INDIVIDUAL PRACTICES OF
UNITED STATES DISTRICT JUDGE VICTOR MARRERO
SOUTHERN DISTRICT OF NEW YORK

Effective September 13, 2019

Chambers
Suite 1610
United States Courthouse
500 Pearl Street
New York, New York 10007
T: (212) 805-6374
F: (212) 805-6382

Courtroom
Courtroom 15B
United States Courthouse
500 Pearl Street
New York, New York 10007

I. COMMUNICATIONS WITH CHAMBERS

A. Letters. Except as otherwise provided below, communications with Chambers shall be by letter, with copies simultaneously delivered to all parties. **Letters or letter-briefs are not to be filed on the District's electronic document filing system ("ECF") and are not to be delivered by electronic mail.** If less than five pages, letters may be sent by fax as indicated below in Paragraph I.C. Otherwise, they should be delivered by hand or by mail. Letters must identify the name and docket number of the case, contain the writer's business address and telephone number, be signed by the party or authorized counsel responsible for the matter, and show the method of delivery (e.g., "By Hand" or "By Fax"). Unless the Court has otherwise requested, copies of correspondence between the parties shall not be sent to the Court.

B. Telephone Calls. Except as provided in Paragraph I.D. below, telephone calls to Chambers regarding any pending matter will be accepted only in urgent situations requiring immediate attention. In such situations only, call Chambers at (212) 805-6374 with all parties on the line, unless there are compelling reasons why all parties cannot be joined. Parties should not call the Judge's law clerks with substantive or procedural questions, or with questions regarding docketing on ECF. For questions about docketing on ECF, parties should call the ECF help desk at (212) 805-0800.

C. Faxes. Faxes to Chambers are permitted only if the letter or document is no longer than five pages and if a copy is simultaneously delivered to all parties through counsel or to litigants proceeding pro se. The direct fax number to Chambers is (212) 805-6382. Any faxed letter or document exceeding five pages will not be accepted unless prior authorization has been granted. Do not follow faxed letters with hard copy.

D. Docketing, Scheduling, and Calendar Matters. For routine inquiries concerning scheduling or calendar matters, call Chambers between 9:00 a.m. and 5:00 p.m. at (212) 805-6374 and ask for the law clerk responsible for the case.

E. Courtesy Copies. One courtesy hard copy of all motion papers, and one courtesy copy of all other filings (including pleadings, stipulations, and all submissions to the Orders and

Judgments Clerk), marked as such, shall be submitted to Chambers at the time the papers are served or filed, in accordance with the Southern District of New York's policies regarding mail deliveries. In any expedited proceeding, parties shall ensure that courtesy copies are delivered in a manner that enables their timely consideration by the Court (e.g., by hand delivery or fax to Chambers).

F. Extensions/Adjournments. A request for an extension of time within which to make a submission to the Court or for an adjournment of a conference or to excuse an appearance with the Court must be made in writing and received in Chambers not less than two business days before the scheduled time. Each request must include the number and disposition of any prior request(s) for an extension or adjournment and state whether opposing counsel consents to the extension or adjournment. If opposing counsel does not consent, the reason(s) must be provided. If the requested extension or adjournment affects any other scheduled dates set forth in a Court-approved Case Management Plan or Scheduling Order, a proposed Revised Case Management Plan or revised Scheduling Order must be attached for the Court's review and approval. The party requesting an extension or adjournment shall be responsible for notifying all other parties of the Court's disposition of the request.

II. MOTIONS

A. Pre-Motion Conferences in Civil Cases. 1. In the event that a substantive, procedural, or evidentiary dispute arises during pretrial proceedings that the parties, after good faith communication, are unable to resolve, they are encouraged, before resorting to motion practice, to bring the matter to the Court's attention by letter not to exceed three pages seeking a ruling. A conference must be requested before filing any motion, except: motions brought by order to show cause based on a legitimate emergency; motions required by the Federal Rules of Appellate Procedure to be made within a specified time; motions made by a pro se litigant in custody; motions for default judgment, pro hac vice admission, reargument, remand, or attorney's fees or sanctions; motions to affirm or vacate an arbitration award; and objections to a Magistrate Judge's ruling. The attorney who will serve as principal trial counsel must appear at all conferences with the Court with regard to scheduling and motions.

2. A party wishing to make a motion not excepted above should send a letter to the Court concisely describing the basis for the proposed motion and requesting a pre-motion conference. Any party opposing the motion must submit a reply letter within two business days of receiving the pre-motion letter indicating whether the proposed motion will be opposed, and if so, the basis for the opposition. Pre-motion letters and responses shall not exceed three pages single-spaced, with one-inch margins all around. The pre-motion letter may provide a detailed description of the matter to be decided and request that it to be deemed and filed as a formal motion. Where the circumstances warrant and the pre-motion letter contains a sufficient factual and legal statement of the matter at issue, the Court, upon request or on its own motion, may treat such letter as constituting a motion for the relief request and direct that it be filed as such and that the parties respond and reply by letter-briefs of specified lengths.

B. Motions to Dismiss. 1. With respect to motions to dismiss, including those contemplated in lieu of an answer, prior to filing such a motion and before the time to do so as of

right has expired, the defendant shall communicate with the plaintiff by letter not exceeding three single-spaced pages, with a copy to the Court, either seeking a more definite statement, or setting forth the specific absence of particulars, insufficient notice, or other pleading deficiencies in the complaint and other reasons or controlling authorities that defendant contends would warrant dismissal and that, if properly rectified, could avoid the filing of the motion. The plaintiff shall respond by similar letter within seven calendar days, with a copy to the Court, indicating the extent, if any, to which plaintiff concurs with defendant's objections and the amendments, if any, to be made to the complaint to address them, or else stating the reasons and controlling authority that support the pleadings as filed. Plaintiff may seek leave to amend the complaint to address identified deficiencies if the time to do so as of right has expired. Under these circumstances, the Court will liberally grant plaintiff leave to amend, and grant the defendant an extension of time to answer the complaint as appropriate. (This practice may be especially effective as to certain types of motions frequently made that may be avoidable by pre-motion communication between the parties, with or without the Court's involvement. For example, without limitation, these include: naming a wrong defendant; misnaming a defendant; failing to name a necessary or indispensable party; failing to exhaust available remedies; absolute immunity; expiration of the statute of limitations as to some or all of the claims asserted; failure to satisfy a prerequisite to litigation such as a Right to Sue Letter; failure to plead the particulars of a fraud claim under Rule 9(b) of the Federal Rules of Civil Procedure; and a premature claim seeking punitive damages.)

2. In the event that at the conclusion of this informal procedure the parties fail to resolve a dispute over the appropriateness of the filing of a motion to dismiss, the defendant shall so notify the Court in writing, indicating why a motion to dismiss remains warranted even after plaintiff has agreed to any amendments to cure specified deficiencies, and transmit copies of the correspondence exchanged by the parties in this regard. Promptly thereafter the Court will schedule a conference, by telephone or in person, to provide any appropriate preliminary guidance or rulings.

3. In the event that the Court, upon review of the parties' exchange of correspondence described above, issues preliminary guidance in writing indicating that a formal motion if filed is likely to be denied in whole or in part and the defendant nonetheless proceeds with such motion filed, and the Court's formal ruling does deny the motion in whole or in part, the Court may deem the circumstances as grounds supporting an application for appropriate sanctions against the defendant, including an award of related attorney's fees and costs.

4. Conversely, in the event that the Court issues preliminary guidance in writing indicating that a formal motion if filed is likely to be granted in whole or in part and the plaintiff nonetheless proceeds with the complaint as originally filed, and the Court's formal ruling does grant the motion in whole or in part, the Court may deem the circumstances as grounds supporting an application for appropriate sanctions against the plaintiff, including an award of related attorney's fees and costs.

C. Motions: Expedited Procedure. In the event that a discrete issue of law arises in a case that may be dispositive of a particular claim or defense, or of the entire action, upon agreement on motion by the parties, or as ordered by the Court, the issue presented may be

resolved by the Court on the basis of submissions of letter-briefs not to exceed five pages for each party without necessity for any further documentation, unless the Court so requests or grants leave therefor. The Court will endeavor to decide such motion within fourteen days of the date of full submission or of any hearing the Court holds thereon.

D. Memoranda of Law. 1. All formal motions and cross-motions must be accompanied by a memorandum of law. Memoranda of law in support of and in opposition to motions shall be limited to 25 pages, and reply memoranda shall not exceed 10 pages. Memoranda should be double-spaced and in 12-point font with 1-inch margins. Memoranda of 10 pages or more shall contain a table of contents and a table of authorities. The Court will entertain written requests for exceptions to these page limitations only in rare cases where the facts and issues are particularly complex. The Court will not consider new matters raised in replies for the first time. Sur-reply memoranda will not be accepted without prior permission of the Court and then only in the rare instances in which new controlling law is promulgated after the filing of the reply papers.

2. Any memorandum that does not comply with these requirements will not be accepted and will be returned, and counsel may not be provided with additional time to submit a complying memorandum if any such additional extension may cause substantial prejudice to other parties in the case.

E. Documentation. 1. Affidavits accompanying any motion should contain concise statements attested to by the affiant on the basis of personal involvement or knowledge of pertinent facts. Affidavits shall not be used as a vehicle for counsel to describe factual background or legal issues involved in the case, to alter the pleadings or introduce facts not set forth in the complaint, to assert matters not within their personal knowledge, or for supplemental argumentation of legal issues that would serve to evade the page limitation set forth in the Court's Individual Practices. Such submissions will not be considered.

2. In connection with documents exhibits such as contracts, public filings, and deposition testimony that parties submit as exhibits accompanying any motion, the whole document may be filed and entered into the public record of the action only if all of its contents are integral to and bear directly on the particular issue(s) to be decided on the motion. Otherwise, the parties may submit as an exhibit only those portions or pages of such document that have direct relevance to the matter at issue. When submitting only relevant portions of a document, the parties arguing the motion shall file, accompanying such motion papers, a stipulation attesting: (1) that they are familiar with the full contents of such document; (2) that they possess and each will maintain a copy of such entire document in their respective case files until after a final court disposition of the action; and (3) that the excerpt filed with the motion papers is an authentic copy of the relevant portion of the document.

The following example may be helpful in illustrating how this practice would operate: In an action relating to accounting malpractice, only three pages of a 150-page spreadsheet and five pages of a 100-page deposition contain information relevant to an issue litigated on a motion for summary judgment. The parties should submit only those relevant pages of the spreadsheet and

deposition in connection with the motion exhibits filed, instead of submitting the entire spreadsheet and deposition transcript.

3. In connection with motions for summary judgment, Local Rule 56.1 Statements shall be "short and concise," and shall not be used for argumentation of legal issues or recitation of case law, or extensive recitation of deposition testimony or repetition of conclusory pleadings.

F. Service. Notices of motions, affidavits, and memoranda of law shall be served in accordance with the dates set by the Court during the pre-motion conference or by memo-endorsed orders. If a pre-motion conference is not required (Paragraph II.A., supra), counsel should follow Local Civil Rule 6.1, unless otherwise ordered by the Court. Any party seeking dismissal of a complaint or summary judgment in whole or in part against a pro se litigant must plainly advise that litigant of the nature of the motion, of the possible consequence of failing to respond, and that the Court will deem true the statements contained in a Local Rule 56.1 statement unless controverted. Failure to comply with this requirement may result in a sua sponte denial of the motion. In connection with motions for summary judgment, where the Court may deem it appropriate, the parties may be directed to serve their Local Rule 56.1 statements for the Court's review prior to proceeding with service of the fully-prepared motion.

G. Filing. All motion papers shall be filed in the Clerk's Office or via ECF promptly after service.

H. Oral Argument. Motions will be decided on the papers after all moving papers have been submitted, unless the Court determines that oral argument will be necessary. If oral argument is scheduled, the Court will advise the parties of the date and time for argument and whether it will be limited to specific issues. Counsel should expect that the Court will have reviewed motion papers prior to oral argument and will be familiar with the issues presented therein, and therefore counsel should not use oral argument to repeat factual recitations or legal arguments adequately addressed in the motion papers.

III. DISCOVERY DISPUTES

In the event that a discovery dispute arises that the parties are unable to resolve among themselves, they shall confer and submit to the Court a joint letter setting forth the matters that remain unresolved following such conference. The letter shall describe concisely the issue(s) in dispute and the respective position of each party and cite applicable authority which the respective parties claim for support. The Court will rule upon the written submission, or refer the dispute to the designated Magistrate Judge for resolution, particularly where the circumstances indicate that the parties' discovery disputes are continuous or chronic.

IV. PRETRIAL PROCEDURES: CIVIL CASES

A. Pretrial Conferences. 1. The Court will endeavor to schedule an initial case management conference within 45 days of the filing of the answer(s). Upon receipt of the Notice of Initial Conference, the parties shall confer if they have not yet done so in accordance with Federal Rule of Civil Procedure 26(f) and exchange the initial disclosures prescribed by Rule

26(a). Following such conference, the parties shall jointly prepare a status letter setting forth: (1) a brief description of the case, including the factual and legal bases for the claim(s) and defense(s); (2) confirmation that the parties have conferred and exchanged initial disclosures -- or agreed on a plan and schedule for such disclosure -- identifying the names and locations of individuals, documents, and things possessing or pertaining to material information used to support the parties' claims or defenses; (3) a concise statement of any discrete threshold or dispositive issues that the pleadings present, such as personal or subject matter jurisdiction, venue, or statute of limitations, that in the interest of justice and judicial economy warrant resolution first and potentially warrant a stay on further discovery; (4) any contemplated motions; (5) the prospects for settlement; and in view thereof the parties belief that a brief stay of the litigation would be warranted to enable them to pursue resolution through their own discussions or through Court facilitated settlement or private mediation; (6) whether the parties consent to proceed for all purposes before the Magistrate Judge designated for this action; (7) whether the parties may be amendable to proceeding to trial on the merits of the dispute in accordance with the expedited trial procedure provided for in Part VI.A. of these Individual Practices; and (8) a proposed Case Management Plan in the form available on Judge Marrero's page on the Southern District website. The status letter must be received by the Court at least five business days before the initial case management conference.

2. The completed proposed Case Management Plan shall be brought to the initial case management conference for approval and endorsement by the Court. The Case Management Plan shall indicate whether the parties have reached agreement on discovery concerning: (1) the number, duration, and matters to be examined, and the individuals to be deposed; and (2) limitations on the length or scope of requests for admissions and interrogatories. If the discovery plan contemplates that any party conduct more than five depositions, or any particular deposition requiring more than three hours to complete, or any request for admissions or interrogatories exceeding seven single-spaced pages, that circumstance shall be stated in the Case Management Plan, and leave of Court therefor sought at the initial conference.

3. Principal trial counsel -- or, upon written notice to the Court, another attorney so designated who is closely familiar with the litigation -- must appear at all conferences. Ordinarily, at the initial conference and any future conference the primary purpose of which is to review scheduling, appearance by more than one attorney for a party should not be necessary. **Appearances by telephone will not be permitted without express prior permission of the Court.**

4. At the initial conference, in the event such issues arise, the parties should be prepared to address adequately the basis for venue and subject matter jurisdiction, and whether or not all of the jurisdictional prerequisites have been satisfied in the case. Where appropriate, such discussions shall include citations to all statutes relied on and relevant facts regarding citizenship and jurisdictional amount. The parties should further be prepared and authorized to discuss the factual and legal bases for their claims, any contemplated motions, and prospects for settlement through assistance of the Court, mediation services or other dispute resolution methods. The parties should also address the option of proceeding to resolution of the dispute for all purposes or of dispositive motions by the designated Magistrate Judge pursuant to 28 U.S.C. § 636(c) or by Court-appointed mediation.

B. Filings Prior to Trial. Unless otherwise ordered by the Court, not less than 30 days prior to a firm date scheduled for the trial, the parties shall submit to the Court the pretrial submissions described in Attachment 1 to these Individual Practices.

V. PRETRIAL PROCEDURES: CRIMINAL CASES

A. Initial Pretrial Conference. The Assistant United States Attorney ("AUSA") assigned to the case shall contact Chambers as soon as possible after the case is assigned to the Court for prompt scheduling of a conference at which the defendant will be present in order to set a discovery and motion schedule. The Court refers all arraignments, initial bail applications, and guilty pleas to the Magistrate Court in the first instance, unless there is good cause to proceed directly before the Court. The AUSA shall provide a courtesy copy of all charging documents to Chambers as soon as practicable, and should submit a letter confirming the date and time of any initial conference scheduled before Judge Marrero by the Magistrate Judge. Any conference scheduled by a Magistrate Judge will not be entered on the Chambers calendar until such a confirmation letter is received. The AUSA shall arrange for appropriate exclusion of time for Speedy Trial Act purposes to the date of the defendant's initial appearance before Judge Marrero.

B. Pleas. The plea agreement or Pimentel letter must be provided to Chambers at least two business days before the time set for the conference at which the disposition is to be addressed. Defense counsel are expected to have reviewed with the defendant -- with foreign language interpretation where appropriate, prior to the time set for the conference with the Court -- any plea or cooperation agreement, or any other arrangements relating to the defendant's plea.

C. Sentencing. 1. Any request for adjournment of a sentencing shall be made in writing as early as possible, but no later than two business days before the date at issue, and shall be submitted to Chambers by fax after counsel has discussed a new date and time with the law clerk assigned to the case (see I.C. and I.D., supra). Such requests should state whether opposing counsel consents.

2. All submissions and applications with respect to a sentencing and all responses thereto shall be served and submitted to the Court in sufficient time to ensure that the Court has received all such papers by no later than five business days prior to the sentencing.

3. In the event a sentencing control date is scheduled for a defendant, the AUSA shall notify the Court as soon as practicable if the parties later intend for that date to be the date of sentencing. Such notification allows for the Court to order a Pre-Sentence Investigation Report from the United States Probation Office in a timely manner.

D. Filings Prior to Trial. Unless otherwise ordered by the Court, not less than 30 days prior to a firm date scheduled for the trial, the parties shall submit to the Court the pretrial submissions described in Attachment 1 to these Individual Practices.

VI. TRIAL PROCEDURES

A. Expedited Trial in Civil Cases. Upon request, the Court may schedule a fixed early date for a trial on the merits of a dispute if by stipulation the parties agree to proceed in accordance with a litigation plan that substantially limits or dispenses with categories of discovery and dispositive motions, or provides for the conclusion of such proceedings on an expedited basis approved by the Court.

B. All Trials. Counsel with either jury or bench trials scheduled before the Court are to comply with the Court's trial procedures set forth in Attachment 1.

VII. MISCELLANEOUS

A. Default Judgment Procedures. A party who wishes to obtain a default judgment must proceed by way of the procedure set forth in Attachment 2.

B. Bankruptcy Appeals. Briefs must be submitted in accordance with Fed. R. Bankr. P. 8009. Counsel may extend these dates by stipulation submitted to the Court no later than two business days before the brief is due.

C. Court Reporters. The Court will order a court reporter for all criminal proceedings and all civil conferences with pro se litigants. In addition, the Court will order a reporter for hearings in a civil proceeding scheduled pursuant to Paragraph II.H. Parties seeking transcription of any other proceeding shall notify Chambers of such a request by letter.

D. Orders to Show Cause or Motions for Injunctive Relief. Except in the most extraordinary circumstances, litigants filing an order to show cause or motion for injunctive relief must provide notice to opposing counsel before doing so. Following conferral with opposing counsel, the party filing the order or motion shall submit to the Court an agreed-upon proposed briefing schedule.

E. Part One / Miscellaneous Docket. Litigants must file all documents assigned a Miscellaneous Docket number with the Clerk's Office in accordance with the current procedures of the Clerk of Court. Litigants should send a courtesy copy of all filings to Chambers (see I.E, supra) and deliver a copy to all parties through counsel or to litigants proceeding pro se.

Attachment 1

TRIAL PROCEDURES OF UNITED STATES DISTRICT JUDGE VICTOR MARRERO SOUTHERN DISTRICT OF NEW YORK

Effective September 21, 2018

Counsel with either jury or bench trials scheduled before Judge Marrero are to comply with the following practices.

I. PRETRIAL SUBMISSIONS

A. Civil Cases. Unless otherwise ordered by the Court, not less than 30 days prior to a firm date scheduled for the trial, the parties shall submit to the Court the following pretrial submissions:

1. A joint pretrial order which shall include:

(a) The full caption of the action;

(b) The name (including firm name), address, telephone number, and fax number of trial counsel;

(c) A brief summary by each party of the claims and defenses which that party has asserted and which remain to be tried, without recital of evidentiary matters, but including citations to all statutes upon which the party relies. Such summaries shall identify all claims and defenses previously asserted which are not to be tried;

(d) 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; and the number of jurors requested and whether the jury vote is to be unanimous;

(e) A statement as to whether all parties have consented to trial before the designated magistrate judge;

(f) Any stipulations or agreed statements of fact or law;

(g) A list by each party of all witnesses whose testimony is to be offered in its case in chief (including the qualifications of any expert witnesses) indicating the likely order of appearance and whether such witnesses will testify in person or by deposition and briefly summarizing the testimony of each witness and its relevance to the issues on trial;

(h) A designation by each party of deposition testimony to be offered in its case

in chief, with any cross-designations and objections (with ground(s)) by any other party; and

(I) A list by each party of exhibits to be offered in its case in chief, marked with one star indicating the exhibits to which there is any objection. The ground(s) for each objection should be listed. The exhibits to which no party objects should be listed with no stars. Prior to the submission of exhibits to be offered in evidence and any demonstrative materials summarizing evidence, the parties shall confer and agree upon exhibits and other materials as to which there is no objection to their admission into evidence or publication to the jury. Such exhibits or demonstrative materials should be inserted in the respective party's trial binders. Any exhibit or material as to which legal objection exists and whose introduction is to be challenged should be separately identified and arranged by each side for review and argument before the Court at the appropriate occasion during the trial. To the maximum extent possible, the parties should also endeavor to stipulate to the authenticity of documents, chain of custody, copies in lieu of originals, and other related routine or technical evidentiary matters, so as to minimize the need to present special witnesses through whom to introduce such exhibits.

Unless otherwise ordered by the Court, all pretrial submissions shall be submitted in hardcopy and in electronic copy, formatted in Microsoft Word or a compatible word processing program (either on a CD-Rom accompanying the hardcopy or via email to ChambersNYSDMarrero@nysd.uscourts.gov).

2. All motions in limine. Opposition briefs shall be due one week after such motions are served. Reply memoranda, if any, shall be due within three days of the service of opposition motions. All motions in limine shall be fully briefed at least two weeks before trial.

3. For jury trials, each party is required to submit at the time the joint pretrial order is filed: (a) a pretrial memorandum no longer than 10 pages limited to a brief discussion of the issues to be tried and authorities relied upon; (b) joint proposed *voir dire* questions drafted with the other parties; (c) joint proposed requests to charge, drafted with the other parties, citing the authority for each proposed charge; and (d) a joint list of individuals, companies and other entities that may appear as witnesses, or otherwise be referred to during the trial, including a brief recitation of what matters each witness is expected to address. If parties disagree on requests to charge, the disagreement should be addressed by each party stating its proposed requested charge, followed by a succinct statement of the authority in support of each party's position.

4. For bench trials, unless otherwise instructed by the Court, each party is required to submit at the time the final joint pretrial order is filed: (a) a pretrial memorandum no longer than 15 pages limited to a discussion of the issues to be tried and authorities relied upon; (b) proposed findings of fact and conclusions of law; and (c) a joint list of individuals, companies and other entities that may

appear as witnesses, or otherwise be referred to during the trial, including a brief recitation of what matters each witness is expected to address.

B. Criminal Cases. Unless otherwise ordered by the Court, not less than 30 days prior to a firm date scheduled for the trial, the parties shall submit to the Court the following pretrial submissions:

1. All motions in limine. Opposition briefs shall be due one week after such motions are served. Reply memoranda, if any, shall be due within three days of the service of opposition motions. All motions in limine shall be fully briefed at least two weeks before trial.

2. For jury trials: (a) joint proposed requests to charge, citing the authority for each proposed charge; (b) joint proposed *voir dire* questions drafted with the other parties; and (c) to the extent known, a joint list of individuals, companies and other entities that may appear as witnesses, or otherwise be referred to during the trial, including a brief recitation of what matters each witness is expected to address. If parties disagree on requests to charge, this disagreement should be addressed by each party stating its proposed requested charge, followed by a succinct statement of the authority in support of the respective party's position.

3. For bench trials: to the extent known, a joint list of individuals, companies, and other entities that may appear as witnesses, or otherwise be referred to during the trial, including a brief recitation of what matters each witness is expected to address.

II. FINAL PRETRIAL CONFERENCE

The Court will schedule a final pretrial conference approximately two weeks before trial. Counsel who will try the case must attend. In civil cases, the Court may use the occasion as an opportunity to explore the prospects of settlement. Counsel must be prepared to engage in meaningful settlement discussions.

III. TRIAL DATES AND TIMES

All trials will be scheduled to commence on firm dates. Counsel should notify the Court in person at any conference or in writing of any potential scheduling conflicts that would prevent a trial at a particular time. Counsel should notify the Court and other counsel in writing, at the earliest possible time, of any particular scheduling problems involving witnesses.

Unless otherwise decided by the Court, trials will be conducted Monday through Friday from 9:00 a.m. to 5:00 p.m. with a lunch break from about 12:45 p.m. to about 2:00 p.m. In jury trials, in order to keep distractions during the trial to a minimum, upon request by the Court counsel must be present prior to 9:00 a.m. and after 5:00 p.m. to discuss scheduling for the day and any disputed matters that may arise during the day's proceedings. One ten or fifteen-minute break will take place in the morning and one will take place in the afternoon. This break may also be used to address

disputes that arise during the trial.

IV. COURTROOM TECHNOLOGY

Unless otherwise decided by the Court, trials will be conducted in the Daniel Patrick Moynihan United States Courthouse (the "Courthouse"), Courtroom 11B (the "Courtroom"). For information about technology available in the Courtroom, or for information about installation of additional technology in the Courtroom for the purposes of a trial or other proceeding, please contact the Courthouse's Office of Courtroom Technology/AV Services at (212) 805-0134.

Parties seeking to bring laptops and other General Purpose Computing Devices ("GPCDs") into the Courthouse for a trial or other proceeding must request authorization from the Court. Such requests shall be submitted by letter at least ten calendar days prior to the trial or proceeding, and should detail each device for which the party seeks authorization, the attorney responsible for bringing each device into the Courthouse, and the dates on which the device(s) will be needed in the Courthouse. Upon receipt of a request for authorization, and determination that the technology requested is permissible and appropriate for the proceeding indicated, the Court will issue an Order to be presented by the attorney(s) when entering the Courthouse with the device(s). Standing Order M-10-468 (the "Standing Order"), issued on February 17, 2010 by Chief Judge Loretta Preska adopts a presumptive limit of three laptops or other GPCDs for each separately represented party or group of parties. Any party seeking a variance from the presumptive limit of three must include the justification for the variance in its letter-request to the Court.

The Standing Order also governs the bringing of cell phones, Blackberries, and other Personal Communications Devices ("PCDs") into the Courthouse and the Courtroom. The Standing Order does not allow cell phones and other PCDs into the building unless the person bringing the PCD is an AUSA, a Federal Defender, or a member of the Southern District of New York Bar with a valid secure pass ("Secure Pass") issued by the District Executive's Office. If an individual does not have a Secure Pass, or is otherwise not entitled to bring a PCD into the Courthouse pursuant to the Standing Order, an order issued by the Court is ineffective to permit him or her to do so.

The parties' bringing equipment into the building constitutes a certification by them that the electronic device(s) will not be used to make or record images or sounds, unless authorized by the Court, as provided for in Local Civil Rule 1.8, or to send or receive wireless transmissions.

V. COURTROOM DECORUM

1. Counsel and parties are to stand as the Court is opened, recessed and adjourned.

2. Counsel and parties are to be on time for each court session. If counsel have matters in other courtrooms when a trial is scheduled, arrange in advance to have a colleague handle appearances for you.

3. Counsel shall stand at the table or lectern when addressing the Court or jury, including when making objections and for opening and closing statements. Counsel unable to stand on account of physical disabilities will be excused from this requirement. Counsel should not stand when opposing counsel is addressing the Court.

4. Only one attorney for each party shall examine, or cross-examine, each witness. The attorney stating objections, if any, during direct examination, shall be the attorney recognized for cross examination. Unless otherwise permitted by the Court, only one attorney for each party will be recognized for purposes of any sidebar conferences.

5. In making an objection, counsel should be brief and direct, and, if so requested by the Court, state the legal ground and appropriate authority for the objection. Counsel should not argue the objection in the presence of the jury or argue with the ruling of the Court in the presence of the jury. Counsel should not make any motion (e.g., a motion for a mistrial) or make references to rulings reserved for appeal in the presence of the jury. Such matters may be raised at the next recess.

6. Counsel should stand at the lectern when questioning witnesses. Counsel unable to stand on account of physical disabilities will be excused from this requirement. When questioning a witness, counsel should not pace about the courtroom or face or otherwise appear to address the jurors.

7. Counsel should address all remarks to the Court, not to opposing counsel, and should stand a respectful distance from the jury at all times.

8. Counsel should refer to all persons, including witnesses, other counsel, and parties by their surnames and not by their first or given names.

9. Counsel should request permission before approaching the bench or any witness. Any document counsel wishes to have the Court examine should be handed to the clerk.

10. Offers of, or requests for, a stipulation should be made privately, not within the hearing of the jury.

11. Persons at counsel tables shall not make gestures, facial expressions, audible comments or the like as manifestations of approval or disapproval at any time during trial.

12. Counsel intending to question a witness about a group of documents should have all documents prepared at the beginning of the examination.

VI. BENCH TRIALS

1. Opening statements and closing arguments will be allowed with the Court's permission.

2. Direct testimony may be offered by affidavit or deposition transcripts with permission of the Court.

3. Counsel for each party shall submit a list of all affiants, if any, intended to be cross-examined at trial at least five business days prior to trial.

4. Proffering counsel shall mark the portions of each deposition transcript that will be offered in evidence and supply one copy to the Court. Only the relevant, evidentiary portions of the transcript should be marked and included.

VII. JURY TRIALS

1. Proffering counsel shall mark the portions of each deposition transcript that will be offered in evidence and supply one copy to the Court. Only the relevant, evidentiary portions of the transcript should be marked and included.

2. Counsel shall have all necessary witnesses on hand on the particular day designated to commence and continue the trial.

3. Sidebar conferences will be kept to a minimum.

4. Opening Statement: Parties are directed to summarize the evidence they intend to present and not to discuss the law. Parties are asked to provide a concise summary of the important facts. Do not describe in detail what particular witnesses will say, and do not express personal knowledge or opinion concerning any matter in issue. Unless the case is unusually complex, each party's opening statement will be limited to not more than 15 minutes.

5. Closing Argument: In a closing argument, based on the Court's rulings at the charge conference and draft instructions approved by the Court, counsel may tell the jury what they believe the substance of the Court's instruction on a particular subject may be, but may not read or quote any instruction or refer to any instruction the Court has not approved. Unless the parties agree otherwise, the party with the burden of proof closes last. In a civil matter, the closing argument of the defendant(s) is heard first, and plaintiff's closing follows thereafter without rebuttal argument. In a criminal case, it is the Court's practice to permit the Government to present closing arguments first, the defense to offer its summation thereafter and then the Government to offer any rebuttal. Whatever the sequence, both sides would be allowed the same total amount of time for closing.

VIII. EXHIBITS

Counsel should stipulate to the foundation for all exhibits whose authenticity is not questioned. Trial time should not be wasted on unnecessary foundation testimony, such as belabored development of a witness's academic and professional background or charity work. All exhibits should be marked prior to introduction. No trial time will be used for this purpose.

In connection with documents exhibits such as contracts, public filings, and deposition testimony that parties submit as exhibits accompanying any motion, the whole document may be filed and entered into the public record of the action only if all of its contents are integral to and bear directly on the particular issue(s) to be decided on the motion. Otherwise, the parties may submit as an exhibit only those portions or pages of such document that have direct relevance to the matter at issue. When submitting only relevant portions of a document, the parties arguing the motion shall file, accompanying such motion papers, a stipulation attesting: (1) that they are familiar with the full contents of such document; (2) that they possess and each will maintain a copy of such entire document in their respective case files until after a final court disposition of the action; and (3) that the excerpt filed with the motion papers is an authentic copy of the relevant portion of the document.

The following example may be helpful in illustrating how this practice would operate: In an action relating to accounting malpractice, only three pages of a 150-page spreadsheet and five pages of a 100-page deposition contain information relevant to an issue litigated on a motion for summary judgment. The parties should submit only those relevant pages of the spreadsheet and deposition in connection with the motion exhibits filed, instead of submitting the entire spreadsheet and deposition transcript.

INSTRUCTIONS TO COUNSEL CONCERNING JURY SELECTION

The following is a description of the struck panel method by which the jury will be selected in all trial proceedings before Judge Marrero.

The Court will conduct a *voir dire* of a number of panelists computed by totaling the following: the number of jurors to be selected; the number of alternates to be selected in a criminal case (generally 2); and the number of peremptory challenges. Thus, in a single defendant criminal case in which the defendant has 10 and the government has 6 peremptory challenges, plus one challenge each with respect to alternates, the *voir dire* will encompass 32 panelists.

In a civil case, the number of peremptory challenges allowed each side varies with the number of panelists to be selected. Thus, in a civil case, the following panel sizes apply:

# JURORS	# PEREMPTORY CHALLENGES	PANEL SIZE
6	3 per side	12
8	4 per side	16
10	4 per side	18

After the *voir dire* of the requisite panelists, and dismissal of those for whom clear grounds for disqualification for cause have been found, the Court and counsel will adjourn to the robing room to determine whether there is legitimate basis for any additional challenges for cause. If valid reasons are found for further challenges for cause, any panelist then removed will be replaced by one of those remaining in the pool, so that there is a full panel before any peremptory challenges are exercised. Accordingly, all remaining panelists will be available to challenge at all rounds, even if passed over on an earlier round by the same party.

In a civil case, plaintiff exercises the first challenge, followed by the defendant's first challenge. The parties proceed in that fashion until all the peremptories are exhausted. In a single defendant criminal case, the defendant exercises 2 challenges, the Government exercises 1 challenge for four rounds; then each side exercises 1 challenge for two rounds, making a total of 10 and 6 challenges.

A party may waive its right to challenge, but may not reserve, by, for example, passing a round and taking two the next round. Challenges may be made to any of the panelists regardless of where that panelist appears in the array.

When each side has exhausted its peremptory challenges, the first 12 unchallenged names constitute the jury in a criminal case and the first 6, 8, or 10 persons in the order in which they are seated shall constitute the jury in a civil case. The juror seated in the chair closest to the judge's bench is automatically designated to be the foreperson of the jury.

In a criminal case, after the 12-person jury is selected, each side has 1 additional challenge which may be exercised only with respect to the alternates, who are selected from the last four remaining unchallenged panelists after the 12 regular jurors have been selected. There are no alternates in a civil case.

In a multi-party case, each side will be allocated the number of peremptories corresponding to it, to be distributed among the multiple parties in accordance with their own equitable arrangement to be approved by the Court.

Attachment 2

DEFAULT JUDGMENT PROCEDURES OF UNITED STATES DISTRICT JUDGE VICTOR MARRERO SOUTHERN DISTRICT OF NEW YORK

Effective September 21, 2018

I. Applications.

Applications for default judgments must comply with Local Civil Rule 55.1 and 55.2 and must provide reasonable notice to the party against whom default shall be entered by:

1. First-class mail or courier, if the party is domestic;
2. Courier, if the party is international; or
3. Any method authorized by Rule 4 of the Federal Rules of Civil Procedure.

Applications will not be accepted absent the following:

1. An affidavit setting forth:
   a. A description of the nature of the claim;
   b. The basis for subject matter jurisdiction over the action;
   c. The basis for personal jurisdiction over the defendant;
   d. A representation that defendant is not an infant or an incompetent; and
   e. A representation that notice has been provided in accordance with the requirements set forth above;
2. A certificate of default stating that the defendant was properly served with the complaint and failed to answer/appear, signed and stamped by the Clerk of Court. (If the defendant did appear in the action, the plaintiff must submit an affidavit representing that the defendant has notice of the application for default);
3. An affidavit setting forth reasonable attorneys' fees and showing that attorneys' fees are recoverable;
4. A copy of the complaint; and
5. A proposed form of default judgment.

II. Damages.

If the plaintiff seeks an award of damages in the motion for default judgment, the plaintiff must also include:

1. A request for an amount equal to or less than the principal amount demanded in the complaint;
2. Definitive information and documentation such that the amount provided for in the proposed judgment can be calculated. (If this requirement cannot be satisfied, a default judgment may be granted as to liability, and damages will be determined by an inquest);
3. An affidavit representing that no part of the judgment sought has been paid, other than as indicated in the motion;
4. If interest is sought, a request for interest on the principal amount not to exceed the New York State statutory rate or the federal rate as applicable; and
5. The calculations made in arriving at the proposed judgment amount.