

INDIVIDUAL PRACTICES IN CIVIL CASES¹
ROBYN F. TARNOFSKY, UNITED STATES MAGISTRATE JUDGE

Chambers

U.S. District Court
500 Pearl Street, Room 910
New York, NY 10007
212-805-3840

Email for Civil Matters:

TarnofskyNYSDCambers@nysd.uscourts.gov

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TarnofskyCriminalDuty@nysd.uscourts.gov

Courtroom

Daniel Patrick Moynihan Courthouse
500 Pearl St., Courtroom 9B

Note on How Cases Come Before Magistrate Judges: Cases come before Magistrate Judges in one of two ways: for one or more specific purposes pursuant to an order of reference by the assigned District Judge, or, on consent of the parties for all purposes pursuant to 28 U.S.C. § 636(c). If the parties wish to consent to having Judge Tarnofsky preside over their case for all purposes, the necessary form is available at <https://nysd.uscourts.gov/hon-robyn-f-tarnofsky>. When a District Judge approves an all-purposes consent form signed by counsel, the Magistrate Judge assumes the role of the District Judge. Any appeal is made directly to the Court of Appeals and the right to a jury trial is preserved. The following rules apply for proceedings before Judge Tarnofsky if the matter is within the scope of the District Judge's order of reference or if the case is before Judge Tarnofsky for all purposes pursuant to 28 U.S.C. § 636(c). These rules do not modify or affect the practices of the District Judge before whom a case may also be pending.

I. Communications with Chambers.

- A) **Letters.** Communications with the Court should be by letter filed on ECF except for settlement conference submissions and *in camera* submissions which can be sent to the email address for civil matters at TarnofskyNYSDCambers@nysd.uscourts.gov.
- B) **Telephone Calls.** Telephone calls to Chambers are permitted only for urgent matters requiring immediate attention. If you are encountering difficulties using ECF, call the ECF help desk at (212) 805-0800.
- C) **Emails & Faxes.** Emails to Chambers are only permitted for urgent matters requiring immediate attention or when otherwise expressly permitted by the Court in advance. In

¹ Requests for reasonable accommodations on account of disability or religion with respect to the Court's rules or in connection with any proceeding before Judge Tarnofsky may be emailed to Accommodation@nysd.uscourts.gov. Counsel and parties are invited to inform the Court of their preferred pronouns.

other circumstances, requests or questions to Chambers should be made by letter only, filed on the docket. No faxed communications shall be permitted without prior permission from Judge Tarnofsky's Chambers. All faxes must simultaneously be delivered to all parties.

- D) **Letter-Motions.** Letter-motions shall be filed on ECF in accordance with the S.D.N.Y. Local Rules and the S.D.N.Y. Electronic Case Filing Rules and Instructions. Requests that may be made by letter-motion include requests for: discovery conferences to address discovery disputes before formal motion practice, adjournments, extensions of time, pre-motion conferences, sealing, and settlement conferences.
- E) **Requests for Adjournments or Extensions of Time.** Absent good cause, any request for an extension of time or an adjournment, except those involving adjournments of settlement conferences, shall be made **at least one week** before the deadline or scheduled appearance. Procedures for requests for adjournments of settlement conferences are set out in Section V(L) below. All other requests for adjournments or extensions of time must be filed on ECF as letter-motions. The letter-motion must state: (1) the original date(s); (2) the number of previous requests for adjournment or extension; and (3) whether the adversary consents and, if not, the reasons given by the adversary for refusing to consent.
- F) **Hand Deliveries.** Hand-delivered mail 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) **Courtesy Copies.** As a general rule, and except as otherwise specified herein, no physical/paper courtesy copies of documents filed on ECF should be sent to Judge Tarnofsky.
- H) **Electronic Device Orders.** Orders permitting an attorney to bring an electronic device to Court may be found on the forms page of the SDNY website <https://nysd.uscourts.gov/forms> and is titled "Fillable Forms for Electronic Devices General Purpose." Please note that only attorneys are eligible for such an order. These orders **should not** be filed on ECF. Once completed, they may be emailed to Chambers, TarnofskyNYSDCambers@nysd.uscourts.gov, for Court approval. The Court will then email back to counsel a copy of the signed order if approved.
- I) **Docketing, Scheduling and Calendar Matters.** For docketing, scheduling and calendar matters, email TarnofskyNYSDCambers@nysd.uscourts.gov.
- J) **ECF.** All counsel are required to register promptly as ECF filers and to enter an appearance in the case. The pertinent instructions are available on the Court website, at <https://www.nysd.uscourts.gov/electronic-case-filing>. Counsel are responsible for updating their contact information on ECF, should it change, and they are responsible for checking the docket sheet regularly, regardless of whether they receive an ECF

notification of case activity. For questions about ECF rules and procedures, please contact the ECF help desk at (212) 805-0800

K) FOR ALL TELEPHONE PROCEEDINGS IN CIVIL MATTERS, CHECK THE DOCKET ENTRY FOR THE PHONE NUMBER AND ACCESS CODE. If the proceeding is not open to the public (e.g., a settlement conference), Judge Tarnofsky's Courtroom Deputy will provide the video conference details to the participants.

L) Pro Se Parties.

- i) By Standing Order, all communications from a pro se party to the Court must either be physically delivered to the Pro Se Intake Unit located at 500 Pearl Street, Room 230, New York, NY 10007, either by mail or hand delivery, or emailed to ProSe@nysd.uscourts.gov. If emailing, the pro se party must include the docket number of the case in the re: line, and any attachment must be in PDF format. Further instructions for emailing submissions are available at <https://nysd.uscourts.gov/node/846>. Settlement conference submissions and *in camera* submissions may be hand-delivered to Court Security Officers at the Worth street entrance of 500 Pearl Street, mailed to Chambers or emailed to TarnofskyNYSdChambers@nysd.uscourts.gov. No other materials may be sent directly to Chambers, and pro se parties may not call Chambers without prior permission from the Court.
- ii) Unless the Court orders otherwise, all communications from pro se litigants will be docketed upon receipt; such docketing shall constitute service on any user of the ECF system. If any other party is not a user of the ECF system (for example, if there is another pro se party in the case), the pro se party making the submission must send copies to the other 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 or counsel and discovery requests and responses shall not be provided to the Court (except as exhibits to an otherwise properly filed document).
- iii) Any nonincarcerated pro se party who wishes to participate in ECF must file a Motion for Permission for Electronic Case Filing, available in the Pro Se Intake unit or at <https://nysd.uscourts.gov/node/844>. Any nonincarcerated pro se party who wishes to receive documents in their case by email instead of regular mail may consent to electronic service by filing a Pro Se (Nonprisoner) Consent & Registration Form to Receive Documents Electronically, available from the Pro Se Intake Unit or at <https://nysd.uscourts.gov/node/845>.
- iv) If a pro se litigant has questions about these Individual Rules or any other procedural matters, they should contact the Court's Pro Se Intake Unit at (212) 805-0175, or the independent Legal Assistance Clinic at (212) 382-4794. The Clinic may be able to provide a pro se party with advice in connection with their case. The Legal Assistance Clinic is run by a private organization called the City Bar Justice Center.

The Clinic is not part of or run by the Court, and, among other things, therefore cannot accept filings on behalf of the Court, which must still be made by any self-represented party through the Pro Se Intake Unit by email (ProSe@nysd.uscourts.gov) or by mail or hand delivery (Pro Se Intake Unit, 500 Pearl Street, Room 205, New York, NY 10007). If a pro se litigant would like legal assistance, they should complete the City Bar Justice Center's intake form (available at <https://www.nysd.uscourts.gov/attorney/legal-assistance>) to make an appointment. If a pro se litigant has questions about the intake form or needs to highlight an urgent deadline already disclosed in the form, the Clinic can be contacted by phone (212-382-4794) or email (fedprosdny@nycbar.org). In-person appointments in the Thurgood Marshall Courthouse in Manhattan are available Monday through Thursday from 10:00 a.m. to 4:00 p.m. Appointments are also available remotely Monday through Friday from 10:00 a.m. to 4:00 p.m.

II. Pre-Trial Practice.

- A) **Initial Case Management Conference.** Before the Initial Case Management Conference, parties must meet and confer on a discovery plan. The parties should cover, as appropriate, the topics contained in the Court's Discussion Topics for Rule 26(f) Conference, available at <https://nysd.uscourts.gov/hon-robyn-f-tarnofsky>. One week before the scheduled conference, the parties shall file on ECF Proposed Case Management Plan and Report on Rule 26(f) Meeting. The parties should use the template form Proposed Case Management Plan and Report on Rule 26(f) Meeting, which is available at <https://nysd.uscourts.gov/hon-robyn-f-tarnofsky>.

If the parties agree on a schedule that calls for the close of all discovery within six months and have no issues to raise with the Court, the parties may, if they wish, request in their Proposed Civil Case Management Plan and Scheduling Order that the initial case management conference be canceled. The Court will ordinarily grant such requests.

Attendance at ICMC. Lead counsel for the parties are expected to attend the Initial Case Management Conference. Reasonable accommodations will be made for parties or their counsel who cannot attend in person on account of disability. Additionally, an incarcerated party who is unable to attend this or other conferences may be able to participate by telephone or video. If appropriate, the Court's scheduling order will outline the procedures for participation by telephone or video.

- B) **Case Management Conferences.** The Court holds regular case management conferences. Counsel are expected to be prepared for such conferences and ready to discuss the status of discovery, the potential for settlement, and any other relevant issue. In some cases, the Court may require a joint pre-conference agenda letter filed a week in advance of a conference unless otherwise specified or permitted by the Court.

Junior members of legal teams representing clients are invited to address the Court at case management conferences. Firms are encouraged to provide this opportunity to

junior attorneys for training purposes. This Court is amenable to permitting different lawyers on a team to speak on different issues if this creates an opportunity for a junior lawyer to participate.

- C) **Discovery.** 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.” The procedure for raising a discovery dispute with the Court is set out in Section III(B) below.
- D) **Confidentiality Stipulations and Orders.** In cases where confidential information will be exchanged, the parties must utilize the Court’s Confidentiality Stipulation and Proposed Protective Order found at <https://nysd.uscourts.gov/hon-robyn-f-tarnofsky>; provided, however, the parties 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 from the Court’s model.
- E) **Electronic Discovery.** The parties are expected to review Judge Tarnofsky’s Discussion Topics for Rule 26(f) Meeting found at <https://nysd.uscourts.gov/hon-robyn-f-tarnofsky>.
- F) **Remote Depositions.** A model form for the conduct of remote depositions can be found at <https://nysd.uscourts.gov/hon-robyn-f-tarnofsky>.
- G) **Telephonic and Video Conferences.** The Court is conducting most proceedings by telephone. The Court, in its discretion, may schedule or permit video conferences.

III. Formal Motions.

- A) **Conferences of Counsel Before Filing Motions Under Rule 12(b) or (c).** Except in cases involving pro se parties, if a motion pursuant to Fed. R. Civ. P. 12(b) or 12(c) is contemplated, the plaintiff or counterclaimant must indicate whether it wishes to amend the subject pleading before motion practice, and the parties must consider in good faith a stipulation permitting such amendment. If the parties are unable to reach a resolution, counsel for the moving party shall include the following statement in the notice of motion: “This motion is made following the conference of counsel, which took place on [date]. Plaintiff [or Counter Claimant] declined an opportunity to amend.”

- B) **Pre-Motion Conferences and Discovery Disputes.** A pre-motion conference is not required for any motion except motions seeking relief in connection with discovery disputes (that is, any dispute arising under Rules 26 through 37 or Rule 45 of the Federal Rules of Civil Procedure. This provision applies to both parties and non-parties (for example, those served with a subpoena pursuant to Rule 45).

Parties or non-parties seeking to raise a discovery dispute with the Court shall follow Local Rule 37.2 with the following modifications. The party or non-party must first confer in good faith with the opposing party, in person or by telephone, in an effort to resolve the dispute. An exchange of emails or letters is not sufficient to meet this obligation. If this meet-and-confer process does not resolve the dispute, the party may submit an ECF letter-motion to the Court or, if applicable, to the Pro Se Intake Unit explaining the nature of the dispute and requesting a conference. Such letter-motion must include a representation that the meet-and-confer process occurred and state when it occurred. Any responsive letter should be submitted within 3 business days after submission of the letter-motion. The parties' filings should address Rules 1 and 26(b)(1) of the Federal Rules of Civil Procedure to the extent applicable. The Court will try to resolve the issue during a conference without the need for formal briefing. However, if formal briefing is required, the Court will set a schedule for such briefing at the conference.

- C) **Letter-Motions.** Unless the Court has ordered or approved otherwise, any opposition to a letter-motion, shall be filed within three business days of the moving letter, and any reply shall be filed within one business day of the opposition. The parties may agree to a different briefing schedule, but they must request the Court's approval of their alternate schedule, either in the moving letter or as soon as agreement is reached. The Court must approve the alternate schedule. Otherwise, the parties must adhere to the schedule as enumerated in these Individual Rules. If the letter-motion requests emergency or expedited relief, opposing counsel is advised to file any opposition as promptly as possible.

D) **Memoranda of Law.**

- 1) Briefing Schedule. Unless the Court has ordered or approved otherwise, opposition and reply papers with respect to formal motions will be due in accordance with Local Civil Rule 6.1. The parties are strongly encouraged to agree on a reasonable briefing schedule before the moving papers are filed. If the parties have agreed to such a schedule, they must request the Court's approval of their schedule, either in the moving party's notice of motion or by letter-motion as soon as agreement is reached. Should the parties thereafter agree to modify their briefing schedule, they must promptly request that the Court approve the new schedule by letter-motion. The Court must approve the alternate or new briefing schedule; otherwise, the parties must adhere to the schedule as set out in Local Civil Rule 6.1.

2) Memoranda. The typeface, margins and spacing of motion papers must conform to Local Civil Rule 11.1. Memoranda of 10 pages or more, filed by parties who have lawyers, shall contain a table of contents and a table of authorities. Sur-reply memoranda will not be accepted without prior permission of the Court. All moving papers, letter-motions, and letters filed on ECF or emailed to chambers must be in searchable PDF form. Additionally, to the extent citing unreported cases, parties are requested to use Westlaw citations whenever possible.

E) **Redactions and Filing Under Seal**. All Confidential Materials filed with the Court may be redacted or filed under seal only as the Court directs upon appropriate application by either party or as required by Federal Rule of Civil Procedure 5.2, which describes sensitive information that must be redacted from public court filings.

To avoid the unnecessary filing of documents under seal, counsel for the parties will discuss, in good faith, the need to file Confidential Materials under seal. If the parties agree in writing that a particular document that has been designated Confidential Material shall not be filed under seal, that document can be filed without redaction and such filing will not be a breach of any Stipulation of Confidentiality.

Any party wishing to file in redacted form any pleading, motion, memorandum, exhibit, or other document, or any portion thereof, based on a party's designation of information as Confidential, must make a specific request to the Court by letter motion explaining the reasons for seeking to file that submission under seal and addressing the request in light of the Court of Appeals' opinions in *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110 (2d Cir. 2006) and *Bernstein v. Bernstein Litowitz Berger & Grossman LLP*, 814 F.3d 132 (2d Cir. 2016).

If a request for redactions is based on another party's designation of information as Confidential, the parties shall confer and jointly submit the request for redactions.

Letter-Motions for approval of sealed or redacted filings in civil and miscellaneous cases and the subject documents, including the proposed sealed document(s), must be filed electronically through the court's ECF system in conformity with the court's standing order, 19-mc-00583, and ECF Rules & Instructions, section 6. The motion must be filed in public view, must explain the particular reasons for seeking to file that information under seal and should not include confidential information sought to be filed under seal. Supporting papers must be separately filed electronically and may be filed under seal or redacted only to the extent necessary to safeguard information to be filed under seal. The proposed sealed document must be contemporaneously filed under seal in the ECF system and electronically related to the motion. The summary docket text, but not the sealed document, will be open to public inspection and should not include confidential information sought to be filed under seal.

Where the motion seeks approval to redact information from a document that is to be

publicly filed, the filing party shall: (a) publicly file the document with the proposed redactions, and (b) electronically file under seal a copy of the unredacted document with the proposed redactions highlighted. Both documents must be electronically filed through the ECF system and related to the motion.

A pro se litigant who is unable to comply with the requirement for electronic filing under seal through the ECF system shall mail or hand-deliver to the Pro Se Intake Unit a submission containing (a) the letter-motion requesting sealing and (b) the proposed sealed document, which shall be enclosed in a separate sealed envelope that is clearly marked "Document To Be Filed Under Seal."

If the Court approves the filing under seal, no further submissions shall be required. If the Court denies, in part, the motion for filing under seal, the party who made the submission shall be required to refile the document with modified redactions as directed by the Court. The Court will file under seal any clean and unredacted pages for which the Court has approved redactions.

- F) **Oral Argument on Motions.** Parties may request oral argument when the motion has been fully briefed. This request should be made by letter in accordance with the procedures set forth in Section I(A) above.

For training purposes, firms are encouraged to permit junior members of legal teams representing clients to argue motions they have helped prepare. This Court is amenable to permitting a number of lawyers to argue for one party if this creates an opportunity for a junior lawyer to participate.

- G) **Proposed Stipulations and Orders.** Except as otherwise provided above, parties should file proposed stipulations and orders they wish the Court to sign on ECF, in accordance with the ECF Rules and Instructions. Pro se litigants should file proposed stipulations and orders they wish the Court to sign with the Pro Se Intake Unit in accordance with the procedures contained in Section I(L) above.

- H) **Nothing in these Individual Practices supersedes a specific time period for filing a motion specified by statute or Federal Rule – including but not limited to Fed. R. Civ. P 50, 52, 54, 59, and 60, and Fed. R. App. P. 4 – where failure to comply with the specified time period could result in forfeiture of a substantive right.**

IV. Pretrial Procedures for Consent Cases.

- A) **Applicability.** The procedures set out below apply only to cases in which the parties have consented pursuant to 28 U.S.C. § 636(c) to have all proceedings, including trial, occur before Judge Tarnofsky.
- B) **Pretrial Disclosure.** The parties are reminded of their obligations to make certain disclosures regarding expert testimony pursuant to Federal Rule of Civil Procedure

26(a)(2) and to make disclosures regarding evidence that may be presented at trial pursuant to Federal Rule of Civil Procedure 26(a)(3). Failure to comply with these requirements may result in preclusion or other sanctions.

C) **Joint Pretrial Orders.** After the close of discovery, the Court will file a Scheduling Order scheduling a pre-trial conference and containing instructions for the parties' Proposed Joint Pretrial Order. In general, except in pro se cases, a Joint Pretrial Order shall include, as applicable:

- 1) the full caption of the action;
- 2) the name, address, telephone number and email of each principal member of the trial team, and an identification of each party's lead trial counsel;
- 3) a list of each claim and defense that will be tried and identification of the governing law (including applicable regulations) governing each such claim and defense;
- 4) if applicable, a list of any claims and defenses asserted in the pleadings that are not to be tried;
- 5) a list by each party of its trial witnesses that it, in good faith, expects to present, with an indication of whether the witnesses will testify in person or by deposition and the general subject area of the witness's testimony and anticipated length of time needed for witness;
- 6) a statement as to how and when the parties will give notice to each other of the order of their trial witnesses and, if the parties cannot agree, the parties statement that they will agree to the Court's default rule for trials of this length (i.e., that the parties shall advise each other by no later than 48 hours before the start of trial as to the order of their witnesses);
- 7) a list by each party of exhibits that it, in good faith, expects to offer in its case in chief, together with any specific objections thereto;
- 8) all stipulations or statements of fact or law on which the parties have agreed;
- 9) 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;
- 10) proposed voir dire questions;
- 11) proposed jury instructions;
- 12) proposed verdict sheet; and

13) 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, anticipated in limine motions, and technology needed for trial.

- D) **Courtesy Copies.** The parties shall each send a courtesy copy of all exhibits, pre-marked, to TarnofskyNYSChambers@nysd.uscourts.gov. Exhibits should not be filed electronically on ECF. The parties shall also each submit one hard copy of the pre-marked exhibits in a well-organized three-ring binder separated by tab dividers.
- E) **Pro Se Cases.** In pro se cases, no Joint Pretrial Order is required. Instead, within 30 days after the completion of discovery each party shall file its own Pretrial Statement. The pro se party's Pretrial Statement does not need to take any particular form, but it 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. The Statement must be sworn by the party to be true and accurate based on the facts known by the party. The party must file an original Statement with the Pro Se Intake Unit in a manner specified in Section I(L) above and send a copy to 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 parties or their attorney or attorneys.

V. Settlement Conferences

The Court believes the parties should fully explore settlement at the earliest practical opportunity. Early consideration of settlement allows the parties to avoid the substantial cost, expenditure of time and uncertainty that are typically a part of the litigation process. Even for those cases that cannot be resolved, early consideration of settlement can provide the parties with a better understanding of the factual and legal nature of their dispute and streamline the issues to be litigated.

The following are the procedures applicable to Settlement Conferences:

- A) **Confidentiality.** All settlement conferences are "off the record" and strictly confidential. No communications relating to settlement may be used in discovery and will be in-admissible at trial. Parties may sign the confidentiality agreement on the day of the settlement conference, if it is held in-person at the courthouse. Parties attending a virtual settlement conference must email the confidentiality agreement to TarnofskyNYSChambers@nysd.uscourts.gov at least one day before the conference is held. The confidentiality agreement is available at <https://nysd.uscourts.gov/hon-robbynf-tarnofsky>.
- B) **Magistrate Judge's Role.** The magistrate judge functions as a mediator, attempting to help the parties reach a settlement.

- C) **Pre-Conference Telephone Call.** The Court may schedule a telephone call with the parties prior to the conference to discuss issues pertinent to the conference, after which a settlement conference will be scheduled.
- D) **Exchange of Demand/Offer.** If the plaintiff has not already made a settlement demand, such a demand shall be communicated to the opposing party no later than 14 days prior to the conference. If it has not already done so, the opposing party shall respond to any demand no later than seven days prior to the conference. If a defendant intends to claim that its financial situation is relevant to any settlement offer (either based on the amount offered or a proposal to pay any portion in more than 30 days), the defendant shall inform the plaintiff of this fact no later than 14 days prior to the conference. The parties shall then discuss whether the plaintiff seeks proof of the defendant's claimed financial hardship and whether the defendant is willing to provide such proof, which must be provided no later than five days before the conference.
- E) **Ex Parte Settlement Conference Summary Form and Letter.** Unless otherwise directed by the Court, no later than five days before the Settlement Conference, each party must complete the Court's Ex Parte Settlement Conference Summary Form found at <https://nysd.uscourts.gov/hon-robyn-f-tarnofsky>. Each party also must provide the Court with an ex parte letter summarizing the issues in the case, the settlement value of the case and rationale for it, case law authority relevant to settlement discussions, and any other facts that would be helpful to the Court in preparation for the conference, including, if applicable, any discussions about the defendant's financial condition held under Section V(D) above. Parties may attach exhibits to their letters to the extent they believe the exhibits would aid settlement discussions. The Ex Parte Settlement Conference Summary Form and letter should be emailed to TarnofskyNYSChambers@nysd.uscourts.gov. Please do not send courtesy copies of exhibits to Chambers.
- F) **Attendance.** The parties – not just the attorneys – must attend the Settlement Conference in person. In the event personal attendance is a hardship, a party may make a written request no later than one week in advance of the conference to attend by phone or video conference. Corporate parties or labor unions must send the person with decision-making authority to settle the matter to the conference. Where liability insurance is involved, a decision-making representative of each carrier must attend unless specifically excused by the Court. Where any government agency is a party, counsel of record must be accompanied by a knowledgeable representative from the agency. In addition, in cases where the Comptroller of the City of New York has authority over settlement, the Assistant Corporation Counsel must make arrangements in advance of the conference for a representative of the Comptroller either to attend the conference or to be available by telephone to approve any proposed settlement. If a party believes that the individuals scheduled to attend the conference on behalf of the opposing party do not comply with these requirements, that party shall immediately

confer with the opposing party and inform the Court by letter promptly if no resolution is reached.

- G) **Interpreters.** Each party must supply its own simultaneous interpreter, if needed.
- H) **Consequences of Non-Compliance with Attendance Requirement.** If a party fails to comply with the attendance requirements, that party may be required to reimburse all the other parties for their time and travel expenses and may face other sanctions.
- I) **Conference Location.** Unless advised otherwise by the Court, the conference will take place in Courtroom 9B at 500 Pearl Street.
- J) **Procedures at the Settlement Conference:**
 - 1) Counsel for each party should be prepared to make a brief statement in the presence of all parties and the Court summarizing the issues counsel believes are important for the opposing party to consider in formulating a settlement position. In its discretion, the Court may decide to forgo such statements. After the initial statements, counsel may have their clients speak.
 - 2) Following the opening statements, the Court will meet separately with each side in private. In these sessions, the parties and their counsel must be prepared to inform the Court of the amount of attorneys' fees and expenses incurred to date and an estimate of the remaining costs of litigating the case to judgment.
- K) **Effect on Deadlines:** The scheduling of a settlement conference has no effect on any deadlines or other pending obligations in an action.
- L) **Adjournments:** If counsel becomes aware of the need for an adjournment of the date of a settlement conference, they must promptly make an application for an adjournment. If the application is made 7 days after the settlement scheduling order, no cause need to be provided. Otherwise, counsel must provide the reasons for seeking the adjournment. The parties should always seek an adjournment if they identify discovery or exchange of information that would make the conference more fruitful. To seek a new date, counsel seeking the adjournment must consult with all other counsel about their availability and that of their clients and insurers and should then email TarnofskyNYSChambers@nysd.uscourts.gov with at least three proposed new dates. The conference date will not be deemed changed until the Court has issued an order setting the new date or adjourning the conference sine die.
- M) **Notification of Settlement:** If the parties reach a settlement after a settlement conference has taken place, or while a motion is pending, or shortly before a scheduled conference or hearing, they must promptly so advise the Court, by letter, in order to avoid unnecessary expenditure of judicial resources.