

Individual Practices in Civil Cases
Ona T. Wang, United States Magistrate Judge

Chambers

United States District Court
500 Pearl Street
New York, NY 10007
(212) 805-0260
Wang_NYSDChambers@nysd.uscourts.gov

Courtroom

Daniel Patrick Moynihan Courthouse
500 Pearl Street, Courtroom 20D

Unless otherwise ordered by Judge Wang, civil matters before her shall be conducted in accordance with the following practices.¹ These practices are applicable to cases before Judge Wang if the matter is within the scope of the District Judge's order of reference or if the parties consent to have the case before Judge Wang for all purposes pursuant to 28 U.S.C. § 636(c). Should the parties wish to have Judge Wang hear their case for all purposes, the necessary form is available at: <http://www.nysd.uscourts.gov/judge/Wang>.

I. Communications with Chambers.

- a. **Letters.** In general, communications with the Court should be by letter.

Represented Parties. Letters to be filed under seal, *ex parte* settlement letters, or letters otherwise containing sensitive or confidential information should be emailed to Chambers as a .pdf (but not .pdf/A) attachment to Wang_NYSDChambers@nysd.uscourts.gov. E-mails shall state 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 content of the communication. Parties shall not include substantive communications in the body of the e-mail; such communications shall be included only in the attached letter. Confidential information should be clearly indicated as such in the letter. *All other categories of letters must be filed electronically on the electronic filing system ("ECF").* Counsel must serve the *pro se* party with a paper copy of any document that is filed electronically or emailed and must separately file a proof of service with the Court. No courtesy copies to the Court are necessary.

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 Street, Room 200, 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 and except for the Proposed Case Management Plan, 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*

¹ Requests for reasonable accommodations on account of disability with respect to the Court's rules or in connection with any proceeding before Judge Wang may be emailed to Wang_NYSDChambers@nysd.uscourts.gov.

party must send copies of any filing to the party and include proof of service affirming that he or she has done so. Copies of correspondence between a *pro se* party and opposing parties shall not be sent to the Court.

Any **nonincarcerated** *pro se* party who wishes to participate in electronic case filing (“ECF”) must file a Motion for Permission for Electronic Case Filing, available in the *Pro se* Intake Unit or at <http://nysd.uscourts.gov/file/forms/motion-for-permission-for-electronic-case-filing-for-pro-se-cases>.

Any **nonincarcerated** *pro se* party who wishes to receive documents in their case electronically (by e-mail) instead of by regular mail may consent to electronic service by filing a *Pro se* (Nonprisoner) Consent & Registration Form to Receive Documents Electronically, available in the *Pro se* Intake Unit or at <http://nysd.uscourts.gov/file/forms/consent-to-electronic-service-for-pro-se-cases>.

Page Limit. Whether filed electronically or not, letters may not exceed 3 single- space pages in length (exclusive of exhibits). 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.** Letter motions may be filed by ECF in accordance with the S.D.N.Y. Local Rules and the S.D.N.Y. Electronic Case Filing Rules and Instructions. In particular, parties shall file as letter-motions all requests for adjournments, extensions, pre-motion conferences (including pre-motion conferences with respect to discovery disputes), and requests for a settlement conference. Letter motions are limited to 3 single-spaced pages (not including exhibits).
- c. **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. 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.
- d. **Faxes.** Chambers does not accept submissions by fax.
- e. **Requests for Adjournments or Extensions of Time.** All requests for adjournments or extensions of time must be filed on ECF as letter motions. (If a request contains sensitive or confidential information, it may be submitted by .pdf via e-mail in lieu of being filed electronically with a copy to all parties and provide a basis for the confidentiality of the submission.) The letter-motion must state: (1) the original date(s), with a citation to the ruling setting the original date; (2) the number of previous requests for adjournment or extension; (3) whether these previous requests were granted or denied; and (4) whether the adversary consents and, if not, the reasons

given by the adversary for refusing to consent. If a conference must be rescheduled, counsel shall propose at least two alternative dates that fall in consecutive weeks. Absent good cause, any request for extension or adjournment shall be made *at least 48 hours* before the deadline or scheduled appearance.

- f. **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. The pertinent instructions are available on the Court website, 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. For questions about ECF rules and procedures, please contact the ECF help desk at (212) 805-0800.
- g. **Electronic Device Orders.** Orders permitting an attorney to bring an electronic device to Court may be found on the forms page of the SDNY website (<https://nysd.uscourts.gov/forms>) and is titled "Fillable Forms for Electronic Devices General Purpose." Please note that only attorneys are eligible for such an order. These orders **should not** be filed on ECF. Once completed, they may be emailed to Chambers (Wang_NYSDChambers@nysd.uscourts.gov) for Court approval (and the Court will then email back to counsel a copy of the signed order if approved).

II. Pre-Trial Practice.

- a. **Initial Case Management Conference.** Except for Complex Cases and *Pro se* Cases, parties must confer and then file a Report of Rule 26(f) Conference and Proposed Case Management Plan one week before the Initial Case Management Conference. A template form for the Report of Rule 26(f) Conference and Proposed Case Management Plan is available at <http://nysd.uscourts.gov/judge/Wang>. For subsequent case management conferences, parties should file a joint proposed agenda no more than three (3) business days before the date of the conference, and, where applicable, a short statement of each party's position.

Complex Cases. Parties must confer and file no later than one week before the Initial Case Management Conference, an Initial Report that includes the parties' positions on the applicable topics included on the "Initial Pretrial Conference Topics List for Complex Cases" at Appendix A. The parties must *also* file a joint Report of Rule 26(f) Conference and Proposed Civil Case Management Plan and Scheduling Order, available at <http://nysd.uscourts.gov/judge/Wang>.

Pro se Cases. The parties each must submit their Case Report and Proposed Case Management Plan for *Pro se* Cases one week before the scheduled conference in conformance with the procedures in Section I above. The parties shall use the form Proposed Case Management Plan template for *Pro se* Cases found at <http://nysd.uscourts.gov/judge/Wang>.

Attendance. 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. Additionally, an incarcerated party who is unable to attend this or other conferences, may be able to participate by telephone. If appropriate, the Court's scheduling order will outline the procedures for participation by telephone.

- b. **Discovery Disputes.** 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 this meet-and-confer process does not resolve the dispute, the party may submit an ECF letter-motion to the Court or, if applicable, to the *Pro se* Intake Clerk, no longer than 3 single-spaced pages, explaining the nature of the dispute and requesting a conference. Such letter *must include a representation that the meet-and-confer process occurred*, including when and whether it was in person or over the telephone. Any responsive letter should be submitted within three business days after submission of the letter-motion.

Parties shall keep in mind Rule 1 of the Federal Rules of Civil Procedure, which requires the Court and the parties to construe, administer, and employ the rules of procedure to secure the just, speedy, and inexpensive determination of every action. Parties also shall keep in mind Rule 26(b)(1) of the Federal Rules of Civil Procedure, which provides that “[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.” Discovery motions should address these rules to the extent applicable.

- c. **Confidentiality Stipulations and Orders.** In cases where confidential information will be exchanged, the parties must utilize the Court’s model Stipulation and Proposed Protective Order found at <http://nysd.uscourts.gov/judge/Wang>; provided, however, the parties may apply for a protective order that differs from the Court’s model by submitting a letter request via ECF and attaching the proposed order showing in a blackline comparison how the proposed order differs from the Court’s model. The letter should explain why the modifications are needed and note any disagreements between the parties regarding the modifications from the Court’s model.
- d. **Electronic Discovery.** The parties are encouraged to utilize the model Joint Electronic Discovery Submission and Proposed Order, as appropriate, found at <http://nysd.uscourts.gov/judge/Wang>. This model may be modified to the extent appropriate.

- e. **Status Conferences.** Unless otherwise directed by the Court, the parties shall file a joint proposed agenda at least 3 business days before any status conference.

III. Motions.

- a. **Conferences of Counsel Before Filing Motions Under Rule 12(b) or (c).** Except in cases involving *pro se* parties, if a motion pursuant to Fed. R. Civ. P. 12(b) or 12(c) is contemplated, the parties shall meet and confer in advance so that the plaintiff or counterclaimant can consider whether it wishes to amend the subject pleading before motion practice, and the parties must consider in good faith a stipulation permitting such amendment. If the parties are unable to reach a resolution, the parties shall submit a proposed briefing schedule to the Court. Counsel for the moving party shall include the following statement in the notice of motion: “This motion is made following the conference of counsel, which took place on [date]. Plaintiff [or Counter Claimant] declined an opportunity to amend.”
- b. **Pre-Motion Conferences.** For motions concerning discovery disputes, see Section II(b) above. A pre-motion conference is required for all other motions except (i) motions that are required by the Federal Rules of Appellate Procedure or the Federal Rules of Civil Procedure to be made by a certain time, (ii) motions by litigants in actions where a party is incarcerated and *pro se*, (iii) motions for reconsideration, (iv) motions for a new trial, (v) motions *in limine*, (vi) motions to dismiss habeas corpus petitions, and (vii) motions for judgment on the pleadings and motions to dismiss under Fed. R. Civ. P. 12.

Letters requesting a pre-motion conference should summarize the basis of the motion and follow the procedures for communicating with the Court set forth in Section I. Letters may not exceed 3 pages. Within 3 business days of receipt of the letter, each opposing party may submit a written response of no more than 3 pages. The Court will, as soon as possible thereafter, hold the pre-motion conference.

- c. **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 double-spaced pages and reply memoranda are limited to 10 double-spaced 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.

All moving papers, letter-motions, and letters filed on ECF or emailed to chambers must be in *searchable PDF form*. Additionally, to the extent citing unreported cases, parties are requested to use Westlaw citations whenever possible.

- d. **Redactions and Filing 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.

To avoid the unnecessary filing of documents under seal, counsel for the parties will discuss, in good faith, the need to file Confidential Materials under seal. If the parties agree in writing that a particular document that has been designated Confidential Material shall not be filed under seal, that document can be filed without redaction and such filing will not be a breach of any Stipulation of Confidentiality.

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 explaining the reasons for seeking to file that submission under seal and addressing the request in light of the Court of Appeals' opinions in *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110 (2d Cir. 2006) and *Bernstein v. Bernstein Litowitz Berger & Grossman LLP*, 814 F.3d 132 (2d Cir. 2016). If a request for redactions is based on another party's designation of information as Confidential, the parties shall confer and jointly submit the request for redactions.

The letter request to file under seal must be filed on ECF and sent via email to wang_nysdchambers@nysd.uscourts.gov. The e-mailed letter request must include as attachments: (1) one full set of the motion papers or other relevant filings with the Confidential Materials highlighted (*i.e.*, highlighting those words, phrases, or paragraphs for which the party seeks redaction); and (2) only those pages, clean and unredacted, that contain Confidential Materials for which the parties seek to be filed under seal. If the pages to be filed under seal exceed 25 pages, the requesting party shall submit to the Court an electronic disc containing the pages that the party requests to file under seal. The disc shall be sent to the Court within one business day of the request. Simultaneous with the request to file under seal, the party making the filing shall file the proposed redacted version of the submission on ECF.

If the Court approves the filing under seal, no further submissions shall be required. If the Court denies, in whole or in part, the motion for filing under seal, the party who made the submission shall be required to file the unredacted submission on ECF. The Court will file under seal any clean and unredacted pages for which the Court has approved redactions.

- e. **Oral Argument on Motions.** Parties may request oral argument when the motion has been fully briefed. This request should be made by letter in accordance with the procedures set forth in Section I.

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. This court is amenable to permitting a number of lawyers to argue for one party if this creates an opportunity for a junior lawyer to participate. The ultimate decision of who speaks on behalf of the client is for the

lawyer in charge of the case, not for the court.

- f. **Nothing in my Individual Practices supersedes a specific time period for filing a motion specified by statute or Federal Rule—including, but not limited to, Fed. R. Civ. P. 50, 52, 54, 59, and 60, and Fed. R. App. P. 4—where failure to comply with the specified time period could result in forfeiture of a substantive right.**

IV. Pretrial Procedures.

- a. **Applicability.** The procedures set out below apply only to cases where the parties have consented pursuant to 28 U.S.C. § 636(c) to have all proceedings, including trial, before Magistrate Judge Wang. Absent such consent, the parties should refer to the individual practices of the district judge.
- b. **Joint Pretrial Orders in Civil Cases.** Unless otherwise ordered by the Court, the parties shall submit to the Court for its approval a Joint Pretrial Order within 30 days after the date for the completion of discovery, or, if a summary judgment motion has been filed, within 30 days after the decision on the motion. The proposed Joint Pretrial Order shall be signed by all parties and include the following:
 - 1. The full caption of the action.
 - 2. The names, addresses, telephone numbers (both office and mobile) and email addresses of each principal member of the trial team, and identification of each party's lead trial counsel.
 - 3. 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, including citations to all statutes relied on and relevant facts, such as citizenship and jurisdictional amount.
 - 4. A list and brief summary by each party of the claims and defenses that party has asserted that remain to be tried, and a list of any claims and defenses asserted in the pleadings that are not to be tried. Where applicable, the statements shall identify citations to all statutes relied on, but without recital of evidentiary matter.
 - 5. With respect to each claim remaining to be tried, a brief statement listing each element or category of damages sought with respect to such claim (e.g., lost profits, back wages, medical costs, etc.) and a calculation of the amount of damages sought with respect to such element or category.
 - 6. A statement by each party as to whether the case is to be tried with or without a jury, and the anticipated number of trial days needed. If a jury

trial, this statement shall also indicate whether the parties agree to a non-unanimous verdict pursuant to Federal Rule of Civil Procedure 48. If the parties do not agree on length of trial, each party shall give their estimate and the basis for that estimate.

7. Any stipulations or agreed-to statements of fact or law and a brief description of any dispute regarding choice of law.
8. A statement by each party as to the witnesses whose testimony is to be offered in its case in chief, with a brief statement of the general subject area(s) of each witness's testimony and indicating whether such witnesses will testify in person or by deposition. If two or more witnesses will testify to the same facts, state why their testimony will not be cumulative. Absent extraordinary circumstances, a party may not call as a witness in its case in chief any person not listed in the Joint Pretrial Order.
9. A designation by each party of deposition testimony to be offered in that party's case in chief, referencing page and line numbers, with any cross-designations and objections by any other party. If there is no objection or cross-designation, the Court will deem the opposing party to have waived any such objection or cross-designation. Absent extraordinary circumstances, a party may not offer in its case in chief deposition testimony that is not listed in the Joint Pretrial Order.
10. A list by each party of exhibits to be offered in its case in chief. Each exhibit shall be pre-marked (plaintiff to use numbers, defendant to use letters). For each exhibit as to which there is an objection, the party objecting must briefly specify, next to the listing for that exhibit, the nature of the party's objection (e.g., "authenticity," "hearsay," "Rule 6 403"). Any objection not listed shall be deemed waived. Absent extraordinary circumstances, a party may not offer in its case in chief any exhibit not listed in the Joint Pretrial Order.
11. A proposed schedule by which the parties will exchange demonstrative exhibits 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.
12. All other matters that the Court may have ordered or that the parties believe are important to the efficient conduct of the trial.
13. The Proposed Pretrial Order shall be filed by ECF, and two courtesy copies shall be delivered to Chambers.

V. **Additional Pretrial Filings in Civil Cases.** Unless otherwise ordered by the Court, the following shall be filed at the same time as the proposed joint pretrial order:

a. **Jury Cases.**

1. Each party must file a Trial Memorandum of Law addressing each issue of law that the party expects to arise at or before trial.
2. The parties must jointly prepare and submit proposed Jury Materials consisting of:
 - proposed voir dire questions to be asked of prospective jurors;
 - proposed jury instructions (with each instruction separately numbered and beginning on a separate page); and
 - a proposed verdict form.
3. To the extent a party objects to another party's requested voir dire questions, jury instructions, or proposed verdict form, that party must: (i) set forth the grounds for the objection; and (ii) if applicable, propose an alternative (all in the same document so that the Court can compare the parties' respective proposals).
4. All jury instructions, objections, and alternative proposals must include citation to supporting authority.
5. In addition to filing on ECF the voir dire questions, requests to charge, and/or verdict sheets, electronic copies must also be submitted to the Court as Microsoft Word documents and sent via email to:
Wang_NYSDChambers@nysd.uscourts.gov.

b. **Non-Jury Cases.**

1. Each party must file a **Trial Memorandum of Law** identifying the issues, summarizing facts and applicable law, and addressing any evidentiary issues.
2. The Court may also ask each party to file **Proposed Findings of Fact and Conclusions of Law** before and/or after trial.
3. In addition to filing on ECF, these materials must also be submitted to the Court as Microsoft Word documents and sent via email to:
Wang_NYSDChambers@nysd.uscourts.gov.

- c. **Motions *in Limine*.** Each party shall file and serve any motions *in limine* at the same time as the proposed pretrial order. Within two weeks of filing the proposed pretrial order, each party shall file and serve its opposition to any motion *in limine*. There shall be no replies for motions *in limine*.
- d. ***Pro se* Cases.** In *pro se* cases, the parties are not required to prepare joint pretrial filings (but may do so jointly if feasible). Instead, within 30 days from the date for the completion of discovery in a civil case or, if a dispositive motion has been filed, within 30 days of a decision resolving the motion, the represented party(ies) shall submit the pretrial materials set forth in Section IV.b above. The *pro se* 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 and the general subject matter of each witness's expected testimony.

The Pretrial Statement must be sworn or affirmed by the *pro se* party to be true and accurate based on the facts known by the party. The *pro se* party must file an original Pretrial Statement with the *Pro se* Office (see Section I(a)) 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.

VI. **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. **Confidentiality.** 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. **Pre-Conference Telephone Call.** The Court will schedule a telephone call with the parties prior to the conference to discuss issues pertinent to the conference, during

which a settlement conference will be scheduled.

- c. **Ex Parte Settlement Conference Summary Form and Letter.** Unless otherwise directed by the Court, no later than 7 days before the Settlement Conference, each party must complete the Court's Settlement Conference Summary Form found at <http://nysd.uscourts.gov/judge/Wang>. Each party also must provide the Court with a letter, not to exceed three pages, summarizing (1) the history of settlement discussions; (2) the issues in the case; (3) the settlement value of the case and rationale for it; (4) case law authority relevant to settlement discussions; and (5) 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. In FLSA cases, the parties shall include damages calculations with their ex parte submissions. In all other cases, such a submission is highly encouraged but not required unless otherwise requested. The Settlement Conference Summary Form and letter should be emailed to Wang_NYSDChambers@nysd.uscourts.gov.
- d. **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 before the conference. If it has not already done so, the opposing party shall respond to any demand no later than 7 days before the conference.
- e. **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 one 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.
- f. **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.
- g. **Conference Location.** Unless advised otherwise by the Court, the conference will take place in Courtroom 20D at 500 Pearl Street.

VII. Courtesy Copies.

- a. **Filings.** The filing party shall submit two courtesy copies of motion papers, letter-motions, or other filings to the Court only when the filing exceeds 75 pages (including exhibits). 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 one business day after the filing.

- b. **Settlement Conference Materials.** A courtesy copy of *Ex Parte* Settlement Conference Summary Forms and Letters shall be submitted to the Court if the exhibits to the Letter exceed 10 pages. Courtesy copies must be provided no later than one business day after submission of the Form and Letter.

Appendix A

Initial Pretrial Conference Topics List For Complex Cases

1. Proportionality assessment of “the needs of the case, amount in controversy, the parties’ resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues” (see Rule 26(b)(2)(C) (iii)).
2. Possible limitations on document preservation (including electronically stored information).
3. Appropriateness of initial disclosures pursuant to Rule 26(a)(1). Is there some readily identifiable document or category of documents that should be produced immediately in lieu of initial disclosures?
4. Possibility of a stay or limitation of discovery pending a dispositive motion.
5. Preliminary issues that are likely to arise that will require court intervention.
6. Discovery issues that are envisioned.
7. Proposed discovery including:
 - A. limitations on types of discovery beyond those in the Rules (*i.e.*, waiver of interrogatories, requests for admission, expert depositions);
 - B. limitations on scope of discovery;
 - C. limitations on timing and sequence of discovery;
 - D. limitations on restoration of electronically-stored information;
 - E. agreement to allow depositions of trial witnesses named if not already deposed;
 - F. preservation depositions; and
 - G. foreign discovery and issues anticipated.
8. Schedule (as appropriate and possibly excluding public agency cases) including:
 - A. date(s) for completion of discovery, including a protocol and schedule for electronic discovery;
 - B. date(s) for dispositive motions;
 - C. date(s) for exchange for expert reports;
 - D. date(s) for exchange of witness lists; and

- E. date (s) for Joint Preliminary Trial Reports and Final Joint Trial Reports.
9. Issues to be tried, including ways in which issues can be narrowed to make trial more meaningful and efficient; as well as whether there are certain issues as to which a mini-trial would be helpful.
 10. Bifurcation.
 11. Class certification issues.
 12. Whether the parties recommend that expert discovery precede or follow any summary judgment practice.
 13. Settlement/mediation and the timing of discussions about settlement.
 14. Pleadings, including sufficiency and amendments, and the likelihood and timing of amendments.
 15. Joinder of additional parties and the likelihood and timing of joinder of additional parties.
 16. Expert witnesses (including necessity or waiver of expert depositions).
 17. Damages (computation issues and timing of damages discovery).
 18. Final pretrial order (including possibility of waiver of order).
 19. Possible trial-ready date.
 20. Court logistics and mechanics (*e.g.*, communication with the court, streamlined motion practice, pre-motion conferences, etc.).