Individual Practices of

MAGISTRATE JUDGE SANKET J. BULSARA

United States District Court
Eastern District of New York
225 Cadman Plaza East
Chambers 304N, Courtroom 324N
Brooklyn, New York 11201
Telephone: (718) 613-2550

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I. COMMUNICATION WITH CHAMBERS

A. Written Communications

1. The Electronic Communications Filing ("ECF") system is the primary means of communications with the Court. All documents directed to Magistrate Judge Bulsara in civil actions MUST be filed electronically, except as stated below or otherwise directed by the Court. Courtesy copies should not be provided to the Court except as noted herein.

2. Letter correspondence between opposing counsel should not be filed on ECF, even if such correspondence relates to a discovery motion. *See* Local Civil Rule 5.2(b).

3. Attorneys must make an appearance and register to receive ECF notifications prior to filing any letters, motions or other documents. ECF procedures are available on the Eastern District of New York website. Because all orders issued by the Court will be transmitted to counsel only electronically, attorneys are responsible for keeping their ECF registration current with the Clerk's Office.

4. Hard copies of electronic filings or correspondence between counsel are not to be mailed, faxed or hand-delivered to chambers unless prior authorization is obtained from chambers.

B. Telephone Calls and Case Related Inquiries

For case related questions including deadlines and confirmation of conference dates, counsel should electronically access the docket sheet for this information. Counsel may call (718) 613-2610 if assistance with accessing the docket sheet is needed. Counsel are not to ask the person answering the line to read the docket sheet for them. Chambers should only be contacted if on the day of the conference, the parties cannot appear due to an emergency and counsel wish to inform the Court that an electronic application is forthcoming, in which case counsel may contact Eddie Manson at (718) 613-2554 between 9:00 a.m. and 5:00 p.m. **Adjournment requests may <u>not</u> be made telephonically.** The Court does not discuss substantive legal matters about a case via telephone. And except for deposition disputes, telephone calls to chambers are otherwise **prohibited.** For deposition disputes, any voicemail left for the Court **must** include the case number and a direct callback number for the Court staff to reach the parties conducting the deposition.

C. Faxes

Faxes to chambers are not permitted.

II. COURT CONFERENCES

A. Request for Adjournments or Extension of Time

Requests for adjournments and for extensions of time must be filed electronically as "MOTIONS." All requests for adjournments of a court appearance, absent an emergency, shall be made in writing at least 48 hours prior to the scheduled appearance. Further, all requests for adjournments or extensions of time must state: (1) the original date and proposed new date; (2) the reasons for the adjournment or extension; and (3) whether the application is on consent.

B. Settlement Conferences

The parties are directed to review this Court's Settlement Practices, which are separately available on the Court's website.

C. Attorney Appearances

1. **Courtroom Opportunities for Relatively Inexperienced Attorneys.** The participation of relatively inexperienced attorneys in all court proceedings including but not limited to initial conferences, status conferences, settlement conferences, and hearings on discovery motions and dispositive motions—is strongly encouraged.

   All attorneys appearing should have the degree of authority consistent with the proceeding. For example, an attorney attending an initial conference should have the authority to commit his or her party to a discovery schedule, and should be prepared to address other matters likely to arise, including the party's willingness to participate in a mediation or settlement conference.

   Relatively inexperienced attorneys who seek to participate in hearings of substantial complexity (*e.g.*, oral argument for a dispositive motion) should be accompanied and supervised by a more experienced attorney.

2. **"Of Counsel" Appearances Prohibited.** Only a party's counsel of record, or an attorney personally authorized to appear by the party (and not simply by the party's counsel of record) may appear on behalf of a party. If a law firm has appeared as counsel of record for a party, any attorney actually employed by that law firm may appear. An attorney acting "of counsel" for a party's counsel of record may not appear without the represented party's explicit authorization, as such an attorney has no authority to make binding representations on behalf of any party. *See* N.Y. Rules of Pro. Conduct 1.2(c), 22 N.Y.C.R.R. § 1200 (requiring client to give

"informed consent" before an attorney may make a limited appearance on the client's behalf).

D. Initial Conferences and COVID-19 Procedures

Until further notice, and unless otherwise stated by the Court in any individual case, all civil conferences will be conducted virtually as set forth below.

All initial conferences and all conferences in cases with a *pro se* party will be conducted by telephone. The parties are directed to dial the toll-free number 877-336-1274. The access code is 6534420. The parties are directed to dial in five (5) minutes before the scheduled time for the conference.

Beginning in March, all other conferences—including status conferences, motion hearings, and settlement conferences—will be conducted in person.

Despite the above, the same rules still apply regarding the limited circumstances in which it is appropriate to call chambers. The primary channel of communication with the Court remains ECF.

III. DISCOVERY

A. Initial Conference. Rule 26(f) requires that the parties meet and confer prior to the Initial Conference and prepare a proposed discovery plan. To assist the parties, the Court will provide the parties with a Rule 26(f) Report prior to the Initial Conference. The Report must be completed and filed 48 hours prior to the Initial Conference pursuant to the order setting forth the date of the Initial Conference. The parties should discuss their discovery needs thoroughly and realistically in advance of the Initial Conference so that the Court may adopt a realistic schedule in conjunction with the assigned District Judge's Rules. Once a Scheduling Order has been entered with the parties' input, the discovery deadlines will be enforced and amended only upon a showing of good cause.

B. Discovery Prior to an Initial Conference and During Pendency of a Motion to Dismiss. There is no automatic stay of discovery, unless authorized by statute, should one or more defendants file a motion to dismiss. Discovery is only stayed if a party files a motion to stay discovery and the Court grants such a motion. A stay application, even on consent, must explain why a stay is warranted, including by demonstrating that the standards under Rule 26(c) have been satisfied. *See Long Island Hous. Servs., Inc. v. Nassau Cnty. Indus. Dev. Agency*, No. 14-CV-3307, 2015 WL 7756122, at *2 (E.D.N.Y. Dec. 1, 2015) ("[D]istrict courts have considered the following factors in determining whether a stay of discovery is appropriate pending the outcome of a dispositive motion: (1) whether the defendant has made a strong showing that the plaintiffs claim is unmeritorious; (2) the breadth of discovery and the

burden of responding to it; and (3) the risk of unfair prejudice to the party opposing the stay." (quotations omitted)). The Court expects the parties to begin the discovery process before the initial conference, for example, Rule 26(a)(1)(C) requires parties to make initial disclosures at or within 14 days after the parties' Rule 26(f) conference. And a Rule 26(f) conference must be held at least 21 days before the initial conference or before the Court's Rule 16(b) order is due. Separately, parties may serve document requests prior to the Rule 26(f) conference, and the requests are deemed served on the date of the conference. *See* Fed. R. Civ. P. 26(d)(2), 34(b)(2)(A).

C. Confidentiality Orders. To conserve resources of the Court and the parties, all confidentiality orders shall be in the form posted to Judge Bulsara's website and labeled "Protective Order Form," which is based upon a standardized confidentiality order prepared by the Federal Judicial Center. If a party believes that changes to the form order are required due to the circumstances of the case, it may submit to the Court proposed changes to the form using track changes or a similar method to identify the proposed changes.

IV. MOTIONS

A. Pre-motion conferences are not required for motions. Requests for oral argument must be made at the time the motion is filed.

B. Discovery Motions. Litigants should make discovery motions by letter motion, pursuant to Local Civil Rule 37.3, and file the motion electronically as a "MOTION." Such letter motions may not exceed five pages in length, exclusive of attachments. A response not exceeding five pages in length, exclusive of attachments, must be served and filed within five days of receipt of the letter motion, unless a motion for additional time is granted. All discovery motion papers must use reasonable margins and a reasonable font of 12 point or larger, including for footnotes. Reply briefs are only permitted upon obtaining leave of Court and are otherwise prohibited. The motions should contain any applicable legal or factual argument. The parties should not attach to the motion any correspondence between the parties, including any emails or "deficiency letters." *See* Local Civil Rule 5.2(b). The Court will deny any motion to compel that fails to attach as exhibits the discovery requests that a party is seeking to compel. Courtesy copies of letter motions should not be provided.

Parties must make a good faith effort, pursuant to Local Civil Rule 26.4 and Federal Rule 37(a)(1), to resolve disputes, including discussion either by telephone, video conference, or in person, before making a motion. Failure to comply with this requirement, or to include a certification of such efforts consistent with Rule 37(a)(1), will result in the denial of the motion. To properly meet and confer to resolve a pending motion, the opposing party

should be made aware that a motion to compel is being contemplated, and the parties must actually speak and communicate about the motion before it is filed to satisfy the meet and confer obligation. Only if significant time has elapsed with no response from the opposing party will the Court deem the attempt to confer as futile. Finally, Rule 37(a)(1) requires that a certification be provided that "the movant has in good faith conferred . . . in an effort to obtain [the discovery] without court action." The Court enforces these obligations strictly.

C. Dispositive Motions. Dispositive motions, such as motions to dismiss and motions for summary judgment, must be made to the presiding district court judge, in conformance with his or her individual rules, unless the parties have consented to Magistrate Judge Bulsara's jurisdiction for all purposes in accordance with 28 U.S.C. § 636(c)(1). Where the parties have so consented, the following rules apply to dispositive motions:

1. **Schedule:** The parties shall present to the Court a proposed briefing schedule for approval. No revisions to the schedule will be made without the Court's approval.

2. **Memoranda of Law:** Memoranda of law in support of and in opposition to motions on notice are limited to 25 pages, and reply memoranda are limited to 10 pages. Case citations must contain pinpoint cites. All memoranda of law must use reasonable margins, double spacing, and a reasonable font of 12 point or larger, including for footnotes. Legal arguments must be set forth in a memorandum of law rather than in affidavits, affirmations, or declarations. *See* Local Civil Rule 7.1. Any papers not complying with these requirements will be rejected. Citations to the docket should be made at the end of the sentence with "Docket Entry ("DE") [docket number]." Thereafter, any further citations to docket may be made with a short-cite at the end of the sentence with "DE [docket number]."

3. **Courtesy copies** are NOT required unless specifically requested by the Court in a particular case.

4. **Motions Implicating Fed. R. App. P. 4(a)(4)(A) or Similar Time-Limiting Rules:** If any party concludes in good faith that delaying the filing of a motion, in order to comply with any aspect of these individual practices, will deprive the party of a substantive right, the party may file the motion within the time required by the Federal Rules of Civil and/or Appellate Procedure, together with an explanation of the basis for the conclusion.

V. Pretrial Procedures

A. Pretrial Orders in Cases to Be Tried by District Judges. The parties must submit a proposed joint pretrial order in the format prescribed by the district court judge on or before the date prescribed in the Scheduling Order.

B. Cases Before Magistrate Judge Bulsara for All Purposes

Joint Pretrial Orders. On the date specified in the scheduling order, the parties shall submit a proposed joint pretrial order that includes the following:

1. 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 statutes relied on and relevant facts as to citizenship and jurisdictional amount;

2. A brief summary by each party of the claims and defenses it has asserted and which remain to be tried, without recital of evidentiary matter, but including citations to all statutes on which the party is relying;

3. 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;

4. Any stipulations or statement of facts that have been agreed to by all parties;

5. A list by each party of the fact and expert witnesses whose testimony is to be offered in its case in chief, indicating whether such witnesses will testify in person or by deposition. Only listed witnesses will be permitted to testify, except for good cause shown;

6. 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; and,

7. A list of exhibits to be offered in evidence and, if not admitted by stipulation, the party or parties who will be offering them. Where possible, the schedule must also include potential impeachment documents and/or exhibits, as well as exhibits that will be offered only on rebuttal. The parties must list and briefly describe the basis for any objections that they have to the admissibility of any exhibits to be offered by any other party. Parties are expected to resolve before trial all issues of

authenticity, best evidence, chain of custody, and related grounds. Only the exhibits listed will be received in evidence in the party's case in chief except for good cause shown. All exhibits must be pre-marked for the trial, placed in binders with tabs identifying the exhibit, and exchanged with the other parties and delivered to the Court at least ten days before trial.

Filings Prior to Trial. Unless otherwise ordered by the Court, each party shall electronically file the following items fifteen (15) days prior to the commencement date of trial:

1. Proposed, Non-Standard Voir Dire Questions;

2. Requests to Charge, which should be limited to the elements of the claims, the damages sought and defenses. General instructions will be prepared by the Court. Proposed jury charges must also be submitted via electronic media in Microsoft Word format;

3. Motions *in Limine*: All motions addressing any evidentiary or other issues that should be resolved *in limine*. Any opposition should be filed seven (7) days prior to jury selection. Any reply should be made in the same manner three (3) days prior to jury selection.

4. For non-jury trials, a trial brief/memorandum of law providing a concise overview of the facts to be presented at trial and an analysis of disputed legal issues.