

Individual Rules of Hon. Sandra J. Feuerstein, U.S.D.J.
United States District Court, Eastern District of New York
Central Islip Chambers- Phone: 631-712-5630; Fax: 631-712-5636

1. General:

- A. Judge Feuerstein has Chambers in Central Islip only and no longer schedules proceedings in Brooklyn. All in person appearances will be held in Courtroom 1010 at the Central Islip Courthouse, located at 100 Federal Plaza, Central Islip, NY 11722.
- B. All papers filed with the Court must indicate the docket number followed by the initials of the Judge (SJF) and initials of the Magistrate Judge assigned.
- C. The Court will not schedule pre-motion conferences.
- D. No motions will be argued orally unless the Court so orders.
- E. In all civil and criminal cases, requests for adjournments, or to appear by telephone, must (i) be made in writing; (ii) suggest three (3) alternative dates, Monday through Thursday, at 11:15 a.m., that are convenient for all parties; and (iii) be filed via ECF no later than **two (2) business days** prior to the scheduled court proceeding. The Court will not consider or grant any request for an adjournment or to appear by telephone that is filed less than two (2) business days prior to the scheduled proceeding or that is not filed via ECF, *e.g.*, requests made by telephone, fax or email, unless it is filed by a *pro se* litigant who does not have access to ECF.
- F. A pending motion to adjourn is **not** to be presumed granted; the parties must appear for all scheduled proceedings unless they receive notice that the Court has granted an adjournment request, or otherwise adjourned the proceeding or converted it into a telephone conference.
- G. In criminal cases, all adjournment requests for defendants awaiting trial must be accompanied by a written waiver of speedy trial time.

2. Telephone Calls:

- A. All telephone calls concerning calendar matters or criminal proceedings should be made to Bryan Morabito, Case Manager, at (631) 712-5635. Have the docket

number available whenever contacting Chambers. Do not call regarding the status of any case or submission without first referring to the docket sheet. (Docket sheets are available in the Clerk's Office and online at www.nyed.uscourts.gov).

- B. All telephone calls concerning docketing should be made to the Clerk's Office at (631) 712-6010.
- C. For procedural questions, refer to the Federal Rules of Civil or Criminal Procedure, and the Local Rules of the Eastern District of New York.

3. Electronic Case Filing:

- A. All documents in civil actions, regardless of page length or volume, **MUST** be filed electronically via ECF unless excused upon written application.
- B. All questions regarding ECF filing or training should be directed to Lisa Florio at (631) 712-6011.
- C. Hard copies of all papers filed electronically, including pleadings, motions, letters and stipulations, and any non-text exhibits, **must** be provided to Chambers at 1014 Federal Plaza, Central Islip, NY 11722, clearly marked "Courtesy Copy," and indicate that the original was filed by ECF.

4. Motion Practice:

The following procedures apply to all dispositive civil motions:

- A. Unless the Court has set a briefing schedule, or as otherwise set forth herein, opposition papers must be served within fourteen (14) days of service of the moving papers. Any reply papers must be served within seven (7) days of service of the opposition papers.
- B. *The "Bundle Rule"*
 - i. Except as otherwise set forth herein, the moving party will prepare its notice of motion, memorandum of law and supporting affidavits and exhibits in accordance with Local Civil Rules 7.1 and 11.1, and all other applicable rules of the Federal Rules of Civil Procedure and Local Civil Rules of the Eastern District of New York. The notice of motion **shall not contain a return date**. The moving papers shall be served on all parties,

but **only a copy of the movant's cover letter shall be filed** via ECF, and designated as a Letter. The filing of the cover letter within the time period prescribed by any federal statute or rule relating to the filing of motions shall constitute timely filing of the motion within the meaning of such statute or rule, and as required by Fed. R. Civ. P. 5(d)(1).

- ii. Opposition papers shall be served on all parties, **but only a copy of the opponent's cover letter shall be filed** via ECF, and designated as a Letter.
- iii. After the motion has been fully briefed (*i.e.*, the moving papers, opposition papers, and reply papers, if any, have been served), the moving party will file **all** of the papers on ECF (this is known as the "Bundle Rule"), and cause one (1) hard courtesy copy thereof to be delivered to Chambers as provided in Rule 3(C), together with a cover letter listing each document (memorandum, affidavit, etc.) submitted. Each paper shall be clearly denominated when docketing on ECF as a motion, memorandum, affidavit, etc. Failure to abide by the Bundle Rule shall result in the motion being terminated without prejudice to refile in compliance therewith.

C. *Exceptions to the Bundle Rule*

- i. The Bundle Rule does **not** apply to the following motions:
 - a. default judgment motions pursuant to Fed. R. Civ. P. 55(b)(2);
 - b. post-trial and/or post-judgment motions under Rules 50(b) (judgment as a matter of law), 52(b) (to amend or make additional findings), 59 (for a new trial) and 60 (for relief from a final judgment, order or proceeding) of the Federal Rules of Civil Procedure; and
 - c. motions for attorney's fees pursuant to Fed. R. Civ. P. Rule 54(d)(2) (for attorney's fees), if the motion is made before a notice of appeal has been filed and the Court has extended the time to appeal under Fed. R. Civ. P. 58(e).
- ii. In addition, where a litigant believes that a delay in filing any other type of motion might result in the loss of a right, he or she may file the motion with a cover letter seeking dispensation from the Bundle Rule prescribed herein, indicating (a) the right he or she believes will be lost; and (b) the reason(s) why he or she should not be required to comply with the Bundle Rule.

- iii. All of my other individual rules regarding motion practice are applicable to the motions designated in this Rule 4(C).

D. *Briefing Deadlines for Dispositive Motions*

- i. No deadlines ordered. Where the Court has not established a briefing schedule or deadline for filing fully-briefed dispositive motions, the parties may agree to extend the deadlines in Rule 4(A) without leave of the Court by filing a letter or stipulation informing the Court of their consensual briefing schedule. Judge Feuerstein will not “so order” any such letter or stipulation regarding a consensual briefing schedule.
- ii. Final filing deadline ordered. When Judge Feuerstein sets a date by which dispositive motions must be filed, that deadline is the date *by which the fully-briefed motion must be filed in accordance with the Bundle Rule.* Provided the fully-briefed motion is filed by the deadline set by Judge Feuerstein, the parties may establish a consensual briefing schedule. The final filing deadline date may be extended by Judge Feuerstein only. Any request to extend the final filing deadline must be made ***at least two (2) business days prior to the final filing deadline date***, by serving and filing a letter motion, not exceeding three (3) pages, addressed to Judge Feuerstein.
- iii. Specific filing deadlines ordered. When Judge Feuerstein sets all the dates by which dispositive motions, oppositions, and replies must be served, and the fully-briefed motions must be filed in accordance with the Bundle Rule, any of those dates may be extended by Judge Feuerstein only. Requests to extend any such date must be made ***at least two (2) business days prior to the date***, by serving and filing a letter motion, not exceeding three (3) pages, addressed to Judge Feuerstein.

E. Unless Judge Feuerstein has set a specific deadline for the filing or submission of dispositive motions, motions for Summary Judgment pursuant to Fed. R. Civ. P. 56 must be served, and a cover letter filed in accordance with Rule 4(B)(i) above, no later than twenty (20) days after the close of discovery, or will be deemed waived. Any request to extend this deadline must be made by serving and filing a letter motion, not exceeding three (3) pages, addressed to Judge Feuerstein.

F. Any motion relating to a dispositive motion that has not been referred to the assigned Magistrate Judge for a report and recommendation, *e.g.*, motions to exceed the twenty-five (25)-page limit; to file or strike a brief or sur-reply; for oral argument; to convert a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) or 12(c) to a motion for summary judgment, etc., shall be made by serving and filing

a letter motion, not exceeding three (3) pages, addressed to Judge Feuerstein. Any party may serve and file a responsive letter, not exceeding three (3) pages in length, ***within three (3) business days*** after the letter motion is filed via ECF. If the letter motion does not indicate that it is made upon the consent of all parties, and a response is not filed within this three (3)-day period, the motion will be decided as unopposed.

- G. Except for the letter motions set forth herein, which are limited to three (3) pages, all motion briefs, including reply briefs, are to comply with the Court's Local Rules and are limited to twenty-five (25) pages. No rebuttal, sur-reply, etc., shall be accepted.
- H. All non-dispositive motions, including motions to amend pleadings, are to be considered referred to the Magistrate Judge assigned to the case, ***except*** requests for extensions of time to file objections to a Report and Recommendation of the Magistrate Judge or as otherwise provided herein, *i.e.*, motions to extend any deadline, conference or hearing set by Judge Feuerstein; motions relating to a dispositive motion that has not been referred to the Magistrate Judge for a report and recommendation; and motions *in limine*. For all non-dispositive motions automatically referred to the Magistrate Judge pursuant to this Rule 4(H), and any motion relating to a dispositive motion that has been referred to the Magistrate Judge for a report and recommendation, please contact the appropriate Magistrate Judge's Chambers for that Judge's individual rules and procedures.
- I. Judge Feuerstein will not grant, *i.e.*, will decline to sign, any order to show cause or *ex parte* order that does not comply with Local Civil Rule 6.1(d), *i.e.*, that fails to make "a clear and specific showing by affidavit of good and sufficient reasons why a procedure other than by notice of motion is necessary," or to state whether a previous application for similar relief has been made.

5. Proceedings before the Court, Initial Conferences and Magistrate Judge Discovery Conferences in Civil Cases

- A. Counsel shall appear promptly for all conferences with the Court, prepared and authorized to discuss progress in the case, scheduling of further proceedings and settlement.
- B. In civil cases, Judge Feuerstein conducts initial conferences for the purposes of exploring the possibility of a settlement and obviating the need for expensive, time-consuming and burdensome discovery practice before the assigned Magistrate Judge. Therefore, it is paramount that counsel appearing at the initial

conference before Judge Feuerstein be familiar with the pleadings and procedural posture of the case, and possess authority to discuss settlement.

- C. If a civil case does not appear likely to settle absent discovery, Judge Feuerstein will refer it to the assigned Magistrate Judge for discovery and all pretrial purposes; set dates by which all discovery must be completed and fully-briefed dispositive motions must be filed in accordance with the Bundle Rule; and schedule a final pretrial conference date, at which the trial will be scheduled. ***None of those dates will be extended*** absent extraordinary circumstances, which does not include the pendency or anticipation of a dispositive motion. Any application for an extension of time of those dates must promptly be made by letter motion to Judge Feuerstein as set forth in Rules 1(E) and 4(D) above.
- D. Subject to limited exceptions for specific types of cases (*e.g.*, habeas corpus petitions), a Magistrate Judge shall be assigned to all civil cases to which Judge Feuerstein is assigned. Except as otherwise provided by these rules or other order of this Court, all discovery scheduling and disputes are automatically referred to the assigned Magistrate Judge. Unless the assigned Magistrate Judge's rules provide for a shorter period, or otherwise ordered by the Court, a party must bring to the Court's attention the failure of any other party to comply with a discovery request or deadline within ten (10) days of the failure to comply, or that party will be deemed to have waived such discovery. Failure to request particular discovery at the time of the scheduling order will also be deemed a waiver of that particular discovery.

6. Pretrial Procedures:

- A. Unless otherwise ordered by the Court, no later than fourteen (14) days prior to the date that the trial is scheduled to commence, the parties shall submit to the Court a joint pretrial order, which shall conform to Judge Feuerstein's proposed pretrial order found on the Court's website, and each party shall file:
 - i. In jury cases, proposed voir dire questions and requests to charge, which should be limited to the elements of the claims, the damages and defenses. General instructions will be prepared by the Court.
 - ii. A detailed statement regarding damages and other relief sought as to each claim;
 - iii. In non-jury cases, a statement of the elements of each claim or defense together with a summary of the facts relied upon to establish each element;

- iv. In all cases, motions addressing any evidentiary or other issues which should be resolved *in limine*; and
 - v. In any case where a party believes it would be useful, a pretrial memorandum.
- B. Unless otherwise provided by Federal law or rule, all civil trials held before Judge Feuerstein will be bifurcated, *i.e.*, liability will be tried first, with a damages trial to follow only if a defendant is found to be liable, ***unless*** no later than fourteen (14) days prior to the date that the liability trial is scheduled to commence, a party serves and files a letter motion, not exceeding three (3) pages, addressed to Judge Feuerstein, showing why the trial should not be bifurcated. Any response to such letter motion shall not exceed three (3) pages and must be served and filed ***within three (3) business days*** after the letter motion is filed via ECF, or the letter motion will be decided as unopposed.

Amended 10/10/17.