

UNITED STATES DISTRICT COURT
UNITED STATES COURTHOUSE
300 QUARROPAS STREET, CHAMBERS 533
WHITE PLAINS, NY 10601-4150

CHAMBERS OF
HON. KENNETH M. KARAS

MEMORANDUM TO ALL LITIGANTS

Re: Individual Rules of Practice of the Honorable Kenneth M. Karas

Date: April 17, 2018

Unless otherwise ordered, Parties and counsel with matters before Judge Karas shall conduct themselves in accordance with the following practices:

I. COMMUNICATIONS WITH CHAMBERS

A. Letters. Except as otherwise provided below, communications with the Court should be by letter. Unless there is a request to file a letter under seal or a letter contains sensitive or confidential information, letters should be filed electronically on ECF. Letters to be filed under seal or containing sensitive or confidential information should be delivered to the Court by mail. 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 via ECF if they comply with the S.D.N.Y. Local Rules and the S.D.N.Y. "Electronic Case Filing Rules and Instructions." In particular, all requests for adjournments, extensions, and pre-motion conferences (including pre-motion conferences with respect to discovery disputes) should be filed as letter-motions.

C. Requests for Adjournments or Extensions of Time. Absent an emergency, requests for adjournments or extensions of time shall be made at least 5 business days prior to the scheduled appearance. All requests for adjournments or extensions of time must be made in writing and filed on ECF as letter-motions. (If a request contains sensitive or confidential information, it may be submitted by fax/mail in lieu of being filed electronically.) The letter-motion must state: (1) the original date(s); (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.

Requests for extension of deadlines regarding discovery or any other aspect of a case that has been referred to a magistrate judge that would result in extension of discovery past the date discovery is scheduled to be completed in the Case Management Order should be addressed to the Court. All other requests for extension of *interim* deadlines regarding discovery or any other aspect of a case that has been referred to a magistrate judge shall be addressed to such magistrate judge, with a copy being filed on ECF.

D. Telephone Calls. Parties may not contact chambers by phone except in emergency situations requiring immediate attention. In such situations only, call chambers at (914) 390-4145. Except as noted

in 1F., below, calls regarding ECF filings or questions should go to the Clerk's Office (914) 390-4000. Also, no calls are allowed to inquire on the status of correspondence sent to the Court.

E. Digital Sending and Faxes. Parties may communicate with chambers by fax only in emergency situations and in documents that are no longer than ten pages. In such situations, the fax number is (914) 390-4152. Do not call chambers to confirm that your fax was received.

F. Scheduling and Calendar Matters. For docketing, scheduling, and calendar matters, call Ms. Dawn Bordes, Courtroom Deputy Clerk, at (914) 390-4146.

II. MOTIONS

A. Premotion Conferences in Civil Cases. For discovery motions, follow Local Civil Rule 37.2. For motions other than discovery motions, a premotion conference with the court is required for making any motion, except motions brought on by Order To Show Cause, motions by incarcerated *pro se* litigants, motions for admission *pro hac vice*, motions for reargument, motions for class certification, and motions described in Rule 6(b) of the Federal Rules of Civil Procedure and Rule 4(a)(4)(A) of the Federal Rules of Appellate Procedure. To arrange a premotion conference, the moving Party shall submit a letter (consistent with the procedures described above) not to exceed three pages in length (using normal margins and font) setting forth the basis for the anticipated motion. All Parties so served must submit a letter response, not to exceed three pages, within three business days from service of the notification letter.

If a premotion conference is requested in connection with a proposed Motion To Dismiss, the request will stay the deadline for the requesting party to move or answer, and a new deadline will be set at the conference. To arrange a premotion conference for motions governed by a Scheduling Order, the moving Party must submit its initial letter two weeks prior to the motion deadline established by the Order. Where a premotion conference is not required, motions should be filed when served.

It is essential that all Parties filing or responding to a premotion letter contemporaneously file a notice of appearance with the Clerk's Office (although a Party contesting jurisdiction need only file a limited notice of appearance). This ensures that litigants are notified of any instructions or scheduling orders issued by the Court. Further, the Court expects each litigant to fulfill the duties of SDNY ECF Procedure 9 by regularly reviewing the docket sheets of any open case in which she or he has appeared.

B. Memoranda of Law. Memoranda of law in support of and in opposition to motions are limited to 25 pages, and reply memoranda are limited to 10 pages. Memoranda of 10 pages or more shall contain a table of contents. All memoranda of law shall be produced in a 12-point font, be double-spaced, and have one inch margins on all sides. A copy of the complaint shall accompany the moving papers. Sur-reply memoranda will not be accepted without prior permission of the Court. The Parties are to use Westlaw citations, where possible.

C. Courtesy Copies. Parties filing summary judgement motions only shall send the Court one courtesy copy of the motion, supporting memorandum, memorandum in opposition, reply, and supporting papers and exhibits at the time the reply is served. Courtesy copies may be submitted by regular mail or hand delivery to the Clerk's Office on the first floor of the Courthouse, not to Chambers. All filings shall include the ECF docket number.

D. Rule 56.1 Statements. Except in pro se cases, the moving party shall provide all other parties with an electronic copy of the moving party's Statement of Material Facts Pursuant to Local Civil Rule 56.1. 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.

E. Oral Argument on Motions. Oral argument will be held where it would assist the Court. A notice of motion shall state that oral argument will be “on a date and at a time designated by the Court.” The Court will contact the Parties to set the specific date and time for oral argument.

III. CONFERENCES

A. Principal Trial Counsel. The attorney who will serve as principal trial counsel shall appear at all conferences with the Court.

B. Initial Case Management Conference. The Court will generally schedule a Fed. R. Civ. P. 16(c) conference within four months of the filing of the Complaint. The Notice of Initial Pretrial Conference will be sent to Plaintiff’s counsel, who will be responsible for distributing copies to all Parties.

IV. DEFAULT JUDGMENTS

A Party who wishes to obtain a default judgment must proceed by way of an Order To Show Cause. Consult the separate Individual Rules of Practice for Default Judgment Proceedings before Judge Karas, available on the Court’s website.

V. PRETRIAL PROCEDURES

A. Joint Pretrial Orders (Civil Cases Only). At a time to be set by the Court, the Parties shall submit to the Court for its approval a Joint Pretrial Order that includes the information required by Federal Rule of Civil Procedure 26(a)(3), and the following:

- i. The full caption of the action;
- ii. The names, addresses (including firm names), and telephone, fax numbers, and email addresses of trial counsel;
- iii. A brief statement by Plaintiff 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 authority relied on and relevant facts as to citizenship and jurisdictional amount;
- iv. A brief summary by each Party of the claims and defenses that Party has asserted which remain to be tried, without recital of evidentiary matters but including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried;
- v. A statement by each Party as to whether the case is to be tried with or without a jury, and the number of trial days needed;
- vi. A statement as to whether all Parties have consented to trial of the case by a magistrate judge (without identifying which Party or Parties have or have not so consented);
- vii. Any stipulations of fact or law that have been agreed to by the Parties;
- viii. A statement by each Party as to the witnesses whose testimony is to be offered in

its case in chief, indicating whether such witnesses will testify in person or by deposition;

- ix. A designation by each Party of deposition testimony to be offered in its case in chief, with any cross-designations and objections by any other Party;
- x. A list by each Party of exhibits to be offered in its case in chief, with one star indicating exhibits to which no Party objects on grounds of authenticity, and two stars indicating exhibits to which no Party objects on any ground; and
- xi. A statement whether the Parties consent to less than a unanimous verdict.

B. Pretrial Filings in Civil Cases. Along with the Joint Pretrial Order, each Party shall file:

- i. In jury cases, proposed voir dire questions, verdict form, and requests to charge;
- ii. In non-jury cases, proposed findings of fact and conclusions of law. Proposed findings of fact should be detailed;
- iii. In all cases, motions addressing any evidentiary or other issues which should be resolved *in limine*; and
- iv. Where such Party believes it would be useful, a pretrial memorandum.

C. Filings in Opposition. Any Party may file the following documents within one week of the filing of the pretrial order, but in no event fewer than two days before the scheduled trial:

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

A courtesy copy of the joint pretrial order and all documents filed or served with the pretrial order should be provided to chambers on the date of filing or service.

VI. BANKRUPTCY APPEALS

Briefs must be submitted in accordance with Federal Rule of Bankruptcy Procedure 8018. Counsel may extend these dates by stipulation submitted to the Court no later than two business days before the brief is due.

VII. CRIMINAL CASES

A. Criminal Cases—Initial Matters. Upon assignment of a criminal case to Judge Karas, the Parties immediately shall arrange with the Deputy Clerk for a prompt conference at which the defendant will be present in order to set a discovery and motion schedule. The Assistant United States Attorney shall provide a courtesy copy each of the indictment and the criminal complaint, if one exists, to chambers as soon as practicable.

B. Criminal Cases—Guilty Pleas. Guilty pleas will ordinarily be taken by Judge Karas

and are not assigned to Magistrate Judges by standing order. Permission for guilty pleas to be taken on recommendation of a Magistrate Judge will be given only in special circumstances. The Assistant United States Attorney shall provide a courtesy copy of the plea agreement to chambers as soon as practicable.

C. Criminal Cases—Sentencing. Consult the separate Individual Rules of Practice for Sentencing Proceedings before Judge Karas, available on the Court’s website.

VIII. FAIR LABOR STANDARDS ACT SETTLEMENTS

Where there is a settlement in any case containing a claim under the Fair Labor Standards Act (“FLSA”), the Parties must obtain the Court’s approval. *See Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199 (2d Cir. 2015). This includes settlements where the FLSA claim is dismissed on consent.

Accordingly, parties seeking to settle a case involving an FLSA claim must submit their proposed settlement, along with any memoranda or declarations, to the Court for approval. All proposed settlement agreements and accompanying documents to the Court must be filed via ECF unless prior permission is given to file documents under seal.

Parties are encouraged to familiarize themselves with the relevant case law regarding the type of factors courts typically consider when evaluating FLSA settlements. *See, e.g., Lopez v. Nights of Cabiria, LLC*, 96 F. Supp. 3d 170 (S.D.N.Y. 2015); *Wolinsky v. Scholastic Inc.*, 900 F. Supp. 2d 332 (S.D.N.Y. 2012). Parties should pay particular attention to the breadth of the release, the inclusion of confidentiality and non-disparagement provisions, and the reasonableness of the requested attorney’s fees.

IX. SEALED FILINGS

Any Party wishing to file any document under seal must comply with the sealed filing instructions in the Court’s Local Rules. The Court will not file any documents not submitted in compliance with these rules.

X. ELECTRONIC DEVICES OF THE PARTIES

Any Party wishing to bring certain electronic devices (laptops, etc.) must obtain prior permission from the Court.

XI. PRO SE PARTIES

Pro se parties may not contact the Court to obtain legal advice, inquire about when a decision on a case will be rendered, or to speak to the Judge. Questions about how to proceed with a case should be directed to the Court’s pro se clerk at (212) 805-0175. The Court does not accept collect calls.