

INDIVIDUAL RULES AND PRACTICES IN CIVIL CASES

JENNIFER H. REARDEN, United States District Judge

Chambers

United States District Court
Southern District of New York
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New York, NY 10007

ReardenNYSDCChambers@nysd.uscourts.gov

Courtroom

500 Pearl Street, Courtroom 12B
Khalilah Williams, Courtroom Deputy

Unless otherwise ordered by Judge Rearden, these Individual Rules and Practices apply to all civil matters except for civil *pro se* cases (see *Individual Rules and Practices in Civil Pro Se Cases*, available at <https://nysd.uscourts.gov/hon-jennifer-h-rearden>).

1. Guidelines for All Submissions

- A. ECF.** In accordance with the S.D.N.Y. [Electronic Case Filing Rules and Instructions](#), except as otherwise expressly provided, all documents required to be filed with the Court must be filed electronically. Counsel must register promptly as ECF filers and enter an appearance in the case. Counsel are responsible for updating their contact information on ECF as needed, and for checking the docket regularly, regardless of whether they receive an ECF notification of case activity. For assistance with updating contact information, please contact the ECF Help Desk at helpdesk@nysd.uscourts.gov or (212) 805-0800; do not file a letter-motion advising the Court of the change.
- B. Text-Searchable Submissions.** Every electronic submission, except for submissions that shall be provided in Microsoft Word format as required under these Rules and Practices, or as otherwise provided in the S.D.N.Y. [Electronic Case Filing Rules and Instructions](#), should be in text-searchable format created by converting the document electronically to PDF. Whenever possible, if a PDF is created by scanning a printed document (for instance, in the case of a pre-existing documentary exhibit), the party should use software to render the PDF text-searchable.
- C. Formatting.** Unless otherwise ordered by the Court or as set forth in these Rules and Practices, the typeface, margins, and spacing of all papers submitted to the Court shall conform to the requirements of the S.D.N.Y. [Local Rules](#), including Local Civil Rule 11.1.
- D. Amended or Corrected Filings.** Any amended or corrected filing (including but not limited to amended pleadings) shall be filed with a redline showing all differences between the original and revised filing. Any motion to amend a pleading shall similarly be filed with a redline showing all differences between the operative pleading and the proposed amended pleading.

2. Communications with Chambers

- A. Letters.** Except as provided below, communications with Chambers shall be by letter, **not to exceed five double-spaced pages**. Letters should be filed electronically on ECF in accordance with the S.D.N.Y. [Electronic Case Filing Rules and Instructions](#). Letters seeking relief should (if consistent with the S.D.N.Y. [Local Rules](#) and the S.D.N.Y. Electronic Case Filing Rules and Instructions) be filed on ECF as letter-motions in accordance with Rule 5.I below, not as ordinary letters. Copies of correspondence between counsel shall not be sent to the Court, unless the correspondence is a relevant attachment to a filing.
- B. Telephone Calls.** Communications with Chambers, including requests for extensions or adjournments, shall be by letter or letter-motion filed on ECF in accordance with these Rules and Practices. For questions that cannot be answered by reference to these Rules or the S.D.N.Y. Local Rules, or for docketing, scheduling, or calendar matters, counsel may contact the Courtroom Deputy, Khalilah Williams. For situations requiring immediate attention from the Court, counsel should call Chambers directly; in such situations, parties should email ReardenNYSDCChambers@nysd.uscourts.gov requesting the Court's contact information.
- C. Faxes.** Faxes to Chambers are not permitted.
- D. Hand Deliveries.** Hand deliveries should be left with the Court Security Officers at the Worth Street entrance of the Courthouse. If a hand delivery requires the Court's immediate attention, ask the Court Security Officers to notify Chambers that an urgent package has arrived.
- E. Requests for Adjournments or Extensions of Time.** All requests for extensions of time or adjournment of motions, pretrial conferences, or other matters must be made not less than **two business days** before the scheduled deadline or date. All such requests must be made in writing and filed on ECF as letter-motions, and should state: (1) the original date; (2) the number of previous requests for adjournment or extensions of time; (3) whether those previous requests were granted or denied; (4) the reason(s) for the requested extension; (5) whether the adversary consents, and, if not, the reason(s) given by the adversary for declining to consent; and (6) the date of the parties' next scheduled appearance before the Court, as well as any other existing deadlines, and whether the requested adjournment or extension would affect those other deadlines or any other scheduled dates. If the requested adjournment or extension would affect any other scheduled deadlines or dates, a proposed Revised Scheduling Order must be attached. A Microsoft Word version of the Revised Scheduling Order must be emailed to ReardenNYSDCChambers@nysd.uscourts.gov. Requests for extensions made after the expiration of the original deadline or date will ordinarily be denied. Requests for extensions regarding a matter that has been referred to a Magistrate Judge shall be addressed to the assigned Magistrate Judge.
- F. Related and Consolidated Cases.** After an action has been accepted as *related to* a prior filing, all future court papers and correspondence must contain the docket number of the new filing, as well as the docket number of the case to which it is

related (*e.g.*, 12 Civ. 1234 [rel. 11 Civ. 4321]). After two or more actions have been consolidated for all purposes under a single docket number pursuant to Rule 42(a)(2) of the Federal Rules of Civil Procedure, all future court papers and correspondence should be filed only under that docket number and should reference only that docket number.

3. Conferences

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

B. Initial Case Management Conference. The Notice of Initial Pretrial Conference will be filed on ECF. The Notice will direct the parties to file on ECF, approximately one week prior to the conference, a joint proposed Case Management Plan and Scheduling Order (using Judge Rearden’s fillable [Civil Case Management Plan and Scheduling Order](#)), as well as a joint letter. At that time, one courtesy copy of the pleadings should also be emailed to ReardenNYSChambers@nysd.uscourts.gov.

- i. At the conference, all parties should be prepared to discuss any pending or anticipated motions, as well as the basis for subject matter jurisdiction.
- ii. In cases invoking the Court’s diversity jurisdiction, the parties’ joint letter must state:
 - a. If any party is a corporation, that party’s place of incorporation and the principal place of business, as defined in *Hertz Corp. v. Friend*, 559 U.S. 77 (2010).
 - b. If any party is a partnership, limited partnership, limited liability company, or trust, the citizenship of each entity’s members, shareholders, partners, and/or trustees.

C. Discovery Disputes. Follow Local Civil Rule 37.2 of the S.D.N.Y. [Local Rules](#), with the following modifications: Any party wishing to raise a discovery dispute with the Court must first confer in good faith with the opposing party—in person, virtually, or by telephone—in an effort to resolve the dispute. Conferring in writing does not satisfy this requirement. If the dispute is not resolved, the party may file a letter-motion on ECF pursuant to Rule 5.I below, **not to exceed six double-spaced pages**, explaining the nature of the dispute and requesting an informal conference. Such a letter-motion must include a representation that the parties engaged in a good faith meet-and-confer process that proved unsuccessful. If the opposing party wishes to respond to the letter-motion, it should promptly send an e-mail to Chambers, copying all counsel of record, to advise that a responsive letter will be forthcoming. Any such responsive filing shall **not exceed six double-spaced pages** and must be filed on ECF within **three business days** of the filing of the letter-motion. Consistent with Local Civil Rule 5.1, any letter-motion or responsive filing shall quote or attach only those portions of the depositions, interrogatories, requests for documents, requests for admissions, or other discovery or disclosure materials, together with the responses

and objections thereto, that are the subject of the discovery dispute or are otherwise cited in the party's filing. No other documents shall be submitted absent further order of the Court.

D. Participation by Junior Attorneys. To assist in training the next generation of attorneys, the Court strongly encourages relatively inexperienced attorneys—in particular, attorneys with less than five years' experience—to participate in courtroom proceedings. Further, the Court is amenable to having multiple attorneys speak on behalf of a single party if doing so creates an opportunity for a lawyer who is relatively inexperienced. All attorneys appearing before the Court should be prepared to address any matters likely to arise at the proceeding and must have the authority to bind their clients with respect to the matters reasonably anticipated to be addressed (for example, by agreeing to a discovery or briefing schedule).

4. Applications for Temporary Restraining Orders

- A.** Any party wishing to seek a temporary restraining order should file a motion for a temporary restraining order, supporting documents, and a proposed order on ECF in accordance with the procedures in the S.D.N.Y. [Electronic Case Filing Rules and Instructions](#). Information on filing an application *ex parte* may be found in Section 6 of the Electronic Case Filing Rules and Instructions. Where the motion is made on notice to the other parties, the movant should simultaneously serve the documents on any party that will not receive electronic service on ECF.
- B.** Unless the requirements of Federal Rule of Civil Procedure 65(b) are met, the movant shall confer with its adversary before making an application for a temporary restraining order or other emergency relief.
- C.** In addition to filing the proposed temporary restraining order in accordance with the S.D.N.Y. [Electronic Case Filing Rules and Instructions](#), the movant shall file a letter-motion stating whether:
- i. The adversary has been notified, and whether the adversary consents to temporary injunctive relief; or
 - ii. The requirements of Federal Rule of Civil Procedure 65(b) are satisfied, and no notice is necessary.
- D.** If the movant's adversary has been notified but does not consent to temporary injunctive relief, the movant must bring the application to the Court at a mutually agreeable time, so that the Court may hear argument from both sides in reaching a determination.
- E.** The movant should email ReardenNYSChambers@nysd.uscourts.gov, giving notice of the filing and the time frame requested for Court action. Where the motion is made on notice, all parties should be copied on the email. A courtesy copy of the motion papers should also be emailed.

5. Motions

- A. Pre-Motion Conferences in Civil Cases.** A pre-motion conference is required only for discovery-related motions (including discovery letter-motions addressed in Rule 3.C). A pre-motion conference will not be held for any other motion. To arrange a pre-motion conference, follow Rule 3.C governing discovery disputes.
- B. Memoranda of Law.** The typeface, margins, and spacing of motion papers must conform to Local Civil Rule 7.1(b). Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 8,750 words, and reply memoranda are limited to 3,500 words. These limits do not include the caption, any index, table of contents, table of authorities, signature blocks, or any required certificates but do include material contained in footnotes or endnotes. All memoranda, regardless of length, shall contain a table of authorities. Memoranda of 10 pages or more also shall include a table of contents. All memoranda must include a certificate by the attorney, or party who is not represented by an attorney, that the document complies with the word-count limitations. These limits do not apply to motions for reconsideration under Local Civil Rule 6.3; parties should refer to that provision for applicable word or page limits and other information. Sur-reply memoranda will not be accepted absent leave of the Court. Requests to exceed these word limits, except for replies, must be made **five business days** before the deadline. Requests to exceed the word limit for replies must be made **two business days** before the deadline.
- C. Filing of Motion Papers.** Motion papers shall be filed promptly after service. Motion papers shall be accompanied by a letter no longer than three pages outlining the substantive argument advanced in the papers. Such letters shall accompany opening memoranda of law and opposition memoranda of law.
- D. Notices of Motions when Filing Under Seal.** When leave is sought to file a motion under seal or with redactions, the parties must comply with Rule 9.
- E. Courtesy Copies.** Once a motion has been fully submitted, the movant shall provide two courtesy hard copies of all motion papers (including any oppositions, replies, declarations, and exhibits) to Chambers by mail or delivery to Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007 and email a copy of the same to ReardenNYSDCChambers@nysd.uscourts.gov. If exhibits to a motion are available on ECF and email transmission of the exhibits would be cumbersome (e.g., due to file size), the movant need not email the exhibit files to Chambers but should instead state in the email that the motion exhibits are available on ECF.
- F. Oral Argument on Motions.** Parties may request oral argument by letter (filed on ECF) at the time of filing their moving, opposing, or reply papers. The letter shall detail why oral argument would be beneficial. The requesting party's memorandum of law shall also include the words "ORAL ARGUMENT REQUESTED" on the cover page. The Court will determine whether argument will be heard and, if so, will inform counsel of the argument date.

G. Preliminary Injunction Motions. The Court generally follows the procedure for the conduct of non-jury trials described in Rule 7.E below.

H. Default Judgments. Any party seeking a default judgment must do so pursuant to the procedure set forth in Attachment A. In accordance with Attachment A, parties seeking default judgment shall not proceed by order to show cause.

I. Letter-Motions. When letters seeking relief are permitted by the S.D.N.Y. [Local Rules](#) and the S.D.N.Y. [Electronic Case Filing Rules and Instructions](#), including requests for adjournments, extensions, and pre-motion conferences, such letters shall be filed on ECF as letter-motions, not as ordinary letters.

J. Proposed Orders, Stipulations, and Judgments. All proposed orders, stipulations, and judgments must be submitted as attachments or exhibits to an application to the Court filed on ECF and must explain the purpose of the proposed order, stipulation, or judgment. The parties must also email a Microsoft Word version of proposed orders, stipulations, and judgments to ReardenNYSDChambers@nysd.uscourts.gov.

K. Summary Judgment Motions.

i. **Generally Not Available in Non-Jury Cases.** Absent good cause, the Court ordinarily will not permit summary judgment practice in a non-jury case.

ii. **Courtesy Copy of Transcript.** Where parties rely on deposition or hearing testimony, they should not include excerpts of transcripts as exhibits, but rather should include (only once) the entire transcript as an exhibit. The parties shall provide the Court by email with an electronic, text-searchable copy of the transcript, if such a copy is available.

iii. **Local Rule 56.1 Statements.** Pursuant to Local Civil Rule 56.1, a movant for summary judgment shall file a statement of material undisputed facts and the opposing party shall respond.

a. **Electronic Copy to Other Parties.** Any party moving for summary judgment shall provide all other parties with an electronic copy, in Microsoft Word format, of the moving party's Statement of Material Facts Pursuant to Local Civil Rule 56.1.

b. **Organization of 56.1 Statements.** The 56.1 Statement must be organized into numbered paragraphs, with each numbered paragraph setting forth only one factual assertion. Each factual assertion must be followed by citation(s) to the portion(s) of the evidentiary record relied upon.

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. The response must state specifically what is admitted and what is disputed, and the basis for any dispute, citing specific portions

of the evidentiary record relied upon. The response may go on to include additional factual allegations, in paragraphs that are numbered consecutively to those of the moving party (i.e., the paragraphs do not begin re-numbering at 1, but rather pick up where the movant left off).

- c. **Multiple Parties Must Coordinate Statements.** If multiple parties are submitting 56.1 Statements, they must coordinate their statements to provide for consecutive, non-overlapping, numbered paragraphs in their respective statements.
- d. **Joint Rule 56.1 Statement.** To streamline the summary judgment briefing process, the Court strongly encourages the parties to negotiate and submit, prior to or along with the moving party's Rule 56.1 Statement, a Joint Rule 56.1 Statement setting out all facts on which the parties agree.

- iv. **Statement of Facts.** Each memorandum of law must include a statement of facts, and may not merely incorporate by reference the entirety of a party's 56.1 Statement.

6. Other Pretrial Guidance

- A. Diversity Jurisdiction Cases.** In any action in which subject matter jurisdiction is founded on diversity of citizenship pursuant to 28 U.S.C. § 1332, the party asserting that such jurisdiction lies shall, prior to the Initial Pretrial Conference, file on ECF a letter **not to exceed six double-spaced pages**, explaining the basis for that party's position. Where any party is a corporation, the letter shall state both the place of incorporation and the principal place of business. In cases where any party is a partnership, limited partnership, limited liability company, or trust, the letter shall state the citizenship of each entity's members, shareholders, partners, and/or trustees.
- B. Cases Removed from State Court.** In addition to providing a copy of all process, pleadings, and papers served upon the defendants pursuant to 28 U.S.C. § 1446(a), counsel for the removing party or parties must provide the Court with a courtesy copy of any pleading filed or served while the case remained in state court. Counsel for all parties must file notices of appearance in this Court promptly upon removal.
- C. Settlement Agreements.** The Court will not retain jurisdiction to enforce confidential settlement agreements. If the parties prefer that the Court retain jurisdiction to enforce an agreement, the parties must place the terms of their settlement agreement on the public record. The parties may either provide a copy of the settlement agreement for the Court to endorse or include the terms of their settlement agreement in their stipulation of settlement and dismissal.
- D. Fair Labor Standards Act ("FLSA") Settlement Agreements.** Parties that seek to settle FLSA claims through a stipulated dismissal with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) must submit the settlement agreement and all other necessary information for Court approval in accordance with *Cheeks v.*

Freeport Pancake House, Inc., 796 F.3d 199 (2d Cir. 2015). The Court will not approve a settlement agreement that contains an overly broad release clause or as to which the parties fail to submit all necessary information, including, *inter alia*, the parties' estimations of the plaintiff's number of hours worked, applicable wages, and a detailed breakdown of the justification for any requested attorneys' fees. Parties that settle FLSA claims through a Federal Rule of Civil Procedure 68(a) offer of judgment should not seek Court approval of the disposition. See *Mei Xing Yu v. Hasaki Rest., Inc.*, 944 F.3d 395, 411 (2d Cir. 2019).

E. Bankruptcy Appeals. Unless otherwise ordered, briefs must be submitted in accordance with the Federal Rules of Bankruptcy Procedure. Counsel may seek to extend the default deadlines by submitting a stipulation on ECF (with a courtesy copy in Microsoft Word format emailed to ReardenNYSDCChambers@nysd.uscourts.gov), **not later than five business days** before the brief is due.

7. Trial Procedures

A. Joint Pretrial Order. Unless otherwise ordered by the Court, within 30 days of the close of discovery—or, if any dispositive motion is filed, within 30 days of the Court's decision on such motion—the parties shall file on ECF, and email to the Court, a proposed Joint Pretrial Order that includes the information required by Rule 26(a)(3) of the Federal Rules of Civil Procedure, as well as the following:

- i. The full caption of the action.
- ii. The names, addresses (including firm names), telephone numbers, and email addresses of trial counsel.
- iii. A brief statement by the plaintiff (or in a removed case, by the defendant) regarding 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 and relevant facts as to citizenship and jurisdictional amount.
- iv. A brief summary by each party of the claims and defenses asserted by that party that remain to be tried, including citations to all statutes on which the party relies. The summary shall also identify any claims and defenses that the party has previously asserted that are not to be tried. The summary should not recite any evidentiary matters.
- 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 joint statement summarizing the nature of the case, to be read to potential jurors during jury selection.
- vii. A list of people, places, and institutions that are likely to be mentioned during the course of the trial, to be read to potential jurors during jury selection.

- viii. A statement as to whether all parties have consented to trial by a magistrate judge, without identifying which party or parties do or do not consent.
- ix. Any stipulations of fact or law on which the parties have agreed. In a jury case, the parties should memorialize any such stipulations or agreed statements of fact or law in a standalone document that can be marked and admitted at trial.
- x. A list of all trial witnesses, indicating whether such witnesses will testify in person or by deposition, whether such witnesses will require an interpreter (and, if so, which party will pay the costs for the interpreter), and a brief summary of the substance of each witness's testimony. Absent leave of Court, a witness listed by both sides shall testify only once, with the defendant permitted to go beyond the scope of the direct examination on cross-examination. Counsel should confer regarding scheduling.
- xi. A designation by each party of deposition testimony to be offered in its case-in-chief and any counter-designations and objections by any other party. In addition to a designation list, the parties shall provide the complete deposition transcripts with color-coded highlighting indicating the portions designated by each party and the objections listed in the margins.
- xii. A list of all proposed exhibits for each party's case-in-chief. The list shall (1) mark each exhibit with one asterisk indicating exhibits to which no party objects on grounds of authenticity, and two asterisks indicating exhibits to which no party objects on any ground; (2) for exhibits with objections other than authenticity, the objection should be noted by indicating the grounds for the objection, with citations to the Federal Rules of Evidence and any other authority (with any objections not made being deemed waived); and (3) state whether an outstanding motion *in limine* will resolve the objection. If any party believes that the Court should rule on the objection in advance of trial, that party should include a notation to that effect (e.g., "Advance Ruling Requested").
- xiii. A statement of the damages claimed and any other relief sought, including the manner and method used to calculate any claimed damages and a breakdown of the elements of such claimed damages.
- xiv. A statement of whether the parties consent to less than a unanimous verdict.

B. Required Pretrial Filings in Jury Cases. Unless otherwise ordered by the Court, the parties shall jointly file the following submissions at the same time as the proposed Joint Pretrial Order. The parties must meet and confer in an effort to reach agreement with respect to these submissions:

- i. Joint proposed *voir dire* questions, which should consist of a single document that includes the text of any requested questions and notes any areas of

disagreement between the parties. A copy shall be emailed to Chambers in both Microsoft Word and .pdf format.

- ii. A joint proposed verdict form, which should consist of a single document that notes any areas of disagreement between the parties. A copy shall be emailed to Chambers in both Microsoft Word and .pdf format.
- iii. Joint proposed jury instructions, which should consist of a single document that includes the text of any requested instructions and citations to the authority from which each instruction derives and notes any areas of disagreement between the parties. A copy shall be emailed to Chambers in both Microsoft Word and .pdf format.
- iv. Motions addressing any evidentiary issues or other matters that should be resolved *in limine*. Opposition papers shall be filed within seven days thereafter. Replies will not be entertained.
- v. A pretrial memorandum of law in cases in which a party believes it would be useful to the Court, not to exceed 3,500 words (excluding the caption, any index, table of contents, table of authorities, signature blocks, or any required certificates but including material contained in footnotes or endnotes), absent leave of Court, addressing any issues of law that are expected to arise at or before trial. Any responses or oppositions to those legal issues shall be filed within one week thereafter.

C. Jury Selection. The jury will be selected by the struck panel method.

D. Required Pretrial Filings in Non-Jury Cases. Unless otherwise ordered by the Court, in non-jury cases, the parties shall file the following submissions at the same time as the Joint Proposed Pretrial Order:

- i. Joint proposed findings of fact and conclusions of law, which should be detailed and note any areas of disagreement between the parties and, for each proposed factual finding, shall include citations to the proffered trial testimony and exhibits.
- ii. Motions addressing any evidentiary or other issues that should be resolved *in limine*. Opposition papers shall be filed within seven days thereafter. Replies will not be entertained.
- iii. A pretrial memorandum of law in cases in which a party believes it would be useful to the Court, not to exceed 3,500 words (excluding the caption, any index, table of contents, table of authorities, signature blocks, or any required certificates, but including material contained in footnotes or endnotes), absent leave of Court, addressing any issues of law that are expected to arise at or before trial. Responses or oppositions to those legal issues shall be filed within one week thereafter.

E. Additional Submissions in Non-Jury Cases. At the time the proposed Joint Pretrial Order is filed, each party shall email to the Court and serve on opposing counsel, but not file on ECF, the following:

- i. Copies of affidavits constituting the direct testimony of each trial witness, except for the direct testimony of an adverse party, a person whose attendance is compelled by subpoena, or a person for whom the Court has agreed to hear direct testimony live at the trial. Three business days after submission of such affidavits, counsel for each party shall submit a list of all affiants whom he or she intends to cross-examine at the trial. Only those witnesses who will be cross-examined need appear at trial. The original signed affidavits should be brought to trial to be marked as exhibits.
- ii. All deposition excerpts that will be offered as substantive evidence, as well as a one-page synopsis of those excerpts for each deposition. Each synopsis shall include citations to the pertinent pages of the deposition transcripts.
- iii. All documentary exhibits.

F. Disputes Regarding Exhibits. The parties are strongly encouraged to resolve disputes relating to exhibits prior to trial and, where disputes remain unresolved, to raise them with the Court prior to trial.

G. Trial Exhibits and Demonstrative Aids.

- i. At least one week before the final pretrial conference, the parties shall provide the Court with a digital copy of exhibits and demonstrative aids that they intend to use in their case in chief at trial, as well as an index. The parties shall email ReardenNYSDChambers@nysd.uscourts.gov requesting a link to upload these materials. The index shall be marked as specified in paragraph 7.A.xii above.
- ii. Prior to the final pretrial conference, the parties shall confer in an effort to resolve any objections to the demonstrative aids. Any objections that are not resolved shall be identified in a letter filed at least three business days before the final pretrial conference.
- iii. At the final pretrial conference, the parties shall be prepared to address each exhibit with a previously identified objection. If there are too many such exhibits to make discussion of each one practical, then the party opposing admission, one week prior to the final pretrial conference, shall file a letter grouping objections into no more than five categories with representative samples of each category, and explain the nature of the objection.

- iv. For cases with more than 15 exhibits, the index shall be on an Excel spreadsheet in native format, with hyperlinks to the exhibits. The index shall include all of the information detailed above that is required on the exhibit list for the Joint Pretrial Order.
- v. Concurrent with their summations, the parties shall jointly provide the Court with digital and hard copies for the jury of (1) the exhibits admitted into evidence and an updated index with hyperlinks, omitting all information except the exhibit number and description of the exhibit; and (2) a list of all witnesses who testified at the trial.
- vi. Prior to trial, the parties shall also submit hard copies of their exhibits, as follows:
 - i. All exhibits must be pre-marked in advance of trial. Unless otherwise ordered by the Court, in both jury and non-jury trials, **three business days prior to trial**, the parties shall submit to Chambers physical copies of all documentary exhibits, organized by exhibit number. Hard copies of the exhibits shall be submitted to Chambers in a tabbed binder, containing one copy of each exhibit; the Court shall be provided with two hard copy sets.
 - ii. The parties shall also email a list of all exhibits sought to be admitted, both in Microsoft Word and .pdf format. The list shall be divided into four columns labeled as follows: (1) Exhibit Number; (2) Description (of the exhibit); (3) Date Identified; and (4) Date Admitted. The parties shall complete the first two columns but leave the third and fourth columns blank, for use by the Court. Counsel shall ensure that they have custody of all original exhibits. The Court does not retain them, and the Clerk is not responsible for them.

H. Expert Witnesses. At least one week before trial, each of the parties must submit to the Court any disclosures pertaining to expert witnesses under Federal Rule of Criminal Procedure 16 or Federal Rule of Civil Procedure 26(a)(2).

8. Policy on the Use of Electronic Devices

A. Standing Order M10-468. Attorneys' use of personal electronic devices (including mobile phones) and general purpose computing devices (such as laptops and tablets) within the Courthouse and its environs is governed by [Standing Order M10-468](#). When Court permission is required under the Standing Order, attorneys seeking to bring electronic devices to the Court should email a completed [Model Court Order](#) to ReardenNYSChambers@nysd.uscourts.gov **five business days before** the relevant trial or hearing. Upon the Court's approval, Chambers will coordinate with the District Executive's Office to issue the order and forward a copy to counsel. The order must be presented upon bringing the electronic device(s) into the Courthouse.

- B. Mobile Phones.** The Court welcomes parties to use mobile phones appropriately in the courtroom. As noted in [Standing Order M10-468](#), however, phones must be silenced at all times. Non-compliance with this Rule will result in forfeiture of the device for the remainder of the proceeding.
- C. General Purpose Computing Devices.** In order for an attorney to bring any “General Purpose Computing Device,” as defined in [Standing Order M10-468](#), into the Courthouse, the attorney should email a completed [Model Court Order](#) to Chambers pursuant to Rule 8.A. As noted in the Standing Order, all General Purpose Computing Devices must be silenced at all times. Non-compliance with this Rule will result in forfeiture of the device or equipment for the remainder of the proceeding.

9. Redactions and Sealed Filings

- A. Redactions Not Requiring Court Approval.** The parties are referred to Federal Rule of Civil Procedure 5.2 and the S.D.N.Y. [ECF Privacy Policy](#) (“Privacy Policy”). Without prior permission from the Court, parties may redact two categories of information from public court filings: “sensitive information,” and information requiring “caution.” Unless necessary, parties should not include in public filings the five categories of “sensitive information” (i.e., social security numbers [use the last four digits only], names of minor children [use the initials only], dates of birth [use the year only], financial account numbers [use the last four digits only], and home addresses [use the City and State only]). Without Court approval, parties may also redact from public filings the six categories of information requiring “caution” described in the Privacy Policy (i.e., any personal identifying number, medical records [including information regarding treatment and diagnosis], employment history, individual financial information, proprietary or trade secret information, and information regarding an individual’s cooperation with the Government).
- B. Redactions and Sealed Filings Requiring Court Approval.** Except for redactions permitted by Rule 9.A, all redactions or sealing of public court filings require Court approval. To be approved, any redaction or sealing of a court filing must be narrowly tailored to serve whatever purpose justifies the redaction or sealing and must otherwise be consistent with the presumption in favor of public access to judicial documents. *See, e.g., Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006). In general, the parties’ consent, or the fact that information is subject to a confidentiality agreement between litigants, is not sufficient to overcome the presumption in favor of public access to judicial documents. *See, e.g., In re Gen. Motors LLC Ignition Switch Litig.*, No. 14-MD-2543 (JMF), 2015 WL 4750774, at *4 (S.D.N.Y. Aug. 11, 2015).
- C. Procedures for Filing Sealed or Redacted Documents.** Any party seeking to file a document under seal or in redacted form shall proceed as follows:
- i. **Meet and Confer.** The party seeking leave to file sealed or redacted materials should meet and confer with any opposing party (or any third party seeking confidential treatment of the information) in advance to narrow the

scope of the request. When a party seeks leave to file a document under seal or in redacted form on the ground that an opposing party or third party has requested it, the filing party shall notify the opposing party or third party that it must file on ECF, within **three business days** of the filing party's letter-motion seeking leave to file under seal or in redacted form, a letter explaining the need to seal or redact the document.

- ii. **Sealed Document(s).** The party shall electronically file a letter-motion seeking leave to file a document under seal on ECF in accordance with Standing Order 19-MC-583 and Section 6 of the S.D.N.Y. [Electronic Case Filing Rules and Instructions](#). The letter-motion itself shall be filed in public view, should explain the reasons for seeking to file the document under seal, and should not include confidential information. The proposed sealed document shall be separately and contemporaneously filed under seal on ECF (with the appropriate level of restriction) and electronically related to the motion (or to the relevant Court order, if the Court previously granted leave to file the document under seal). The proposed sealed document shall also be emailed to ReardenNYSDCchambers@nysd.uscourts.gov. Note that the summary docket text, but not the document itself, will be open to public inspection and, thus, should not include confidential information sought to be filed under seal.
- iii. **Redacted Document(s).** Where a party wishes to file a document in redacted form, the party shall electronically file a letter-motion seeking leave to file a document in redacted form on ECF in accordance with Standing Order 19-MC-583 and Section 6 of the S.D.N.Y. [Electronic Case Filing Rules and Instructions](#). The letter-motion itself shall be filed in public view, should explain the reasons for seeking to file the document in redacted form, and should not include confidential information. At the same time, the party shall: (1) publicly file on ECF and electronically relate to the letter-motion a copy of the document with the proposed redactions; and (2) file under seal on ECF (with the appropriate level of restriction) and electronically relate to the motion an unredacted copy of the document with the proposed redactions highlighted. The unredacted copy shall also be emailed to ReardenNYSDCchambers@nysd.uscourts.gov.
- iv. **Submission by Email.** Any party unable to comply with the requirement for electronic filing under seal on ECF, or who believes that a particular document should not be electronically filed at all, shall file a letter-motion by email, seeking leave of the Court to file in a different manner. Such letter-motions may be emailed to ReardenNYSDCchambers@nysd.uscourts.gov as text-searchable PDF attachments, with copies simultaneously delivered to all counsel. In the subject line, the cover email should state clearly: (1) the caption of the case, including the lead party names and docket number; and (2) a brief description of the contents of the letter. Parties shall not include substantive communications in the body of the email. Unless otherwise ordered by the Court, letter-motions seeking leave to file in a different manner shall not exceed five double-spaced pages.

10. Protective Orders. All parties wishing to propose a protective order must submit a proposed protective order that conforms as closely as possible to the Court's model [Protective Order](#). The proposed protective order must be accompanied by a cover letter that states whether the parties have adopted, without alteration, the Court's model Protective Order, or whether the parties propose alterations. Any proposed changes must be reflected in a redline that should be filed as an exhibit to the proposed protective order.

DEFAULT JUDGMENT PROCEDURE

1. Obtain a Certificate of Default for each defaulting party pursuant to Federal Rule of Civil Procedure 55(a) and Local Civil Rule 55.1.
2. File a motion for default judgment pursuant to Federal Rule of Civil Procedure 55(b)(2) and Local Civil Rule 55.2(b). A party seeking a default judgment should **not** proceed by order to show cause. The motion must be supported by the following papers:
 - a. One or more declarations or affidavits setting forth:
 - i. the basis for entering a default judgment, including a description of the method and date of service of the summons and complaint;
 - ii. the procedural history beyond service of the summons and complaint, if any;
 - iii. whether, if the default is applicable to fewer than all of the defendants, the Court may appropriately order a default judgment on the issue of damages prior to resolution of the entire action;
 - iv. the proposed damages and the basis for each element of damages, including interest, attorneys' fees, and costs; and
 - v. evidence in support of the proposed damages, including contemporaneous records and other such documentation.
 - b. A memorandum of law setting forth:
 - i. legal authority for why service of the summons and complaint was proper;
 - ii. choice of law;
 - iii. the elements of each cause of action as to which default judgment is sought, with supporting legal authority;
 - iv. for each defendant and for each cause of action as to which default judgment is sought, an analysis demonstrating that the facts pleaded in the complaint support the conclusion that the relevant defendant is liable with respect to that cause of action;
 - v. legal authority supporting each category of damages requested;
 - vi. legal authority for why an inquest into damages is or is not necessary; and
 - vii. where, in the view of the moving party no inquest is necessary, for each defendant as to which default judgment is sought, an analysis demonstrating

that the information presented together with the application for default judgment support the requested award of damages.

- c. A proposed default judgment.
 - d. Copies of all of the operative pleadings.
 - e. A copy of the affidavit of service of the summons and complaint.
3. Within two business days of filing the motion for default judgment, the plaintiff must (1) serve the motion and all supporting papers on the party against whom a default judgment is sought, and (2) file an affidavit of service on ECF. The Court will not consider the motion for default judgment unless and until such affidavit of service is filed. If more than two business days are required to complete service of the motion for default judgment and supporting papers, the plaintiff should file a letter on ECF explaining why additional time is necessary and when the plaintiff anticipates service will be completed.
 4. The Court will review the motion for default judgment and, if appropriate, issue an order setting a date and time for a default judgment hearing. If the Court issues such an order, the movant must then serve on the party against whom default judgment is sought the Court's order setting a date and time for the hearing. The plaintiff must file proof of such service on the docket in the manner and date specified in the Court's order.