rule of Civil Procedure 16, counsel for all parties should be prepared at the Initial Pretrial Conference to describe the case, any contemplated motions, and the prospect for settlement. The Court encourages parties to discuss contemplated motions with one another prior to the Initial Pretrial Conference.

If the dates requested in the proposed Case Management Plan and Scheduling Order differ from the default rules (as listed in italics in the Case Management Plan and Scheduling Order, available on the Court's website), the parties shall identify by cover letter, submitted simultaneously with the Case Management Plan and Scheduling Order, each such difference and the reasons for it.

B. **Discovery Disputes in Non-*Pro Se* Cases.** Any party wishing to raise a discovery dispute with the Court must first attempt to confer in good faith with the opposing party, in person or by telephone, to try and resolve the dispute. If, after attempting to meet and confer, the dispute has not been resolved, any party may file a letter-motion on ECF, no longer than three single-spaced pages, explaining the nature of the dispute and the relief requested. Such letter shall include a certification that it has, in good faith, conferred or attempted to confer with the party failing to make disclosure or discovery pursuant to Fed. R. Civ. P. 37(a)(1). If the opposing party wishes to respond to the letter-motion, the opposition (which should take the form of a letter, not to exceed three single-spaced pages) must be filed on ECF within two business days. Counsel should be immediately prepared to discuss with the Court the matters raised by such letters, as the Court will seek to resolve discovery disputes quickly by order, conference, or telephone. The Court may seek such resolution before any opposition is submitted.

Counsel is expected to be available to meet and confer within 48 hours of receiving a request from the initiating party. If counsel for the non-moving party fails to meet and confer within 48 hours of a request, then counsel for the moving party will be deemed to have satisfied the obligation to attempt in good faith to meet and confer and may file the letter on ECF referred to in the paragraph above. The non-moving party should be aware that, if it has failed to meet and confer, the Court will reserve its discretion to permit the moving party a short reply.

C. **Discovery Disputes in *Pro Se* Cases.** Any party wishing to raise a discovery dispute with the Court must first attempt to confer in good faith with the opposing party, in person or by telephone, to try and resolve the dispute. If the parties are unable to resolve the dispute, or if, after attempting to meet and confer, the non-moving party is unavailable to meet and confer, the moving party may file a letter-motion requesting an informal conference. The letter-motion should explain the nature of the dispute and set forth the efforts made to meet and confer and the reasons they were unsuccessful.

5. Trial Procedures

A. Joint Pretrial Order. The Court will set a date for the Joint Pretrial Order at the Initial Pretrial Conference. In a non-*pro se* case, the Order shall include the following:

i. The full caption of the action, as the parties wish it to appear on all trial documents;

ii. The names, law firms, addresses, telephone numbers, and email addresses 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. Such statements shall include citations to all statutes relied on and any 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 which 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 course of 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. 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;

ix. 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;

x. 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;

xi. A list by each party of exhibits to be offered in its case in chief, with one 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 the Court should rule on such objection in advance of trial, that party should indicate a notation to that effect (*e.g.*, "Advance Ruling Requested");

xii. 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

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

B. Required Pretrial Filings. Each party shall file and serve with the Joint Pretrial Order:

i. In all cases, motions addressing any evidentiary issues or other matters which should be resolved *in limine*. Absent leave of the Court, each party must file a single memorandum of law, consistent with Paragraph 2(H) above, in support of *all* motions *in limine* filed by that party;

ii. In all cases, no pretrial memorandum of law shall be submitted absent express permission from the Court.

iii. In jury cases, joint requests to charge, joint proposed verdict forms, and joint proposed *voir dire* questions. For any request to charge, portion of a verdict form, or proposed *voir dire* question on which the parties cannot agree, each party should clearly set forth its proposal and briefly state why the Court should use it, with citations to supporting authority;

iv. In 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. They should not be argumentative. At the time of filing, parties should submit copies of these documents to the Court by email (LimanNYSDChambers@nysd.uscourts.gov), both in .pdf format and as a Microsoft Word document.

C. Additional Submissions in Non-Jury Cases. At the time the Joint Pretrial Order is filed, each party shall submit to the Court by email (LimanNYSDChambers@nysd.uscourts.gov) and serve on opposing counsel, but not file on ECF, the following:

i. Any affidavits or stipulations that are admissible under the Federal Rules of Evidence and that will be offered as substantive evidence;

ii. Any 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;

iii. All documentary exhibits when they are few in number. When documentary exhibits are voluminous, the parties shall submit a flash drive containing each documentary exhibit in a labeled file (ex: "PX-1," "DX-1," etc.). If submission of electronic copies would unduly burden a party, the party may seek leave of Court (by letter-motion filed on ECF) to submit prospective documentary exhibits in hard copy. Hard copies, if expressly permitted by the Court, shall consist of tabbed and indexed three-ring binders. On a case by case basis, the Court may request the parties to submit documents by file transfer protocol ("FTP");

iv. A Microsoft Word document listing all exhibits sought to be admitted. 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. Filings in Opposition. Any party may file the following documents within one week after the filing of the Joint Pretrial Order, but in no event less than three days before the scheduled trial date.

i. Opposition to any motion *in limine*;

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

E. Courtesy Copies. Counsel shall submit two courtesy copies of all documents identified in Paragraphs 5(A)-(D) to Chambers on the date on which they are to be served or filed. Voluminous material may be organized either in binders or manila file folders, but in any event, the courtesy copies shall be separately arranged into two independent sets.

F. Pretrial Statement in a *Pro Se* Case. In a *pro se* case, in lieu of a Joint Pretrial Order, a *pro se* plaintiff shall file a concise, written Pretrial Statement. This Pretrial Statement need take no particular form, but it must contain the following: (1) a statement of the facts the plaintiff hopes to prove at trial, (2) a list of all documents or other physical objects that the plaintiff plans to put into evidence at trial, and (3) a list of the names and addresses of all witnesses the plaintiff intends to have testify at trial. The Pretrial Statement must be sworn by the *pro se* party to be true and accurate based on the facts known by the *pro se* party. A *pro se* plaintiff shall file an original of this Pretrial Statement with the *Pro Se* Intake Unit. Two weeks after service of the *pro se* party's Pretrial Statement, counsel for any represented party must file and serve a similar Pretrial Statement containing the same information.

6. **Participation by Junior Attorneys, Generally.** 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. Nevertheless, all attorneys appearing before the Court must have

authority to bind the party they represent consistent with the proceedings (for example, by agreeing to a discovery or briefing schedule), and should be prepared to address any matters likely to arise at the proceeding. The ultimate decision of who speaks on behalf of the client is for the lawyer in charge of the case, not for the Court.

ATTACHMENT A Effective: October 29, 2020

DEFAULT JUDGMENT PROCEDURE

1. Obtain a Certificate of Default for each defaulting defendant from the Clerk's Office pursuant to Federal Rule of Civil Procedure 55(a) and Local Civil Rule 55.1.

2. File 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 plaintiff seeking a default judgment should *not* proceed by order to show cause.

3. In connection with the Motion for Default Judgment, file the following on ECF (and mail or hand-deliver a courtesy copy to chambers):

   a. An attorney's declaration or affidavit setting forth the basis for entering a default judgment, including:

      (i) a description of the method and date of service of the summons and complaint;

      (ii) the procedural history beyond service of the summons and complaint, if any;

      (iii) 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;

      (iv) the proposed damages and the basis for each element of damages, including interest, attorney's fees, and costs;

      (v) evidence in support of the proposed damages, including contemporaneous records and other such documentation; and

      (vi) legal authority for why an inquest into damages *is or is not necessary.*

   b. A proposed default judgment.

   c. Copies of all of the pleadings.

   d. A copy of the affidavit of service of the summons and complaint.

   e. A Certificate of Default from the Clerk of Court.

4. 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 date specified in the Court's Order setting the default judgment hearing.