

**INDIVIDUAL PRACTICES IN CIVIL CASES BEFORE  
MAGISTRATE JUDGE GARY STEIN**

**Chambers**

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**Courtroom**

500 Pearl Street, Room 9A  
United States Courthouse  
Southern District of New York  
New York, New York 10007  
Deputy Clerk: Mr. Tanuj Arora

**Introduction**

Cases come before magistrate judges in one of two ways: for specific purposes pursuant to an order of reference by the assigned district judge, or for all purposes on consent of the parties. Consent to jurisdiction of the Magistrate Judge has a number of benefits, including ready access to the judge and a reliable trial date calendared well in advance. The reason for this is that magistrate judge dockets have few criminal cases, which otherwise take precedence over civil proceedings and trials. If counsel jointly wish to consent to have Judge Stein hear their case for all purposes, the necessary form is at <https://nysd.uscourts.gov/hon-gary-stein>.

Unless otherwise ordered by Judge Stein, civil matters before him, whether for all purposes or by specific reference, shall comply with the practices.<sup>1</sup> These practices do not modify or affect the practices of the District Judge before whom a case may also be pending.

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<sup>1</sup> Requests for reasonable accommodations on account of disability or religion with respect to the Court's practices and rules or in connection with any proceeding before Judge Stein may be emailed to Chambers.

## I. Communications with Chambers

- A. Letters.** In general, communications with the Court should be by letter, via electronic case filing (“ECF”), without email or other copy to Chambers. Unless otherwise permitted by the Court, letters may not exceed 3 single-spaced pages (exclusive of exhibits) and must otherwise adhere to Local Civil Rule 11.1. All letters filed on ECF must be in searchable PDF form. Any letter containing sensitive or confidential information that a party does not wish to appear on the docket should follow the procedures outlined in Section III.H below.
- B. Pro Se Parties.** By Standing Order, a pro se party must mail all communications with the Court to the Pro Se Intake Unit located at 500 Pearl Street, Room 200, New York, NY 10007. A pro se party may not call Chambers or send any document or filing directly to Chambers. Submissions requiring immediate attention should be hand-delivered to the Pro Se Intake Unit. Unless the Court orders otherwise, all communications with the Court will be docketed upon receipt on ECF; such docketing shall constitute service on any user of the ECF system. If any other party is not a user of the ECF system (e.g., if there is another pro se party in the case), a pro se party must send copies of any filing to that party and include proof of service affirming that he or she has done so. Copies of correspondence between a pro se party and opposing parties should not be sent to the Court.
- Any **non-incarcerated pro se** party who wishes to participate in ECF filing must file a Motion for Permission for Electronic Case Filing, available in the Pro Se Intake Unit or at <https://nysd.uscourts.gov/prose>. Any non-incarcerated pro se party who wishes to receive documents in their case by email instead of by regular mail may consent to electronic service by filing a Pro Se (Non-prisoner) Consent & Registration Form to Receive Documents Electronically, available in the Pro Se Intake Unit or at <https://nysd.uscourts.gov/prose>.
- C. Emails and Faxes.** Emails to Chambers are permitted for urgent matters requiring immediate attention or where otherwise expressly permitted by the Court in advance. No faxed communications shall be permitted without prior permission from Chambers.
- D. Telephone Calls.** For procedural or administrative matters that do not request a ruling from the Court, counsel may call Chambers.
- E. Docketing, Scheduling and Calendar Matters.** For docketing, scheduling and calendar matters, call Tanuj Arora, the Courtroom Deputy at (212) 805-6120 between 9:00 a.m. and 4:00 p.m.

- F. Hand Deliveries.** Where permitted, hand-delivered mail from counsel should be left with the Court Security Officers at the Worth Street entrance of 500 Pearl Street and may not be brought directly to Chambers.
- G. Requests for Adjournments or Extensions of Time.** Requests for adjournments or extensions of time must be filed on ECF as letter motions. (If a request contains sensitive or confidential information, it may be submitted by PDF via e-mail in lieu of being filed electronically.) The letter motion must state: (i) the originally scheduled date(s); (ii) the number of previous requests for an adjournment or extension and whether those previous requests were granted or denied; (iii) the reason for the requested adjournment or extension; and (iv) whether all affected parties consent, and if not, the reasons given for refusing to consent. Absent good cause, any request for an adjournment of a court conference or other court proceeding (including a telephone conference) must be made at least 48 hours in advance of the proceeding and include at least two proposed dates, on which all counsel are available, for the adjourned proceeding.

## **II. Case Management and Discovery**

- A. Initial Case Management Conference.** The parties must confer on a discovery plan before the Initial Case Management Conference. No later than one week before the Initial Case Management Conference, the parties must file on ECF a joint Proposed Case Management Plan and Scheduling Order. The parties should use the template form for the Proposed Case Management Plan and Scheduling Order available at <https://nysd.uscourts.gov/hon-gary-stein>.
- 1. Pro Se Cases.** In cases involving pro se litigants, the parties may each submit their own Proposed Case Management Plan and Scheduling Order if conferring is not feasible.
  - 2. Attendance.** Lead counsel for the parties, as well as **non-incarcerated pro se** parties, must attend the Initial Case Management Conference. An **incarcerated party** who is unable to attend in person may be allowed to participate by telephone or video conference. The Initial Case Management Conference may be conducted either in person, via telephone, or via video conference, at the Court's discretion.
- B. Confidentiality Stipulations and Orders.** In cases where confidential information will be exchanged, the parties may submit a proposed confidentiality stipulation and order. If a party expects to have responsive discovery material they deem confidential, they must proceed promptly with

proposing the terms of a confidentiality stipulation and order, and all parties must negotiate the terms in good faith so that the absence of a confidentiality stipulation and order does not delay production of discovery material.

The parties should use the Court's model Stipulation and Protective Order available at <https://nysd.uscourts.gov/hon-gary-stein>, but may apply for a protective order that differs from the Court's model by submitting a letter request via ECF and attaching the proposed order showing in a blackline comparison how the proposed order differs from the Court's model. The letter should explain why the modifications are needed and note any disagreements between the parties regarding the modifications.

**C. Discovery Disputes.** Parties shall follow Fed. R. Civ. P. 37(a) and Local Rule 37.2 with the following modifications.

1. **Requirement to Meet and Confer.** Any party wishing to raise a discovery dispute with the Court must first confer in good faith with the opposing party in an effort to resolve the dispute. An exchange of letters or emails alone does not satisfy this requirement. Counsel must respond promptly and in good faith to any request from another party to confer in accordance with this paragraph.
2. **Letter Motion for Discovery Conference.** If the meet-and-confer process does not resolve the dispute, the party may file an ECF letter motion to the Court or, if applicable, to the Pro Se Intake Clerk, no longer than 3 single-spaced pages, explaining the nature of the dispute and requesting a conference. Such letter must include a representation that the meet-and-confer process occurred, including when it occurred and whether it was in person or via telephone or video conference. Any responsive letter should be submitted within 3 business days following submission of the letter motion and shall also be limited to 3 single-spaced pages. No further letters may be submitted without permission of the Court.

Parties shall keep in mind Rule 1 of the Federal Rules of Civil Procedure, which requires the Court and the parties to construe, administer, and employ the rules of procedure to secure the just, speedy, and inexpensive determination of every action. Parties also shall keep in mind Rule 26(b)(1) of the Federal Rules of Civil Procedure, which provides that “[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the

amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit." Discovery motions should address these rules to the extent applicable.

3. **Discovery Conference/Oral Argument.** The Court retains discretion to rule on the dispute based on the parties' letter submissions, without more formal briefing, and with or without a conference. The Court's preference, however, is to hold a conference with the parties and attempt to resolve the dispute during the conference. If formal briefing is required, the Court will set a schedule for such briefing at the conference.

### III. Motions

- A. **Format.** All motions and moving papers filed on ECF or emailed to chambers shall be in searchable PDF form.
- B. **Letter Motions.** Letter motions should be filed via ECF and comply with the S.D.N.Y. Local Rules and the S.D.N.Y. Electronic Case Filing Rules and Instructions. Letter motions are limited to 3 single-spaced pages (not including exhibits). Any responsive letter should be submitted within 3 business days following submission of the letter motion and also be limited to 3 single-spaced pages (not including exhibits). Parties must file as letter motions the following requests:
  - Requests for adjournments or extensions of time;
  - Requests to resolve discovery disputes;
  - Requests for pre-motion conferences; and
  - Requests for settlement conferences.
- C. **Pre-Motion Conferences.** A pre-motion conference is not required before a party may file a motion (other than a discovery motion with formal briefing). A party may, however, request a pre-motion conference by letter motion where counsel believes that an informal conference with the Court may obviate the need for the motion or narrow the issues in dispute.
- D. **Memoranda of Law.** The typeface, margins and spacing of motion papers must conform to Local Civil Rule 11.1. Unless prior permission has been granted by the Court, 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 and a table of authorities, neither of which shall count against the page limit.

Sur-reply memoranda will not be accepted without prior permission of the Court. To the extent citing unreported cases, parties are requested to use Westlaw citations whenever possible. Page citations to ECF filings shall be to the page number appearing on the original document and not to the page number in the ECF header.

- E. Courtesy Copies.** Unless otherwise requested by the Court, courtesy copies are not required. If requested, courtesy copies should bear the ECF header generated at the time of electronic filing and include protruding tabs for any exhibits.
- F. Oral Argument.** Requests for oral argument of motions should be made by letter. Counsel should select the “Letter-Motion” option on ECF for filing such a request. Whether oral argument will be held remains in the Court’s discretion. In some instances, the Court may hold oral argument even if the parties have not requested it.
- G. Motions in Pro Se Cases.** As required by Local Civil Rule 7.2, counsel must provide a pro se litigant with printed copies of cases and other authorities cited in any submission that are unpublished or reported exclusively on computerized databases. Where a party seeks summary judgment against a pro se litigant, the party must also comply with the notice requirements for Local Civil Rule 56.2. Where a party moves to dismiss for judgment on the pleadings against a pro se litigant and refers to matters outside the pleadings, counsel must serve and file the notice set forth in Local Civil Rule 12.1. In such situations, counsel is strongly encouraged to move in the alternative for summary judgment so that the pro se litigant understands, based on the Local Civil Rule 56.1 submission, which facts are relevant to the motion.
- H. Electronic Filing Under Seal.** Unless otherwise ordered, any party wishing to file a document or portion thereof under seal or with redactions must comply with the following procedures on or before the date on which the relevant filing is due.

  - 1. Sealing/Redactions Not Requiring Court Approval.** Federal Rule of Civil Procedure 5.2 describes sensitive information that must be redacted from public court filings. No Court approval is required for these redactions.
  - 2. Sealing/Redactions Requiring Court Approval.** Motions or letter motions for approval of sealed or redacted filings in civil and miscellaneous cases and the subject documents must be filed electronically through the Court’s ECF system in conformity with the

Court's Standing Order, 19-mc-583, and ECF Rules & Instructions, Section 6, available at <https://nysd.uscourts.gov/rules/ecf-related-instructions>. The proposed sealed or redacted document may be electronically filed on ECF using a restricted Viewing Level.

#### **IV. Settlement Procedures**

See Settlement Conference Procedures for Magistrate Judge Gary Stein, available at <https://nysd.uscourts.gov/hon-gary-stein>.

#### **V. Pretrial and Trial Procedures in Consent Cases**

The following procedures apply to those cases where the parties have consented pursuant to 28 U.S.C. § 636(c) to have all proceedings, including trial, before Judge Stein. Absent such consent, the parties should refer to the individual practices of the district judge.

##### **A. Joint Pretrial Orders in Civil Cases.**

1. Unless otherwise ordered by the Court, within 30 days after the date for the completion of discovery in a civil case or, if a dispositive motion has been filed, within 30 days after a decision resolving the motion, the parties shall jointly prepare and submit to the court for its approval a Proposed Pretrial Order.
2. In appropriate cases, the Court may be willing to dispense with portions of the Pretrial Order, if both sides consent, in order to secure the just, speedy and inexpensive determination of every action. The parties should discuss such requests with each other and then with the Court sufficiently in advance so that the Proposed Pretrial Order will be filed within the time frames described above.
3. The Proposed Pretrial Order shall be filed by ECF.

##### **B. Contents of the Proposed Pretrial Order.**

1. **Caption:** The full caption of the action.
2. **Counsel:** The name, address, telephone number and email of each principal member of the trial team, and identification of each party's lead trial counsel.
3. **Subject Matter Jurisdiction:** A brief statement identifying the basis for subject matter jurisdiction, and, if that jurisdiction is disputed, the reasons therefor. Such statement shall include citations to all

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

4. **Claims and Defenses:** A list of each claim and defense that will be tried and a list of any claims and defenses asserted in the pleadings that are not to be tried. Where applicable, the statements shall identify citations to relevant statutes relied on.
5. **Law:** Identification of the governing law for each claim and defense that will be tried and a brief description of any dispute regarding choice of law.
6. **Damages:** With respect to each claim remaining to be tried, a statement and calculation of the damages claimed, broken down by element or category (e.g., lost profits, back wages, medical costs, etc.), and a description of any other relief sought.
7. **Length of Trial:** The number of days estimated for trial. If the parties do not agree, each party shall give its estimate and the basis for that estimate.
8. **Fact-Finder:** Whether the case is to be tried with or without a jury. If a jury trial, state whether the parties agree to a non-unanimous verdict pursuant to Fed. R. Civ. P. 48.
9. **Stipulations:** Any agreed-upon stipulations or statements of fact or law.
10. **Openings:** Requested amount of time for openings.
11. **Witness Lists:** A list by each party of its trial witnesses that it, in good faith, expects to present on its case in chief, with a statement of the general subject areas of the witness's testimony and an indication of whether the witnesses will testify in person or by deposition. The witness lists shall also include identification of rebuttal witnesses that the party may call if needed. Absent good cause, a party will not be allowed to present a witness not previously identified on their witness list.
12. **Witness Order:** A statement as to how and when the parties will give notice to each other of the order of their trial witnesses.
13. **Depositions:** Designation by each party of deposition testimony to be offered in its case, referencing page numbers, with any cross-designations and objections by any other party. If there is no



objection or cross-designation, the Court will deem the opposing party to have waived any such objection or cross-designation.

14. **Exhibits:** A list by each party of exhibits to be offered in its case. For any exhibit as to which there is an objection, the party objecting must briefly specify, next to the listing for that exhibit, the nature of the party's objection (e.g., "authenticity," "hearsay," "Rule 403"). Any objection not listed shall be deemed waived. Exhibits not produced during discovery or otherwise provided to other parties prior to trial likely will not be allowed for any purpose.
15. **Demonstratives:** A proposed schedule by which the parties will exchange demonstratives that the parties intend to use at trial, notify each other of any objections thereto, consult with each other regarding those objections, and notify the Court of any remaining disputes.
16. **Other Issues:** All other matters that the Court may have ordered or that the parties believe are important to the efficient conduct of the trial, such as bifurcation or sequencing of issues to be tried.

**C. Additional Pretrial Filings in Civil Cases.** Unless otherwise ordered by the Court, the following shall be filed at the same time as the Proposed Pretrial Order:

**1. Jury Cases.**

- a. Each party must file a **Trial Memorandum of Law** addressing each issue of law that the party expects to arise at or before trial.
- b. The parties must jointly prepare and submit jury materials consisting of:
  - proposed **voir dire** questions to be asked of prospective jurors;
  - proposed **jury instructions** (with each instruction separately numbered and beginning on a separate page); and
  - a proposed **verdict form**.
- c. To the extent a party objects to another party's requested voir dire questions, jury instructions, or proposed verdict form, that

party must (i) set forth the grounds for the objection and (ii) if applicable, propose an alternative (all in the same document so that the Court can compare the parties' respective proposals).

- d. All jury instructions, objections, and alternative proposals must include citation to supporting authority.
- e. In addition to ECF-filing of voir dire questions, jury instructions, and verdict sheets, electronic copies must also be submitted as Microsoft Word documents and sent by email to: [GSteinNYSChambers@nysd.uscourts.gov](mailto:GSteinNYSChambers@nysd.uscourts.gov).

## 2. Non-Jury Cases.

- a. Each party must file a **Trial Memorandum of Law** identifying the issues, summarizing facts and applicable law, and addressing any evidentiary issues.
- b. The Court may also ask each party to file **Proposed Findings of Fact and Conclusions of Law** before or after trial.

**D. Motions in Limine.** Each party shall file and serve any motions in limine at the same time as the proposed pretrial order. Within two weeks of filing the proposed pretrial order, each party shall file and serve its opposition to any motion in limine. There shall be no replies for motions in limine.

**E. Pro Se Cases.** In pro se cases, the parties are not required to prepare joint pretrial filings (but may do so jointly if feasible). Instead, within 30 days from the date for the completion of discovery in a civil case or, if a dispositive motion has been filed, within 30 days of a decision resolving the motion, the represented party(ies) shall submit the pretrial materials set forth in Sections V.A, B, C and D above. The pro se party shall file its own Pretrial Statement. The pro se party's Pretrial Statement need take no particular form, but must be concise and contain:

- 1. a statement of the **facts** the party hopes to prove at trial;
- 2. a list of all documents or other physical objects that the party plans to put into **evidence** at trial; and
- 3. a list of the names and addresses of all **witnesses** the party intends to have testify at trial and the general subject matter of each witness's expected testimony.

The Pretrial Statement must be sworn or affirmed by the pro se party to be true and accurate based on the facts known by the party. The pro se party must file an original Pretrial Statement with the Pro Se Office and serve a copy on all other parties or their counsel if represented. The original Pretrial Statement must indicate the date a copy was mailed to the other party or that party's attorney.

**F. Witnesses.**

1. No later than the end of each trial day, counsel must notify each other and the Court of witnesses to be called the following trial day. The parties may agree to earlier notification.
2. When a party's case commences, the party is expected to have witnesses available to fill the trial day, which will run from 9:30 am to 4:30 pm with two short breaks in the morning and afternoon and a one-hour lunch break. The parties are on notice that if a party does not have a witness available to testify, the Court may preclude testimony or deem that party to have rested. Any requests to schedule a witness out of order and/or for a particular day must be made as soon as counsel is aware of the limited availability of that witness. Absent good cause, untimely applications will be denied.

**G. Exhibits.** Unless otherwise ordered by the Court, no later than two business days before trial begins, each party must provide each other party, and the Court, with a tabbed binder or binders containing courtesy copies of its trial exhibits and deposition designations.