

INDIVIDUAL PRACTICES IN CIVIL CASES
VALERIE FIGUEREDO, UNITED STATES MAGISTRATE JUDGE

Chambers

Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 1660
New York, New York 10007
FigueredoNYSDChambers@nysd.uscourts.gov

Courtroom

Daniel Patrick Moynihan Courthouse
500 Pearl Street, Courtroom 17A
New York, New York 10007

Unless otherwise ordered by Judge Figueredo, matters before her shall be conducted in accordance with the following practices.¹ These practices are applicable to cases before Judge Figueredo if the matter is within the scope of the District Judge's order of reference or if the case is before Judge Figueredo for all purposes pursuant to 28 U.S.C. § 636(c). Otherwise, the practices of the District Judge to whom the case is assigned apply.

I. Communications with Chambers

- a. **Letters.** Communications with the Court should be by letter, via electronic case filing ("ECF"), without email or other copy to Chambers. Letters may not exceed 3 single-space pages in length (exclusive of exhibits). 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 I.G. below.
- b. **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 any other circumstances, requests or questions to Chambers should be made by letter only. No faxed communications shall be permitted without prior permission from Chambers.
- c. **Telephone Calls.** If you are encountering difficulties using ECF, call the ECF help desk at (212) 805-0800.
- d. **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 St., Room 230, 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; such docketing

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 Figueredo may be emailed to FigueredoNYSDChambers@nysd.uscourts.gov. Counsel and parties are also invited to inform the Court of their preferred pronouns.

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 the 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 shall not be sent to the Court. Questions can be directed to the pro se unit at (212) 805-0175. 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 electronically (by email) instead of by regular mail may consent to electronic service by filing a Pro Se (Nonprisoner) Consent & Registration Form to Receive Documents Electronically, available in the Pro Se Intake Unit or at <https://nysd.uscourts.gov/node/845>.

- e. **Requests for Adjournments or Extensions of Time.** Requests to adjourn a court conference or court proceeding (including a telephonic court conference) or to extend a deadline must be made by Letter-Motion, after consultation with all affected parties, and must state: (1) the original date of the conference, proceeding or deadline; (2) the number of previous requests for an adjournment or extension; (3) the reason for the requested extension; and (4) whether all affected parties consent and, if not, the reasons given by the adversary for refusing to consent. Absent unforeseeable emergencies, all requests for an adjournment of a court conference or other court proceeding (including a telephonic conference) must be made at least 72 hours in advance of the proceeding to be adjourned and must include at least two (2) proposed dates, on which all counsel are available, for the adjourned proceeding.
- f. **Hand Deliveries.** Where permitted by these rules, hand-deliveries 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. **Electronic Filing Under Seal.** These procedures only apply to motions and applications before Judge Figueredo. Filing under seal requires permission of the Court. Unless otherwise ordered, any party wishing to file a document or portion thereof under seal 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 without seeking prior Court permission. Parties should also consult the S.D.N.Y. Electronic Case Filing Rules & Instructions, Rules 21.3 and 21.4, available at <https://www.nysd.uscourts.gov/rules/ecf-related-instructions>.
 - 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, 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-583, and ECF Rules & Instructions, Section 6, available at <https://nysd.uscourts.gov/rules/ecf-related-instructions>.

- h. **Docketing, Scheduling, and Calendar Matters.** For docketing, scheduling, and calendar matters, email FigueredoNYSChambers@nysd.uscourts.gov.
- i. **Citations.** All moving papers, letter-motions, and letters filed on ECF or emailed to Chambers must be in searchable PDF form. When citing unreported cases, parties shall use Westlaw citations whenever possible. Citations to all documents filed on ECF must include the ECF docket number and ECF page number. For example, citations to an exhibit accompanying a declaration would appear as "ECF No. 123-4 at 10," rather than as "Smith Decl. Ex. 4 at 10."

II. Pretrial Procedures

- a. **Initial Case Management Conference.** Except for Pro Se Cases, parties must meet and confer on a discovery plan before the Initial Case Management Conference. One week before the Initial Case Management Conference, the parties must file on ECF a Report on Rule 26(f) Conference and Proposed Case Management Plan. A template form for the Report of Rule 26(f) Conference and Proposed Case Management Plan is available at <https://www.nysd.uscourts.gov/hon-valerie-figueredo>
 - 1. **Pro Se Cases.** Each party must submit a Case Report and Proposed Case Management Plan for Pro Se Cases one week before the scheduled conference in conformance with the procedures in Section I above. The parties shall use the form Proposed Case Management Plan template for Pro Se Cases found at <https://www.nysd.uscourts.gov/hon-valerie-figueredo>
 - 2. **Attendance.** Lead counsel for the parties is 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. An incarcerated party who is unable to attend this or other conferences may be able to participate by telephone. If appropriate, the Court's scheduling order will outline the procedures for participation by telephone.
- b. **Confidentiality Stipulations and Protective Orders.** In cases where confidential information will be exchanged, the parties must utilize the Court's model Protective Order found at <https://nysd.uscourts.gov/rules/ecf-related-instructions>; 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.

c. **Discovery Disputes.**

1. **Requirement to Meet and Confer.** The Court will not hear any discovery dispute unless the moving party (including a non-party seeking relief) has first conferred in good faith with any adverse party 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 discovery dispute, the moving party must request a discovery conference with the Court, by Letter-Motion, as required by Local Civil Rule 37.2. Counsel should select the "Letter-Motion" option when filing on ECF. Letter-Motions may not exceed three (3) pages in length, exclusive of attachments, which should be kept to a minimum. The Letter-Motion must clearly set forth the issues in dispute and the relief sought. Additionally, in the Letter-Motion, the moving party must certify that the required in-person or telephonic conference took place between counsel for the relevant parties and, in particular must state: (1) the date and time of such conference; (2) the approximate duration of the conference; (3) the names of the attorneys who participated in the conference; (4) the adversary's position as to each issue being raised (as stated by the adversary during the in-person or telephone conference); and (5) that the moving party informed the adversary during the conference that the moving party believed the parties to be at an impasse and that the moving party would be requesting a conference with the Court. Simply attaching copies of correspondence between counsel does not satisfy these requirements.
3. **Briefing Schedule.** Any responsive letter should be submitted within three (3) business days after submission of the Letter-Motion.
4. **Courtesy Copies.** Courtesy copies of Letter-Motions are not required unless the attached exhibits exceed 50 pages, in which case one (1) courtesy copy, marked as such on the cover page, should be submitted to Chambers promptly after filing. Courtesy copies should bear the ECF header generated at the time of electronic filing and include protruding tabs for any exhibits.

5. **Discovery Conference/Oral Argument on Letter-Motions.** The Court's preference is to hold a conference with the parties to address discovery disputes raised by a Letter-Motion. The Court will endeavor 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.

III. Motions Other than Discovery Motions.

- a. **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, the parties must request the Court's approval of their alternate 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 the Court's approval of 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 enumerated in Local Civil Rule 6.1.

A premotion conference is not required before a party may file a motion (other than a discovery motion). A party, however, may request a premotion conference by Letter-Motion where counsel believes that an informal conference with the Court may obviate the need for the motion or reduce the issues in dispute. Counsel should select the "Letter-Motion" option on ECF for filing such a request for a conference.

- b. **Memoranda of Law.** A memorandum of law must accompany all motions and oppositions thereto. See Local Civil Rule 7.1. The memorandum of law must set forth all pertinent facts, which may not be accomplished by incorporating by reference other documents, such as affidavits or statements under Local Civil Rule 56.1. Instead, the memorandum must contain a fact section that sets forth all facts relevant to the motion and, for each factual statement, provides one or more citations (with specific page or paragraph numbers) to pleadings, declarations, affidavits, or other documents that have been separately filed. The typeface, margins, and spacing of motion papers must conform to Local Civil Rule 11.1. Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages, and reply memoranda are limited to ten (10) pages. Memoranda of ten (10) pages or more shall contain a table of contents and a table of authorities. Sur-reply memoranda will not be accepted without prior permission of the Court.
- c. **Courtesy Copies.** Unless otherwise requested by the Court, courtesy copies should not be submitted. If requested, courtesy copies should bear the ECF header

generated at the time of electronic filing and include protruding tabs for any exhibits.

- d. **Oral Argument on Motions.** Parties may request oral argument by Letter-Motion. Counsel should select the “Letter-Motion” option on ECF for filing such a request. The Court will determine whether argument will be heard and, if so, will advise counsel of the argument date and time.

Junior attorneys are invited to argue motions they have helped prepare. Firms are encouraged to provide this opportunity to junior attorneys for training purposes. The Court is amenable to permitting more than one lawyer to argue for one party if this creates an opportunity for a junior lawyer to participate.

- e. **Motions in Pro Se Cases.** As required by Local Civil Rule 7.2, counsel must provide a pro se litigant with printed copies of decisions cited in any submission that are unreported 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 or 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.

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 Figueredo.
- b. **Pretrial Disclosures.** The parties are reminded of their obligations to make certain disclosures regarding expert testimony pursuant to Fed. R. Civ. P. 26(a)(2) and to make disclosures regarding evidence that may be presented at trial pursuant to Fed. R. Civ. P. 26(a)(3). Failure to comply with these requirements may result in preclusion or other sanctions.
- c. **Joint Pretrial Order.** Unless otherwise ordered by the Court, the parties shall submit to the Court for its approval a Joint Pretrial Order within 30 days after the date for the completion of discovery, or, if a summary judgment motion has been filed, within 30 days after the decision on the motion. The proposed Joint Pretrial Order shall be signed by all parties and include the following:

1. The full caption of the action.

2. The names, addresses, telephone numbers (office and cellular), and email addresses of each principal member of the trial team.
3. A brief summary by each party of the claims and defenses that party has asserted that remain to be tried, including citations to all statutes relied on, but without recital of evidentiary matter.
4. With respect to each claim remaining to be tried, a brief statement listing each element or category of damages sought with respect to such claim and a calculation of the amount of damages sought with respect to such element or category.
5. A statement by each party as to whether the case is to be tried with or without a jury and the anticipated number of trial days needed.
6. Any stipulations or agreed-to statements of fact or law.
7. A statement by each party as to the witnesses whose testimony is to be offered in its case in chief, indicating whether such witnesses will testify in person or by deposition. Absent extraordinary circumstances, a party may not call as a witness in its case in chief any person not listed in the Joint Pretrial Order.
8. A designation by each party of deposition testimony to be offered in that party's case in chief, referencing page and line 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. Absent extraordinary circumstances, a party may not offer in its case in chief deposition testimony that is not listed in the Joint Pretrial Order.
9. A list by each party of exhibits to be offered in its case in chief. Each exhibit shall be pre-marked (plaintiff to use numbers, defendant to use letters). For each 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. Absent extraordinary circumstances, a party may not offer in its case in chief any exhibit not listed in the Joint Pretrial Order.
10. A proposed schedule by which the parties will exchange demonstrative exhibits 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.

11. All other matters that the Court may have ordered or that the parties believe are important to the efficient conduct of the trial.
- d. **Pro Se Cases.** No Joint Pretrial Order is required in pro se cases. Instead, within 30 days after the completion of discovery each party shall file its own Pretrial Statement. The pro se party's Pretrial Statement must be concise and contain the following: (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 Pretrial 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 Court's 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 another party or that party's attorney.
- e. **Filings Before Trial.** Unless otherwise ordered, the following must be filed at the same time as the filing of the Joint Pretrial Order:
1. **Jury Cases.** In jury cases, the parties must jointly file (a) proposed jury instructions, (b) proposed voir dire questions, and (c) where applicable, a proposed verdict form. To the extent a party objects to another party's requested jury charge, voir dire questions, or verdict form, the joint submission should include the objecting party's (1) grounds for objection (or refer to the joint pretrial memorandum for a full discussion of the objection), and (2) proposed alternative. All requests to charge, objections, and alternatives must include citations to controlling authority. In addition to filing on ECF the voir dire questions, requests to charge, and/or verdict sheets, electronic copies of this joint submission must also be sent to Chambers. The electronic copies should be sent as Microsoft Word documents via email to:
FigueredoNYSDChambers@nysd.uscourts.gov
 2. **Nonjury Cases.** In nonjury cases, parties must file proposed findings of fact and conclusions of law. In addition, each party must file a trial memorandum of law identifying the issues, summarizing the facts and applicable law, and addressing any evidentiary issues. In addition to filing on ECF, these materials must also be submitted to the Court as Microsoft Word documents and sent via email to:
FigueredoNYSDChambers@nysd.uscourts.gov
 3. In all cases, motions in limine addressing any evidentiary or other issues must be filed at the same time as the Joint Pretrial Order.
- f. **Marking Exhibits for Trial.** Unless otherwise ordered by the Court, no later than two (2) 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.

- g. **Witnesses at Trial.** When a party's case commences, that party is expected to have witnesses available to fill the trial day, which runs from 9:00 am to 5:00 pm, with 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 deem that party to have rested. Any request to have a witness testify out of order and/or on a particular day must be included in the joint pretrial order. Untimely applications will be denied.